

MAKHUDUTHAMAGA LAND USE SCHEME



MAKHUDUTHAMAGA

LOCAL MUNICIPALITY

Draft document

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PART I: INTRODUCTION TO THE SCHEME

1. RESPONSIBLE AUTHORITY

The Makhuduthamaga Local Municipality shall be the authority responsible for the enforcing and execution of the provisions of this land-use scheme.

1.1. This scheme shall be known as the Makhuduthamaga Land Use Scheme, hereinafter referred to as the Scheme. The Makhuduthamaga Local Municipality, hereinafter referred to as the Municipality, shall be the authority, responsible for enforcing and carrying into effect the provisions of the Scheme. The effective date of the scheme shall be the date specified in the Makhuduthamaga Local Municipality resolution adopting the scheme or the date of adoption of the scheme, provided that where any provision of this scheme is subsequently varied by way of amendment or rescission, the 'the effective date' thereof shall be the date upon which the amendment is adopted.

1.2. The Scheme and the registers of all applications and decisions on the Scheme are public documents and are open for inspection by the general public during working hours at the office of the department responsible for land use management. The area to which the Scheme applies consists of the area of land under the jurisdiction of the Makhuduthamaga Local Municipality as shown on the associated Scheme Map.

1.3. No person, at any time after the effective date shall erect a new building, or carry out any other proposed work, or develop or use any land, or use any building or structure for any purpose different from the purpose for which it was being developed or used on such date, or use any building or structure erected after such date for a purpose or in a manner different from the purpose for which it was erected, unless permitted in terms of this scheme, or until such person has first applied in writing to the Municipality for permission to do so and the Municipality has granted its permission thereto either with or without conditions. Guideline Documents and Application Forms, and related Municipal Policies as contained in a companion document to this Scheme are available from the Municipality, and may be updated independently of the Scheme.

2. AREA OF THE LAND USE SCHEME

The Land Use Scheme applies to all properties, land areas including agricultural, environmental, urban and rural/communal settlement areas, buildings, and structures within the municipal boundaries of the Makhuduthamaga Local Municipality, as determined by the Municipal Demarcation Board.

3. *PURPOSE OF THE SCHEME*

- 3.1.To enable the comprehensive management of all erven (both private and public sector) within the Municipality;
- 3.2.To promote and implement the applicable planning and development legislation and principles as adopted by the relevant National, Provincial and Municipal spheres of government from time to time; and
- 3.3.To promote and implement the Vision and Strategies of the Integrated Development Plan in the realization of quality environments.
- 3.4.To manage land-use rights, to provide facilitation over use rights, to manage urban growth and development, and to manage conservation of the natural environment, in order to:
 - a) Achieve co-ordinated and harmonious development in a way that will efficiently promote public safety, health, order, convenience and to protect the general welfare of the inhabitants of the Municipality;
 - b) Promote integrated and sustainable development through-out the area of jurisdiction;
 - c) Promote sustainable environmental management, conserve and protect environmentally sensitive areas.
 - d) Promote all forms of development and growth through sound planning principles that would support a mix of land-uses managed in an appropriate manner.
- 3.5.Give effect to the SDF.

4. *STATUS OF THE SCHEME*

- 4.1.The land use scheme provides for land use and development rights and has the force of law and is binding on the Municipality, all other persons and organs of state.
- 4.2.The right to use land for a purpose without the need to first obtain the consent of the Municipality in terms of the land use scheme vests in the land and not in a person.
- 4.3.Consent in terms of the land use scheme vests in land and not in a person, unless the Municipal Planning Tribunal has determined that it constitutes a personal right in favour of a defined person and may only be exercised by that person.

4.4.The right to use land for a purpose may not be alienated separately from the land to which it relates, unless the Municipality has provided in a by-law for the transfer of land use rights to other land.

4.5.Land that was being used lawfully before the effective date for the adoption of land use scheme for a purpose that does not conform to the land use scheme may continue to be used for that purpose.

4.6.Where the lawful utilization of land at the commencement of this Scheme does not comply with the zones of this Scheme, the utilization shall be deemed not to constitute an offence.

5. *CONTENTS OF THE LAND-USE SCHEME*

This land-use scheme is divided into two parts relating to the following matter, viz:

5.1.SCHEME CLAUSES

- a) Part I: Introduction to the Scheme
- b) Part II: Definitions.
- c) Part III: General Development, Land Use and Buildings
- d) Part IV: Special, written and temporary consent of the local municipality.
- e) Part V: Management of Land Development Requirements & Rights
- f) Part VI: Land Use Management in Areas under Traditional Leadership and Rural/Communal Land Areas
- g) Part VII: Application of the Scheme and Powers of the Local Municipality
- h) Part VIII: Scheme Register

5.2.THE SCHEME MAPS

6. *GENERAL PROVISIONS*

6.1.The Municipality shall consider all relevant national, provincial, district and local development policies that apply in the area when assessing an application submitted in terms of this Scheme.

6.2.If the court of law in South Africa, finds any provision of this Scheme as invalid, the Municipality shall remove such provision, but this shall not affect the validity of the remaining provisions.

6.3.The Scheme shall prevail over any by-law in operation in the municipality, where the two are in conflict.

6.4. An approval granted in terms of this Scheme does not exempt the property owner or the applicant from compliance with any other law, by-law, regulation, title deed condition or other restriction applicable to the property.

6.5. A contravention of the Scheme is an offence and shall be subject to provisions and penalties contemplated in Spatial Planning and Land Use Management Act, (Act No. 16 of 2013).

7. AMENDMENTS TO THE SCHEME

7.1. The Municipality may initiate an amendment of this scheme, and an owner of land may apply for an amendment of this scheme in accordance with procedures laid down in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013).

7.2. The Makhuduthamaga Local Municipality will not follow a formal process to amend the scheme to:

- a) correct a spelling / typing error or numbering within the Scheme;
- b) re-organize scheme clauses without changing the meaning of the clauses;
- c) replace or update reference to legislation;
- d) update or amend any annexure to the Scheme; and
- e) Include legally approved development applications or land use zones that have been omitted from the Scheme, or have been included incorrectly.

PART II: DEFINITIONS

In this Scheme, except where the context otherwise requires, or it is otherwise expressly provided, the following words and expressions have the respective meanings assigned to them herein and the plural and alternative gender forms shall denote the same meanings, as follows:

8. *STATUTORY RELATED DEFINITIONS*

- 2.1.1. **"ACT"** - Means the Spatial Planning and Land Use management Act, Act 16 of 2013 as well as any amendment thereto.
- 2.1.2. **"APPEAL AUTHORITY"** means the appeal authority referred to in regulation 20 to the Act.
- 2.1.3. **"AUTHORISED OFFICIAL"** means an official who may consider and determine applications as contemplated in section 35(2) of the Act.
- 2.1.4. **"BY-LAW"**-Means the Municipal Planning By-Law, as promulgated.
- 2.1.5. **"COMMUNAL PROPERTY ASSOCIATION"**-Means an association which is registered or qualifies for registration in terms of Section 8 of the Communal Property Registration Act, No. 28 of 1996.
- 2.1.6. **"DEPARTMENT"**- means the national department responsible for spatial planning and land use management.
- 2.1.7. **"CONTROLLING AUTHORITY"** - Means the controlling authority as defined in Section 1 of the Advertising on Roads and Ribbon Development Act, 1940 (Act No. 21 of 1940), or the Commission as defined in the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 70 of 1998), and other legislation applicable, as far as Town Planning is concerned, within the jurisdictional area of the local municipality as the case maybe.
- 2.1.8. **"DEED OF GRANT"**-Means a deed in respect of an ownership unit issued or deemed to have be issued in terms of the Regulations of the Administration and Control of Townships, 1962 (Regulation R.293 of 1962).
- 2.1.9. **ENVIRONMENTAL IMPACT ASSESSMENT"** - Means a report concerning the assessment of potential environmental, socio-economic and cultural heritage impacts of activities in terms of the requirements of the National Environmental Management Act, 1998 (Act No. 107 of 1998).

- 2.1.10. **“FACTORY”** – Means a factory as defined in the Act on Machinery and Professional Safety, 1983 (Act No. 6 of 1983) or any amendment thereof.
- 2.1.11. **“GENERAL PLAN”** - Means a plan representing the relative options and dimensions of two or more pieces of land, which has been approved or certified as a general plan by a Surveyor-General’s office in the Republic of South Africa or any area which became part of the Republic of South Africa at the commencement of the Constitution of the Republic of South Africa,1996.
- 2.1.12. **“INTEGRATED DEVELOPMENT PLAN” (IDP)** – Means a participatory planning process aimed at developing a strategic development plan to guide and inform all planning, budgeting, management and decision- making in a municipality, in terms of the requirements of Chapter 5 of the Municipal Systems Act (Act 32 of2000).
- 2.1.13. **“LAND-USE MANAGEMENT” (LUM)**- Means establishing or implementing any statutory or non-statutory mechanism in terms of which the use of land is or may be restricted or in any other way regulated.
- 2.1.14. **LAND-USE SCHEME”** - Means a scheme which determines and regulates the use and development of land in an area in accordance with the Spatial Planning and Land Use management Act, Act 16 of 2013 and is a component of land-use management.
- 2.1.15. **“LISTED ACTIVITIES”** – Means a development action that is likely to result in significant environmental impact as identified by the Minister of Environmental Affairs and Tourism in terms of sections 24 and 24D of the National Environmental Management Act, 2014 (Act No. 107 of 2014), as amended.
- 2.1.16. **“MINE”** – When used as a noun or a verb as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002), as amended.
- 2.1.17. **“MUNICIPAL PLANNING BY-LAW”**- Means Makhuduthamaga Municipal Planning By-Law or its successor in title.
- 2.1.18. **“MUNICIPAL PLANNING TRIBUNAL”**- Means established structure by the Municipality in terms of Section 35 of the Spatial Planning and Land Use Management Act, Act 16 of 2013 read together with regulation 3 of the Spatial Planning and Land Use Management Regulation: Land Use Management and General matters, 2015;

- 2.1.19. **“MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK” (SDF)**- Means the spatial development framework that must be included in a municipality’s integrated development plan in terms of Section 26(e) of the Municipal Systems Act, (Act 32 of 2000).
- 2.1.20. **“PERMISSION TO OCCUPY CERTIFICATE” or “PTO”** – Means a permission granted to occupy an allotment in terms of the Regulations of the Black Administration Act, Act 38 of 1927 (Regulation R.188 of 1969);
- 2.1.21. **“REGULATION”**-Means Spatial Planning and Land Use Management regulations: Land Use Management and General matters, 2015;

9. *GENERAL DEFINITIONS*

- 2.2.1. **“ADDITIONAL DWELLING UNIT”** - Means a second dwelling unit on the same erf provided that the total coverage does not exceed the prescribed coverage.
- 2.2.2. **“AGRICULTURAL USE”** – Means land used or a building designed or used for the purposes such as, but not limited to ploughing, depasturing, horticulture, poultry farming, dairy farming, breeding and keeping of livestock, apiaries, forestry, mushroom and vegetable production, flower production, orchards and any other activity commonly connected with farming or associated therewith, and include the sale of own produced goods. It includes only one main dwelling unit and associated farm settlement.
- 2.2.3. **“ANNEXURES”** – Means documents comprising of provisions, inter alia, special rights and conditions applicable to those properties shown on the A series of the map by encircled figures.
- 2.2.4. **“AREA OF THE SCHEME”** – Means the total Municipal area as depicted on the Scheme map.
- 2.2.5. **“BASEMENT”** – Means any floor of a building situated under the ground floor, beneath the natural horizontal ground level of the area.
- 2.2.6. **“BED & BREAKFAST ACCOMODATION”**-Means any enterprise consisting of not more than four (4) guest rooms for the temporary accommodation of maximum of eight (8) transient guests and which is conducted from dwelling houses where the main use of the unit concerned shall remain for the accommodation of a single family. Only one (1) kitchen per establishment is allowed and meals shall be provided, but a bathroom may also be shared with the host family.

- 2.2.7. **“BIOSPHERE”** – Means land or an area/s of terrestrial ecosystems, or a combination thereof within which land-use and resource management are undertaken to enhance conservation and development objectives.
- 2.2.8. **“BUILDING”** - Means and includes structures or constructions of any nature whatsoever.
- 2.2.9. **“BUILDING LINE”** – Means a line indicating the limits of a building restriction area as measured from a street boundary or other boundary of a property which does not border on a street and which, at a fixed distance from such boundary, runs parallel to such boundary.
- 2.2.10. **“BUILDING RESTRICTION AREA”** – Means an area wherein no building, except those permitted in the scheme, may be erected.
- 2.2.11. **“BUILDERS YARD”** – Means land or buildings which are used for the storage of materials: Materials which:
- a) are commonly used for building work; or
 - b) resulted from demolition or excavation works; or
 - c) are commonly used for other civil engineering works such as installation of services;
 - d) Vehicles and implements necessary or ancillary to the works and services
 - e) May include administrative offices incidental to the above-mentioned uses.
- 2.2.12. **“CARAVAN PARK”** – Means land provided with adequate ablution facilities for the temporary accommodation of mobile caravans and/or tents.
- 2.2.13. **“COMMERCIAL USE”** – Means uses such as distribution centres, wholesale trade, storage, warehouses, cartage and transport services, laboratories and computer centres and may include offices that are subordinate and complementary to the commercial use of the land.
- 2.2.14. **“CONFERENCE FACILITY”** – Means a building designed for use or used as lecture hall, training facility, conducting of workshops, meetings, conferences, symposiums and related uses, but does not include “Institution” and “Place of Instruction”. The area used for a conference facility may be restricted by the local municipality, and is further subject to the policy of the local municipality as amended from time to time.

- 2.2.15. **“CONSENT USE”** – Means a land use right that may be obtained by way of consent from the municipality and is specified as such in the land use scheme and means the additional land use right that may be permitted in terms of the provision in a particular zone, only with the consent of the Municipality as contemplated in clauses under Chapter 3 Sections 3.18 and 3.19 of this Land Use Scheme.
- 2.2.16. **“CONSERVATION PURPOSES”** - Means purposes normally or otherwise reasonably associated with the use of land for the preservation or protection of the natural or built environment, including the preservation or protection of the physical, ecological, cultural or historical characteristics of land against undesirable change or human activity.
- 2.2.17. **“COVERAGE”** – Means the area of a property covered by buildings as seen vertically from above and expressed as a percentage of the area of the erf, but excluding a structure without a roof or covered by hail net.
- 2.2.18. **“DRIVE-IN RESTAURANT”**- Means land and buildings used for the preparation and consumption of food and refreshments by clients in parked vehicles and may include take-aways.
- 2.2.19. **“DUPLEX DWELLING”**- Means a building consisting of two or more dwelling-units each of two storeys with an internal staircase.
- 2.2.20. **“DWELLING-HOUSE”**- Means a single dwelling-unit on property zoned “Residential 1”, “Agricultural” and “Undetermined”.
- 2.2.21. **“DWELLING OFFICE”** – Means an existing dwelling unit that is converted and used as an office, provided that the elevation treatment of the buildings maintains a residential character and appearance complementary to the environment, and is also in accordance with the policy of the local municipality.
- 2.2.22. **“DWELLING UNIT”** – Means an interconnected suite of rooms which does not include more than one kitchen, designed for occupation and use by a single family or extended family and which may include such outbuildings and servants’ quarters as are ordinarily incidental
- 2.2.23. **“ELECTRICITY POWER STATION”** -Means land and buildings used for the generation of electricity and may include ancillary and subservient uses.
- 2.2.24. **“EQUESTRIAN SCHOOL**-Means a place where horses are stabled and horse riders and horses are trained and may include horse competitions with the permission of the Municipality.

- 2.2.25. **“ERECTION OF A BUILDING**- Means, inter alia, the construction of, any addition to, or structural alteration of a building.
- 2.2.26. **“ERF”** - Means land in an approved township registered in a deeds registry as an erf, lot, plot or stand or as a portion of the remainder of any erf, lot, plot or stand or land indicated as such on the general plan of an approved township, and includes any particular portion of land laid out as a township which is not intended for a public open place, whether or not such township has been recognized, approved or established as such in terms of relevant legislation; as well as any portion of land identifiable by means of boundaries or beacons within rural settlements.
- 2.2.27. **“EXISTING BUILDING”** - Means respectively a building or work erected or carried out before the relative date set out in the definition of “Existing Use” and includes a building or work,
- a) erected or carried out in pursuance of a contract made before the relevant date given in the definition of “Existing Use”,
 - b) begun before, but completed after, the said date,
 - c) erected or carried out in accordance with the terms of any permission granted by the Municipality before the said date:
 - (i) Provided that, notwithstanding the afore-mentioned definition the Municipality may refuse to regard any building or work which was the subject of a prohibition or instruction as Completed in accordance with the terms of any permission granted by the Municipality during the preparation and until the coming into operation of this Land Use Scheme.
- 2.2.28. **“EXISTING ERF”** - any erf as defined in the "SPLUMA" and includes any portion of an erf the subdivision of which was approved prior to the "Fixed date" and is registered in a deed's registry.
- 2.2.29. **“EXISTING USE”** - Means a use carried out or in operation on an erf or site that was permitted in terms of the previous planning legislation and lawful in terms of the National Building Regulations but which is contrary to this Land Use Scheme. It shall remain an existing use right unless the said use is altered in any way or ceases to be carried out for a period of 12 months.

- 2.2.30. **“FAMILY”** - Means a married couple who live together with or without their parents and/or their children. Means the following people that live together:
- a) a married couple with or without their parents and/or their children; or
 - b) a single person with his/her parents and/or his/her children; or
 - c) brothers and sisters; or
 - d) a single person with his/her grandparents and/or his/her grandchildren; or
 - e) Grandparents with their grandchildren.
- 2.2.31. **“FARMSTALL”** - Means a building on a property zoned "Agricultural" and "Undetermined" used for the sale of agricultural produce.
- 2.2.32. **“FILLING STATION”** – Means land used or a building designed or used for fuelling, washing, polishing and lubricating of motor vehicles, as well as for emergency repairs to vehicles, but excluding a “Public Garage”, panel beating, spray painting or any major repair work and can include the retail trade of emergency spare parts, as a complimentary subservient service. A Convenience Store not exceeding 250m² is permitted as a primary right.
- 2.2.33. **“FITNESS CENTRE”** - Means a building where people exercise with or without exercise apparatus.
- 2.2.34. **“FIXED DATE”** - Means the date on which the Municipality gave notice in the Provincial Gazette that this scheme has been approved.
- 2.2.35. **“FLAT”** – Means a group of dwelling units contained in a building(s) with a communal entrance.
- 2.2.36. **“FLOOD LINES”** - Means the flood lines as defined in Section 144 of the National Water Act,1998 (Act 36 of 1998), including any other flood lines that the Municipality may require.
- 2.2.37. **“FLOOR AREA RATIO”** - Means the ratio of the Gross Floor Area of a building to the total area of the property, including any servitudes, on which such building is erected or is to be erected, i.e. FAR = Gross Floor Area divided by Area of property.
- 2.2.38. **“FLOOR AREA”** - Means the sum of the gross area covered by the building at the floor level of each storey, provided that the area reasonably required for the purposes detailed below may be excluded from the calculations of the floor area, which calculations shall be clearly indicated on the building plans. Floor area shall be measured from the outer face of the exterior walls or similar

supports of such building, and where the building consists of more than one storey, the total floor space shall be the sum of the floor area of all the storeys, including that of basements. Areas that may be excluded from the calculation of floor area are:

- a) Any area, including a basement, which is reserved solely for parking of vehicles and loading and off-loading areas; 10% of the total floor area shall be regarded as areas required for the cleaning, maintenance, care and proper mechanical and electrical functioning of the building.

2.2.39. **“FUNERAL UNDERTAKER”** - Means land and buildings used for the administration of funeral arrangements including showrooms, offices, storage space, refrigeration rooms, funeral parlour for the preparation and viewing of the dead, waiting room and the sale of flowers, coffins, gravestones and other related products as well as a display area for gravestones, but excludes a crematorium, a chapel or church.

2.2.40. **“GAME RESERVE”** – Means land or a place reserved for wild life; exclusive occupation and use.

2.2.41. **“GARDEN CENTRE”** - Means land and buildings used for the storage, cultivation and sale of plants, bulbs, seed, fish, birds, pots, compost, fertilizer, pesticides, herbicides and may include the sale of ancillary and subservient gardening products and a place of refreshment not exceeding 40 seats.

2.2.42. **“GOVERNMENT PURPOSES”** - Means land and buildings designed or used for Government offices, depots, workshops, stores, communication centres, police stations, post offices etc. and includes incidental uses such as a cafeteria solely for Government Departments but excludes industries and noxious industries.

2.2.43. **“GROSS FLOOR AREA”** – Means the sum of the total area, (measured from external walls of the building), covered by a building at the floor level of each storey: Provided that in calculating the floor area, the floor area for parking and vehicle manoeuvring area be excluded. The gross floor area of a building is determined by multiplying the area of the property by the FAR, for e.g. $1\ 000\ m^2 \times 0,4 = 400\ m$.

2.2.44. **“GROSS LEASIBLE FLOOR AREA”** – Means floor area that is designed for the occupation and control by a tenant, or that is suitable therefore, measured

from the centre line of joint partitions and the internal surface of external walls.

- 2.2.45. **“GROUND FLOOR”** - Means the floor of a building which is the entry point into the building and which is at or closest to the natural ground level of the property on which such building stands and [which is the entry level into the building] excludes a basement.
- 2.2.46. **“GROUND STOREY”** - Means that storey on the ground floor.
- 2.2.47. **“GROUP HOUSING”** – Means a group of detached and / or attached dwelling units on a stand or stands that form an integrated, harmonious and architectural unit and include concepts like group housing, townhouses, simplexes, duplexes and all such development, but excludes uses included in the definition of “Dwelling Unit”, "Residential Building" or "Flat".
- 2.2.48. **“GUEST”** - Means a person who stays overnight for a short period away from his/her normal place of residence.
- 2.2.49. **“GUEST-HOUSE”** - Means a dwelling-unit, excluding a Home Enterprise, consisting of not more than 16 bedrooms for a maximum of 32 guests, a dining-room, lounge, bar and may include [a conference room with the permission of the Municipality] ancillary and subservient facilities for the exclusive use of such guests [who need accommodation for a short period] and which shall be managed by the owner or manager who shall reside on the premises.
- 2.2.50. **“HABITABLE ROOM”** - Means a room designed or used for human habitation according to the minimum standards prescribed in Part C of the National Building Regulations, but shall not
- 2.2.51. **“HEIGHT”** – Means the height of the building expressed in the number of storeys.
- 2.2.52. **“HEIGHT ZONE”** - Means a specific zone in Table 4 and indicated on the electronic database of the Municipality.
- 2.2.53. **“HELIPAD”** - Means land and buildings designed or used for the landing and take-off of helicopters and may include a terminal for passengers.
- 2.2.54. **“HOSPITAL”** - Means land and buildings used for the accommodation and care of sick or injured persons or persons needing specialized medical treatment or operations and may include operating theatres, x-ray rooms, a place of refreshment, a shop, pharmacy and offices and consulting rooms directly

related to the hospital and may include a caretaker's flat and ancillary and subservient uses.

- 2.2.55. **"HOSTEL"** - Means a boarding house for persons attending a place of instruction or institution and which is owned or managed by or on behalf of the said place of instruction or institution.
- 2.2.56. **"HOTEL"** - Means an accommodation enterprise which includes places of entertainment and restaurants and is also licensed in terms of the Liquor Act, 2003 (Act No. 59 of 2003) and may also include conference facilities.
- 2.2.57. **"HOUSEHOLD"** - Means a group of persons regarded as a domestic unit in terms of legislation, common law or customary law.
- 2.2.58. **"HOUSEHOLD ENTERPRISE"** - Means a small scale enterprise which is used by the occupant for the conduct of a practice or occupation with the aim of deriving income there from and which is practiced by a maximum of three (3) persons, of which at least one is a full time resident of the property, from a dwelling unit in such a way that the residential character and primary use of the dwelling unit and environment shall not, in the opinion of the local municipality, be in any way harmed or changed. No retail trade is permitted from the property.
- 2.2.59. **"HOME ENTERPRISE"** - Means a dwelling house/unit used for a small-scale enterprise, practice or occupation for economic gain, by the permanent resident(s) of the property.
- 2.2.60. **"INFORMAL BUSINESS"** – Means the conducting of a business which, with the consent of the local municipality after consultation with the adjacent owners, is conveyed from place to place, whether by vehicle or otherwise, in a street or at any other place accessible to the public, at any open property or in, on or from any vehicle or moveable structure, subject to such requirements laid down by the local municipality.
- 2.2.61. **"INFORMAL STRUCTURE"** – Means a residential shelter of a temporary nature that does not comply with the provisions of the Act on National Building Regulations and Building Standards, 1977 (Act No. 103 of 1977) and any amendments thereof.
- 2.2.62. **"INDUSTRY"** – Means the use of land or a building for a factory, distributing depot, wholesale, storage, warehouse for the storage of wholesale

merchandise, carting and transport services, laboratories, workshop and motor workshop and may also include offices which are normally associated with or which are reasonably essential for the main use.

- 2.2.63. **“INSTITUTION”** – Means a building designed to be used as a charitable institution, hospital, nursing home, old age home, clinic, sanatorium, either public or private but excludes institutions used mainly as offices or for administrative work, and may, with the permission of the local municipality include activities which is directly related to and subservient to the main use.
- 2.2.64. **“INTERNET CAFÉ”** - Means land and buildings or part of a building used for hiring of computers to customers for use on the premises.
- 2.2.65. **“KITCHEN”** - Means a room or part of a room designed or used for the storage of food, utensils, crockery, cutlery, etc. and for the preparation of food by means of electrical, wood, coal or gas appliances and shall include washing facilities or have interleading washing facilities.
- 2.2.66. **“KIOSK”** – Means a building designed and use for the preparation or retail sale of meals and refreshments as well as the retail sale of cold drinks, tobacco, reading material and sweets. Cafeteria has a similar meaning.
- 2.2.67. **“LABORATORIES”** - Means land and buildings used for scientific and medical research and experimenting but does not include any activities which create a danger or nuisance of noise, smoke, fumes or smell.
- 2.2.68. **“LAND”** - Also includes any improvements on land, any interest in land as well as land covered by water, and property shall have a corresponding meaning.
- 2.2.69. **“LANDSCAPE DEVELOPMENT PLAN”** - Means a plan drawn to a scale of 1:200 containing information on existing natural features and vegetation and proposed soft and hard landscape design information specifying species, quantities and qualities and compiled by a Professional Landscape Architect.
- 2.2.70. **“LIGHT INDUSTRY”** - Means land and buildings used for, inter alia, a bakery, a builder’s yard, a contractor’s yard, dry-cleaners, carpet cleaners, joinery workshop, launderette, laundry, lawnmower workshop, painter’s workshop, plumber’s workshop, printing workshop, transport depot, panel-beater, motor workshops, a ready-mix plant and any other such industries, workshops or yards which in the opinion of the Municipality do not cause a nuisance to the environment, may be used for similar purposes and may include the retail sale of products ancillary and subservient to the main use on the same property.

- 2.2.71. **“LOADING SPACE”** – Means a rectangular area of not less than 3m by 16m in size.
- 2.2.72. **“LOCAL AUTHORITY”** - Means the Makhuduthamaga Local Municipality
- 2.2.73. **“LOCAL MUNICIPALITY”**– Means the Makhuduthamaga Local Municipality and/or any employee in his service to whom the authority is delegated.
- 2.2.74. **“LODGE”** - Means land and buildings used for accommodating guests or tourists for short periods and may include recreation facilities, a conference centre or social hall, wedding chapel, staff quarters and ancillary and subservient uses.
- 2.2.75. **“LOFT”** - Means a storey in the roof of a building which can be used for the same purposes as the other storeys in the same building and which shall be calculated as gross floor area and height in terms of the relevant clause
- 2.2.76. **“MAP”** - Means a map as defined in the Regulations of the SPLUMA and which forms part of the Scheme including any amendment thereto.
- 2.2.77. **“MARKET GARDEN”** - Means land and buildings used for growing vegetables, flowers and fruit and may include the retail sale of such products on the same property.
- 2.2.78. **“MEDICAL CONSULTING ROOMS”** – Means a building designed or adapted as professional rooms for medical practitioners including general practitioners, medical specialists, pathologists, radiologists, dentists, ophthalmologists and similar uses such as veterinary surgeons, and may include a dispensing chemist not exceeding 20m² but not uses included in the definition of "Institution".
- 2.2.79. **“MEZZANINE FLOOR”** - Means a floor area as defined in the National Building Regulations, 1985. Means any mezzanine floor the area of which does not exceed 25% of the floor area below it.
- 2.2.80. **“MINING AND QUARRYING PURPOSES”** – Means land where the extracting of minerals occurring naturally, for example solids such as coal and ores; liquids such as crude petroleum and gasses such as natural gas. Mining includes underground and surface mines, quarries and the operation of oil and gas wells and all supplemental activities for dressing and beneficiating ores and other crude materials such as crushing, screening, washing, cleaning, grading, milling, flotation, melting, refining, pelleting, topping and other preparation needed to render the material marketable. It also includes all associated works

such as rock dumping, tailing dams, workshops and buildings for mining purposes. Reclamation of minerals from mine dumps and worked out mines is included.

- 2.2.81. **“MINING 2”** – Means land with ore bodies and/or mineral potential/occurrences with or without mining rights in terms of existing mining and mineral legislation. The minerals are therefore likely to be extracted in future.
- 2.2.82. **“MINOR STRUCTURAL CHANGE/MINOR BUILDING WORKS”** – Means small structural changes to an existing building for which a building plan is not a requirement.
- 2.2.83. **“MOBILE DWELLING UNITS”** – Means a prefabricated mobile unit of an interconnected set of rooms that does not include more than one kitchen and is designed for use by a household and which is moveable.
- 2.2.84. **“MOBILE DWELLING-UNIT STAND”** - Means land meant for the placing of one mobile dwelling-unit and the permissible additional structures for the exclusive use of the occupants of such mobile dwelling-unit.
- 2.2.85. **“MOTOR DEALERSHIP”** - Means land and buildings used for an integrated service which provides a full range of related activities in respect of a specific vehicle range and includes a motor workshop, offices, the sale of new spare parts and the sale of new and used vehicles of that specific range only within a motor showroom: Provided that a motor showroom shall be in an approved building enclosed on all sides with brick and /or glass walls.
- 2.2.86. **“MOTOR WORKSHOP”** - Means land and buildings used for the following:
- a) repair and servicing of vehicles, excluding panel-beating or spray-painting; and
 - b) Installation of motor spare parts and accessories.
- 2.2.87. **“MUNICIPALITY”**- Means the Makhuduthamaga Municipality established and instituted in terms of Notice 6770 of 2000 promulgated in terms of Section 12(1) of the Local Government Structures Act, 1998 (Act 117 of 1998) as amended.
- 2.2.88. **“MUNICIPAL PURPOSES”** - Means such purposes as the Municipality may be authorized to carry out in terms of any law governing municipalities including

but not limited to the Local Government Municipal Structures, 1998 (Act 117 of 1998) and the Local Government Municipal Systems Act, 2000 (Act 32 of 2000).

- 2.2.89. **“MUNICIPAL SERVICES”** - Means infrastructure services such as electricity cables, water pipes, sewage pipes, street furniture, electricity poles, light poles, traffic signs etc.
- 2.2.90. **“NATIONAL PARK”** – Means a natural area of land designated to:
- a) protect the ecological integrity of one or more ecosystems for present and future generations; exclude exploitation or occupation inimical to the purposes of designation of the area; and
 - b) Provide a foundation for spiritual, scientific, educational, recreational and visitor opportunities, all of which must be environmentally and culturally compatible.
- 2.2.91. **“NATURAL AREAS”** - Means land ecologically sensitive, naturally rich in biodiversity and non-renewable resources for conservation purposes.
- 2.2.92. **“NATURAL GROUND LEVEL”** - Means the natural level of a property before any excavations or filling takes place and is the level which is used for measuring the height of a building.
- 2.2.93. **“NATURAL HERITAGE SITE”** – Means land or an area declared in terms of the relevant Act to protect, preserve, and / or manage localized provincially significant natural features due to their special interest or unique characteristics; areas focused on the protection of specific features, species, natural landscapes and biotic communities occurring on any private, communal or state land.
- 2.2.94. **“NATURE RESERVE”** – Means an area of land possessing some outstanding or representative ecosystems, geological or physiological features and/or species where wild life is left undisturbed by man.
- 2.2.95. **“NOTICE”** - Unless otherwise specifically provided in terms of this Scheme or any other law means a written notice and notify means to give a notice in writing and the provisions of the scheme.

- 2.2.96. **“NOXIOUS INDUSTRY”** - Means an activity where any one or more of the following activities are carried out: Blood boiling; tallow melting; fat melting or extracting; soap boiling; bone boiling; tripe boiling or cleaning; skin storing; bone storing; fell mongering; skin curing; blood drying; gut scraping; leather dressing; tanning; glue making; size making; charcoal burning; brick burning; lime burning; manure making; manure storing; parchment making; malt making; yeast making; cement works; coke ovens; salt glazing; sintering of sulphur-bearing materials; viscose works; smelting of ores and minerals; calcining; puddling and rolling of iron and other metals; conversion of pig-iron into wrought iron; re-heating; annealing; hardening; forging; converting and carburizing iron and other metals; works for the production of or which employ carbon disulphide, cellulose lacquers, cyanogens or its compounds, hot pitch or bitumen, pulverized fuel, pyridine, liquid or gaseous sulphur dioxide, Sulphur chlorides; works for the production of amyl acetate, aromatic esters, butyric acid, caramel enamelled wire, glass, hexamine, iodoform, lamp-black, B-naphthol, resin products, salicylic acid, sulphurated organic compounds, sulphur dyes, ultramarine, zinc chloride, zinc oxide; and all refining and works dealing with the processing or refining of petrol or oil or their products; Provided that where the Municipality adds to the list of noxious trades, such additions shall also be deemed to be included in the above definition and that all Health requirements are complied with.
- 2.2.97. **“NOXIOUS INDUSTRIAL BUILDING”** - Means a building designed or used for a “Noxious Industry”.
- 2.2.98. **“NURSING HOME”** - Means land and buildings used for the medical and psychiatric, [alcoholics, drug addicts] care and treatment of ill, injured, frail, mentally or physically disabled, alcoholics, drug addicts or sick persons or persons who need post-operative care but excludes operating theatres, and may include a caretaker’s flat, place of refreshment, shops and consulting rooms directly ancillary and subservient to the main use.
- 2.2.99. **“OFFICE”** – Means a building or part thereof, designed or used for administrative, professional and related purposes, including a bank, insurance company, building society, medical consulting rooms and related offices or rooms.
- 2.2.100. **“OPEN SPACE”** - Means land which is predominantly free of buildings or structures and which provides ecological , socio-economic and place-making

functions such as natural areas, nature conservation areas, protected areas, nature reserve and includes ridges, watercourses, wetlands, ecological sensitive areas, parks, and squares as defined in the Tshwane Open Space Framework and may include ablution facilities, pergolas, benches, and braai facilities.

- 2.2.101. **“OCCASIONAL USE”** - The use of land and buildings once a month for a maximum continuous period of 72 hours within a calendar month.
- 2.2.102. **“OCCUPANT”** - Shall include any person in actual occupation of any land, or building or structure or premises without regard to the title under which he occupies, and in the case of premises subdivided and let to lodgers, various tenants, shall include the person receiving the rent payable by the lodgers or tenants whether on his own account or as agent for any person entitled thereto or interested therein and includes the agent of any person absent from the area or whose whereabouts is unknown.
- 2.2.103. **“OUTBUILDING “**- Means a building(s) which has its own entrance or door and no inter leading door to the main building, which is attached or free standing from the main building on the same property and which may contain:
- a) garages, storerooms, studios, exercise rooms, hobby rooms, music room, washrooms and a Home Enterprise, etc.;
 - b) a squash court only with the permission of the Municipality; and
 - c) residential accommodation, which shall not exceed 20% of the floor area of the main building up to a maximum of 50 m² without the permission of the Municipality and which may consist of habitable rooms, bathroom(s) and only one kitchen:
 - (i) Provided that such outbuilding has a common vehicular access with the main building and it is for the purposes of only the occupants of the main building and their staff and the total gross floor area of such outbuilding(s) shall not exceed 40% of the gross floor area of the main building without the permission of the Municipality and such outbuildings shall not be leased to tenants or sold under sectional title.
- 2.2.104. **“OWNER”** - In relation to the property:

- a) the registered owner; or
- b) where such a person is deceased, insolvent, mentally disordered or defective, a minor, or under any legal disability, the person in whom the administration of that person's or holder's estate is vested, whether as executor, guardian or in any other whatsoever; or
- c) the occupant, or the lessee by virtue of a lease which is registered by law; but not for purposes of lodging an application in terms of the provisions of this scheme; or
- d) when an owner, as defined above is absent from the area or his address unknown, "owner" shall mean an agent of such an owner or any person that receives rent or that is entitled to rent in respect of the premises;
- e) de facto occupant but not for purposes of lodging an application in terms of the provisions of this scheme; or
- f) also, the holder of any right in land whether registered or unregistered, and may include the interest of a labour tenant and sharecropper, a customary law interest, the interest of a beneficiary under a trust arrangement and beneficial occupation for a continuous period of not less than 10 years prior to the dispossession in question.

- 2.2.105. **“PANEL BEATER”** – Means the replacement, reparation and/or panel beating of the body and spare parts of vehicles and the spray painting thereof.
- 2.2.106. **“PANHANDLE”** – Means the access section of a panhandle erf, which section must be at least 3m wide provided that this section is not considered as a part of the erf for the purpose of this scheme.
- 2.2.107. **“PANHANDLE PROPERTY”** - Means an L-shaped property, consisting of a narrow portion, which is known as the panhandle and which abuts on a street, and a broader buildable portion.
- 2.2.108. **“PARKING GARAGE”** - Means a building designed or used for the parking of motor vehicles not being for trade or sale, and does not include a building any part of which is designed or used as a workshop for the repair of motor vehicles.
- 2.2.109. **“PARKING AREA”** – Means parking and manoeuvring space necessary to provide traffic with access and parking space as well as efficient connection with the adjoining street.

- 2.2.110. **“PARKING SPACE”** - Means an area, used exclusively for the parking of a motor vehicle not being for trade or sale, the extent of which area shall be a minimum of 2,5 metres wide and a minimum of 5,0 metres long, excluding access or manoeuvring space, ramps, columns, etc.
- 2.2.111. **“PEDESTRIAN BRIDGE”** - Means a bridge across a road or street linking two buildings or two properties on either side of the road or street and providing access for pedestrians only and subject to the Municipality’s requirements.
- 2.2.112. **“PERMISSION OF THE MUNICIPALITY”** - Means the permission or approval granted by the Municipality in terms of Clause 20 to use land and buildings for a specific use or to relax certain conditions applicable to the use of land and buildings.
- 2.2.113. **“PETTING ZOO”** - Means land and buildings used for the keeping and breeding of animals for display and interaction with persons visiting the property and may include a place of refreshment.
- 2.2.114. **“PHYSICAL BARRIER”** - Means a permanently-fixed barrier erected on the street boundary of an erf, consisting of either an approved brick or concrete wall or fencing or chains and/or bollard-type or crossed-over wooden, iron or steel poles or concrete plant boxes or other type of barrier acceptable to the Municipality. **“PICNIC PLACE”** - Means land used for outdoor recreation and associated uses such as picnics and braais.
- 2.2.115. **“PLACE OF AMUSEMENT”** – Means land used or a building designed for or used as a public hall, theatre, cinema, music hall, concert hall, billiards saloon, sports arena, skating rink, dance hall, or for other recreational purposes, or for trade- or industrial exhibitions or for pinball games with more than three (3) machines.
- 2.2.116. **“PLACE OF CHILD CARE”** - Means land and buildings used for the admission, protection and temporary or partial care of more than six children up to the age of 18 years away from their parents, but does not include a boarding school, school hostel, institution or place of instruction. Depending on its registration, a place of child care can admit babies, toddlers, pre-school aged children and school-going children on a full day or other basis and may include pre-primary school education.
- 2.2.117. **“PLACE OF INSTRUCTION”** – Means a building designed for use as a school, college, technical or academic institution, crèche, lecture hall, nursery school,

after school care centre, or other educational centre and a hostel in connection therewith and includes a convent or monastery, a library, art gallery and a museum.

- 2.2.118. **“PLACE OF REFRESHMENT”** - Means a drive-in restaurant, café, tea-room or coffee shop, being a building other than a hotel or residential club designed and used for the preparation or retail sale of meals and refreshments as well as the retail sale of fresh produce, cold drinks, tobacco, reading material and sweets.
- 2.2.119. **“PLANT NURSERY”** - Means land and buildings used for the storage and cultivation of plants, bulbs and seed for distribution and sale to shops or garden centres and may include the retail sale to the public on the property.
- 2.2.120. **“PRIMARY RIGHT”**: Means the uses permitted in terms of column 2 of Table “2”.
- 2.2.121. **“PRIVATE CLUB”** – Means land used or a building designed or used for the private gathering of a group of persons being members of that club with a common objective.
- 2.2.122. **“PRIVATE OPEN SPACE”** – Means land zoned or used as a sport-, play-, rest- and recreational ground or as an ornamental or pleasure garden, to which, without permission, the general public has no right of admission.
- 2.2.123. **“PROTECTED AREA”** – Means land or an area described in terms of the relevant Act that will substantially promote the preservation of specific ecological processes, natural systems, natural beauty or species of indigenous wildlife or the preservation of biotic diversity in general with the nature primarily orientated to support sustained economic activities. Such area may comprise private, communal, or state land or any combination thereof which is contractually developed and managed with joint resources for conservation, education, recreation and sustainable resource utilisation purposes.
- 2.2.124. **“PUBLIC OPEN SPACE”** – Means any land zoned for use by the general public as an open space, park, garden, recreation site, sport field or square.
- 2.2.125. **“PUBLIC GARAGE”** – Means a building used for the maintenance, repair or fuelling of vehicles and associated purposes, and may include a vehicle workshop, the display and sale of new and used motor vehicles, the cleaning and washing thereof, the sale of spare parts, accessories, fuel and lubricants

and may also include a place of refreshment and convenient store as subservient use but excludes spray-painting, panel beating or a scrapyard, provided that the convenience store or place of refreshment, including store rooms, shall not exceed 250m².

- 2.2.126. **“PLACE OF PUBLIC WORSHIP “**- Means land and buildings used for a church, chapel, mosque, temple, synagogue, or other religious purposes and may include ancillary social and recreational purposes and one dwelling-unit on the same property, but shall not include a funeral parlour, wall of remembrance or cemetery.
- 2.2.127. **“PREMIER”** - Means the head of the Executive Municipality of the Limpopo Provincial Government.
- 2.2.128. **“PROPERTY”** - Means any portion of land that has been registered as a separate unit in the Deeds Office.
- 2.2.129. **“PROPOSED STREETS AND WIDENING”** - Means land reserved for proposed streets or the widening of existing streets.
- 2.2.130. **“QUARRYING”** – Means land used for the purposes as described in terms of the definition “Mining and Quarrying Purposes”.
- 2.2.131. **“RAILWAY PURPOSES”** -Means land and buildings used for the movement of trains and busses and includes inter alia shops, workshops, industries related to railways, stations and inter modal transport facilities and may include ancillary and subservient uses for staff and passengers but excludes a place of amusement and noxious industries. Means land and buildings used for transport purposes as defined in the Legal Succession to the South African Transport Services Act,1989 (Act 9 of 1989 as amended).
- 2.2.132. **“REAR BOUNDARY”** - In relation means any boundary opposite to a street boundary: Provided that, where a property has two or more street boundaries, the boundaries opposite to such street boundaries shall be deemed to be side boundaries.
- 2.2.133. **“RESERVOIR”** - Means land and buildings designed for the storage of water and pumping equipment and may include toilets, storerooms, lapa with braai facilities and ancillary and subservient municipal uses.

- 2.2.134. **“RESIDENTIAL BUILDING”** – Means a building, other than a “dwelling unit”, group housing, hotel, flat and institution that is designed for and used as a boarding house, residential club, hostel, residential hotel or rooms to let.
- 2.2.135. **“RESIDENTIAL TAVERN”** - means a building designed for or a portion of a dwelling unit used for the purposes of selling and serving liquor, other beverages and prepared food / snacks, to be consumed on the property, subservient to the residential use of the property remains the primary use of the property. The area used for a tavern shall not exceed a total floor area of 50m² and is further subject to the policy of the local municipality as amended from time to time.
- 2.2.136. **“RESORT”** – Means a place frequented by people for relaxation or recreation - for a specified purpose or quality (i.e. health, holiday, mountain resort). Specialized resorts (i.e. youth camps, church, cultural). Picnic resorts, holiday towns and hotels/motels, rest camps, camping. It can also include land and buildings used for recreational purposes mainly by day visitors and may include swimming pools, water slides, braai facilities, chalets, a camping site [camping, caravanning], cultural and music events, a place of refreshment, a conference centre or social hall, wedding chapel, staff accommodation, natural areas and ancillary and subservient uses.
- 2.2.137. **“RESTAURANT”** – Means a building or part of a building used for the preparation and sale of meals and refreshments, confectionery for consumption on the erf of the property and includes entertainment subsidiary to the main use and can include a place of refreshment, as well as a drive-through restaurant.
- 2.2.138. **“RETAIL INDUSTRY”** - Means, inter alia, catering, a confectionary, dress-making, and tailoring, engraving, instant printing and copying, jewellery manufacturing, photographic processing, picture framing, and screen printing; as well as the servicing and repair of air conditioners, audio equipment, basket ware and cane furniture, canvass goods and tents, bicycles, electronic equipment, [household] domestic equipment, leather-works and shoes, office equipment, television and video equipment, upholstery, watches, weighing machines and window blinds, but does not include a Light Industry and the wholesale selling of goods.
- 2.2.139. **“RETAIL TRADE”** – Means any trade other than “Wholesale trade” as defined in this scheme.

- 2.2.140. **“RETIREMENT VILLAGE”** – Means and includes dwelling units and community facilities such as a dining hall, sick-bay, sport and recreation facilities or such other facilities, approved by the local municipality, for occupancy and use by elderly people. It also includes a small convenience centre that can house consulting rooms, chemists, café or other uses subsidiary to the main use.
- 2.2.141. **“ROAD”** - Means a street or road as defined.
- 2.2.142. **“ROOFTOP ANTENNA”** - Means telecommunications, television or other electronic and/or radio antennas which are fixed to a building and may include a base station on the roof of the building or inside the building.
- 2.2.143. **“RURAL GENERAL DEALER”** – means a building or part of a dwelling unit used for the purposes of selling and providing basic groceries (daily convenience goods) and fresh produce, excluding alcoholic refreshments. The area used for the rural general dealer shall not exceed a total floor area of 30m².
- 2.2.144. **“RIGHTS”** – Means land use rights obtained in terms of this scheme.
- 2.2.145. **RURAL SETTLEMENT TYPES:**
- a) **“FARM SETTLEMENT”** – Means the use of land for homesteads for people living on a commercial farm and is directly associated with the farming activities related to the particular farm, subject to the policy of the local municipality as amended from time to time.
 - b) **“FORMAL RURAL SETTLEMENT”** – Means a settlement which is planned and surveyed (General Plan). A formal rural settlement can be handled in the same manner as a proclaimed township.
 - c) **“INFORMAL RURAL SETTLEMENT”** – Means a settlement situated either on private, tribal or state land. Settlement is not planned or surveyed. Management is done by a communal property association or tribal authority or local municipality.
 - d) **“SEMI FORMAL RURAL SETTLEMENT”** – Means a settlement situated either on private, tribal or state land. Settlement is planned and surveyed (mostly not a general plan). Management is done by a communal property association or tribal authority or local municipality.
- 2.2.146. **“SCHEDULES”** – Means a supplement(s) to the scheme containing special procedures and/or some areas or properties to which specific rights or provisions are applicable and such schedules may from time to time be

amended by the local municipality. Where any discrepancy exists between the Schedules and the provisions of the Clauses and tables, the most prohibitive conditions shall prevail.

- 2.2.147. **“SCHEME”** – Means this land-use scheme in operation and includes the clauses, map 3A and the annexures.
- 2.2.148. **“SCHEME AREA”** - Means the area to which the scheme is applicable as indicated on the map.
- 2.2.149. **“SCRAPYARD”** – Means land or buildings used for the dismantling, stacking, storing or preparing for resale of any used material, waste metal, scrap vehicles, scrap machinery or any other scrap material whether or not such dismantling or stacking is done with a view to disposal or re-use of such waste. The erf must be fenced with a solid brick wall or pre-fab cement panels. Activities exercised on the stand including stacked materials should not be visible from the street.
- 2.2.150. **“SERVICE INDUSTRY”** – Means a use, which, in the opinion of the local municipality is a small-scale industry, with emphasis on maintenance and repair, as well as retail trade in connection therewith, that shall not cause the deterioration of the amenity of the neighbourhood or cause disturbance in consequence of noise, appearance, odour or activities or any reason whatsoever.
- 2.2.151. **“SEWERAGE WORKS”** - Means land and buildings designed or used for the treatment and purification of sewage and may include ancillary offices and storerooms and ancillary and subservient uses deemed necessary by the Municipality.
- 2.2.152. **“SHOP”** – Means land used or a building designed or used for the purpose of carrying on retail trade and the necessary accompanying storage and packing and includes any accompanying uses on the same property appurtenant but ancillary to the retail trade being carried on. The following uses are not regarded as appurtenant to a shop: A noxious trade, drive-in-restaurant, place of refreshment, scrapyard, parking garage, public garage, vehicle workshop, filling station and warehouse.
- 2.2.153. **“SHOWGROUNDS”** -Means land and buildings designed and used for exhibitions of inter alia agricultural, residential and industrial products, tourist destinations and accommodation, livestock, vehicles, lifestyle products, etc.

and may include places of entertainment and refreshment ancillary to the exhibition.

- 2.2.154. **“SHOWROOM”** - Means land and buildings designed or used only for display of products and materials and excludes the sale or delivery of such products or materials on the same property.
- 2.2.155. **“SIDE BOUNDARY”** - In relation to an erf or other portion of land means a boundary other than the street boundary or the rear boundary.
- 2.2.156. **“SIGN”**- Means an advertising sign as defined in the Makhuduthamaga Municipality: By-laws for the Control of Outdoor Advertising, as amended from time to time.
- 2.2.157. **“SITE”** – Shall have the same meaning as “Erf”.
- 2.2.158. **“SITE DEVELOPMENT PLAN”** – Means a plan as described in clause 16 of the scheme.
- 2.2.159. **“SOCIAL HALL”** – Means a building designed for use, or used for cultural activities, social meetings, gatherings and recreational purposes, that is not profit seeking in its primary purpose, and includes a non-residential club but excludes a place of amusement.
- 2.2.160. **“SPAZA”** – Means a building designed for or a portion of a residential unit used for the purposes of selling and providing basic groceries (daily convenience goods) and fresh produce, excluding alcoholic refreshments, where the residential use of the property remains the primary use of the property. The area used for a spaza shall not exceed a total floor area of 30m², and is further subject to the policy of the local municipality as amended from time to time.
- 2.2.161. **“SPECIAL CONSENT”** – Means the consent of the local municipality granted in terms of the provisions of a prescribed Clause.
- 2.2.162. **“SPORT, PLAYGROUNDS AND RECREATION”** – Means any land zoned for use as private or public sport fields, playground and recreation site including any building, structure or facility appurtenant thereto.
- 2.2.163. **“STOREY”** – means that part of a building that is situated between the top of any floor and the top of the next floor above it, or of there is no floor above it that portion between such floor and the ceiling above it (any mezzanine floor, open work floor, catwalk or gallery being taken to be part of the storey in which it is situated) as defined in section 2.1 of the National Building Regulations.

- a) The ground storey shall be taken as the storey in which there is situated an entrance to the building from the level of the adjoining ground or; if there is more than one such storey the lower or lowest of these.
 - b) A basement shall be taken to be any part of the building which is below the level of the ground storey.
 - c) An upper storey shall be taken to be any storey of the building which is above the level of the ground storey; and
 - d) The height expressed in storeys shall be taken to be that number of storeys which includes all storeys other than a basement.”
- 2.2.164. **“STREET”** – Means the area or part of any street, road, bridge, subway, avenue, lane, sanitary lane, thoroughfare or right-of-way, as shown on the general plan of a township or in respect of which the public has acquired a right-of-way by prescription or otherwise and **“ROAD”** shall have a corresponding meaning.
- 2.2.165. **“STREET FRONTAGE”** - Means the common boundary between a property and a public street.
- 2.2.166. **“STRUCTURE”** - Means a construction, permanent or temporary by nature, of any material or combination of materials, with or without a roof
- 2.2.167. **“SUBTERRANEAN RIGHTS”** - Means the use of land below a street for uses as approved by the Municipality.
- 2.2.168. **“SURROUNDING OWNERS”** - Means the registered owners of the properties directly adjacent to the subject property as well as properties abutting any streets to which the subject property has direct access within such a radius, with the subject property as centre point, as determined by the local municipality and also such other owners or interested parties as the local municipality may specify.
- 2.2.169. **“TAVERN”** - Means land and buildings used for a combination of a Place of Refreshment and a Place of Amusement.
- 2.2.170. **“TAXI PARKING AREA”** – Means a demarcated part of a parking lot which may be used by minibuses (taxis) aiming to provide a public transport service; the provision of parking places for taxis shall form part of the parking spaces for the purposes of determining parking provision on any property.

- 2.2.171. **“TAXI RANK”** – Means a place usually within the road reserve at which mini buses (taxis) are allowed to wait and / or stop for passengers boarding or alighting.
- 2.2.172. **“TEA GARDEN”** - Means a place of refreshment.
- 2.2.173. **“TELECOMMUNICATION CENTRE”** - Means land and buildings used for telecommunications and includes satellite dishes, antennas and electronic equipment.
- 2.2.174. **“TELECOMMUNICATION MAST”** - Means a mast and a base station which is designed for communication over a distance by means of telephone, radio, television etc.
- 2.2.175. **“TELECOMMUNICATION SERVICES”** - Means telecommunication cables and poles, electronic equipment, excluding telecommunication masts.
- 2.2.176. **“TEMPORARY USES”** -Means land and buildings used temporarily for uses in terms of Clause 14(8), which may be in conflict with the applicable zoning and general clauses of the Scheme, but which the Municipality has approved for a specific period not exceeding three months
- 2.2.177. **“TEMPORARY BUILDING”** – Means a building designated as such by the owner after consulting with the local municipality and which is used, or will be used, for a specified period for a specified purpose, but does not include a building shed.
- 2.2.178. **“TEMPORARY CONSENT”** – Means the temporary consent of the local municipality envisaged in accordance with the provisions of a prescribed Clause of the scheme.
- 2.2.179. **“TOURISM”** – Means the business of providing services to tourists; the practice of travelling for pleasure; organized touring; accommodation and entertainment of tourists as an industry.
- 2.2.180. **“TRANSPORT USES”** – Means the use of land and/or buildings for the operation of a business consisting of the transportation of goods and/or passengers by rail, air, road and pipelines and includes uses such as stations, transportation amenities and facilities, parking, administrative offices and ancillary uses such as warehouses, container parks, workshops as well as residential uses and amenities for personnel, and may further include any uses such as business,

shops or offices which are of service and convenience to passengers, as approved by the local municipality.

- 2.2.181. **“TRANSPORT DEPOT”** - Means land and buildings where vehicles used for cartage, transport services such as busses and trucks, security and emergency response vehicles, courier services in post, parcels and money or taxi services are parked, serviced, repaired and refuelled but excludes a transport terminus.
- 2.2.182. **“TRANSPORT TERMINUS”** - Means land and buildings designed and used as a terminus or gathering place for various forms of transport arriving and departing from different directions or routes and may include wash bays for the vehicles, ablution facilities and a place of refreshment
- 2.2.183. **“THEATRE”** - Means land and buildings designed or used for stage performances or movie shows.
- 2.2.184. **“USE ZONE”** - Means that part of the Scheme Area that has been indicated by means of a distinguishing notation on the Map to indicate the zoning of the land.
- 2.2.185. **“VEHICLE SALES LOT”** – Means land used or a building designed or used for the display and sale of motor vehicles, which are roadworthy and of good outward appearance.
- 2.2.186. **“VEHICLE SALES MART”** - Means land, with or without ancillary buildings, used for the display and/or sale of cars, trucks, motor cycles, agricultural implements, caravans, boats, tractors and trailers which are roadworthy and of good outward appearance, and may also include the hiring of vehicles as an ancillary use but excludes a motor dealership and a panel- beater.
- 2.2.187. **“VEHICLE SALES SHOWROOM”** - Means the display and sale of vehicles in a building only but does not include a scrap yard, public garage or vehicle sales mart or motor dealership.
- 2.2.188. **“VETERINARY CLINIC”** - Means land and buildings used for the treatment, care and operations on animals and may include the sale of veterinary medicines and specialized animal food and ancillary animal products but does not include overnight facilities.
- 2.2.189. **“VETERINARY HOSPITAL”** - Means a veterinary clinic with overnight facilities for animals.
- 2.2.190. **“WALL OF REMEMBRANCE”** - Means a structure where containers with the ashes of the deceased are interred in openings or niches in the structure and

thereafter sealed and/or on which appropriate commemorative plaque can be attached.

- 2.2.191. **“WAREHOUSE”** - Means land and buildings designed or used as a storage depot in conjunction with a wholesale trading establishment or any other storage depot.
- 2.2.192. **“WHOLESALE TRADE”** – Means the sale of goods or produce in large quantities to other retailers and excludes sales to the general public.
- 2.2.193. **“WRITTEN CONSENT”** – Means consent granted by the local municipality in terms of a prescribed Clause of the scheme.
- 2.2.194. **“ZONE”** – Means a part of this scheme, as shown on the map, by means of a distinctive notation or edging or other distinctive manner as depicted in Column 1 of table 2 of this scheme, and use zone has the same meaning.
- 2.2.195. **“ZOO”** - Means land and buildings designed and used for the collection, care, breeding and display of animals in cages or enclosures and may include a place of refreshment and a place of instruction, which are ancillary and subservient to the main use on the same property.

PART III: GENERAL DEVELOPMENT, LAND USE AND BUILDINGS

1. GENERAL CONDITIONS APPLICABLE TO ALL ERVEN/PROPERTIES

- 1.1. Save with the consent use of the Municipality and subject to such conditions it may impose:
- a) Neither the owner nor any other person shall have the right, save and except to prepare the erf for building purposes, to excavate therefrom any materials;
 - b) Neither the owner nor any other person shall sink any wells or boreholes thereon or abstract any subterranean water therefrom: Provided that this condition is not applicable to dolomitic areas as detailed in sub-clause (3.16).
- 1.2. Neither the owner nor any other person shall have the right to make or permit to be made upon the erf for any purposes whatsoever any tiles or earthenware pipes or other articles of a like nature: Provided that this condition is not applicable to erven zoned Industrial 1 or 2.
- 1.3. No land shall be used for the purpose of refuse tipping, sewerage disposal or the removal of soil, sand or gravel for the purposes of sale.
- 1.4. Where, in the opinion of the Municipality, it is impracticable for storm-water to be drained from higher lying erven direct to a road, the owner of the lower lying erf shall be obliged to accept and/or permit the passage over the erf of such storm water: Provided that the owners of any higher lying erven, the storm water from which is discharged over any lower lying erf, shall be liable to pay a proportionate share of the cost of any pipe line or drain which the owner of such lower lying erf may find necessary to lay or construct for the purpose of conducting the water so discharged over the erf.
- 1.5. The positioning of all buildings, including outbuildings erected on the erf, and ingress to and egress from the erf shall be to the satisfaction of the Municipality.
- 1.6. The following land uses shall be regarded ancillary uses: Guardhouse: All Land Use Zones; Caretakers unit: All Land Use Zones except "Residential 1, 2, 3, 4 & 5"; Canteen and Auto Teller Machines: All Land Use Zones except "Residential 1 and 2"
- 1.7. If an erf or site abuts a provincial road or a national road, a fence shall be erected along the boundary between the erf or site and such road in accordance with the standards laid down by the relevant Provincial / National Department provided that

building restrictions cannot be relaxed, modified or amended for all erven/properties along national/provincial roads whichever applies.

- 1.8. All erven shall be fenced and maintained if and when required, to the satisfaction of the Municipality. Boundary walls in excess of 1,8m in height require the written consent of the Municipality.
- 1.9. All fencing and/or walling shall be completed and finished off on both sides to the satisfaction of the Municipality.
- 1.10. The owner is responsible for the maintenance of the entire property in compliance with all relevant Municipality By-laws.
- 1.11. The extraction of minerals by underground working or by surface working, or the erection of any buildings or the carrying out of any work which is incidental thereto on land which is not included in a proclaimed township or an agricultural holding shall be prohibited.
- 1.12. The use of land, or buildings on land, 9ha or more in extent and which is in one ownership or in joint ownership, for agricultural purposes or in connection with a plant nursery shall be permitted: provided that where land is less than 9ha in extent, such buildings may only be erected and such land used with the consent of the Municipality, provided further that in the case of agricultural holdings laid out under the Agricultural Holdings (*Transvaal*) Registration Act, 1919, zoned **“agricultural”** or **“undetermined”** such consent need not be obtained.
- 1.13. The main building which shall be a completed building and not one partly erected and to be completed at a later date, shall be erected simultaneously with or before the outbuildings.
- 1.14. Where buildings are to be erected within 2 meters from any boundary of an erf or site in any Use Zone, the clearance from the relevant service departments of the Municipality shall be obtained.
- 1.15. **Where buildings are to be erected on a “Residential 1” zoned erf or site** at a height of more than 1 storey, a distance of 2 meters from any boundary other than a street boundary shall be maintained unless the consent is obtained as per provisions of the Makhuduthamaga Local Municipality By-law on Municipal Land use Planning.
- 1.16. The following conditions are applicable to erven or sites and/or townships as indicated, as well as all other erven or sites that contain restrictive conditions in their Deeds of Title relating to the underlying presence of dolomite limestone rocks.

The Municipality reserves the right to add to the list of Townships and related erven from time-to-time as more information becomes available:

- a) Only wells or boreholes, which may be required by the Department of Water Affairs and/or the Municipality or Municipality for Geoscience, may be sunk on the erf.
- b) No French Drains, nor any other type of soak-away, nor any type on unlined pond, are allowed on the erf;
- c) Sewers and storm water pipes must be of durable material and provided with flexible sealing joints to the satisfaction of the Municipality.
- d) The owner of the erf must make the necessary arrangements to the satisfaction of the Municipality to ensure that drain pipes convey water away from the foundations of buildings;

1.17. Water shall not be permitted to collect on the erf and the erf shall be drained to the satisfaction of the Municipality.

- a) Proposals to overcome detrimental soil conditions to the satisfaction of the Municipality shall be contained in all building plans submitted for approval and all buildings shall be erected in accordance with the precautionary measures accepted by the Municipality.
- b) A soils/dolomite stability report drawn up by a qualified person, acceptable to the Municipality, indicating the soil conditions of the property and recommendations as to suitable founding methods and depths or any relevant aspect, shall be submitted to the Municipality simultaneously with the submission of building plans prior to the commencement of any building operations on the property.
- c) Trenches and excavations for foundations, pipes, cables or for any other purpose shall be property refilled with damp soil in layers not thicker than 150mm, and shall be compacted, to the satisfaction of the Municipality, until the same grade of compaction as that of the surrounding materials is obtained.
- d) All pipes, which carry water, shall be watertight and shall be provided with watertight flexible couplings, to the satisfaction of the Municipality.

2. DEVELOPMENT, ERECTION AND USE OF LAND, BUILDINGS AND SETTLEMENT AREAS

2.1. The purpose –

- a) for which buildings and settlement areas may be erected and used and for which land may be used;
- b) for which buildings and settlement areas may be erected and used, and for which land may be used, only with the consent of the Municipality; and
- c) for which buildings and settlement areas may not be erected and used and for which land may not be used;
- d) In each of the Use Zones specified in Table A- E the above-mentioned categories are shown in the third, fourth and fifth columns of Table A - E and in the Schedules.

3. *PROTECTION OF EXISTING BUILDINGS/STRUCTURES/LAND AREAS/SETTLEMENT AREAS*

3.1. Save that alterations or additions to existing buildings/structures/land/settlement areas shall be carried out in compliance with the provisions of this Land Use Scheme;

3.2. Legally existing buildings/structures/land/settlement areas, shall not be affected by the provisions of this Land Use Scheme which would otherwise have rendered such buildings/structures/land/settlement areas illegal. This excludes areas which were under the substituted Town Planning Scheme, which will be deemed illegal in case they did not comply with the previous Town Planning Scheme.

4. *USE OF BUILDINGS OR LAND OR SETTLEMENT AREAS FOR DIFFERENT PURPOSES*

4.1. Where a building, erf or site is used for different purposes the provisions of this Land Use Scheme relating to parking requirements, loading and off-loading, height, floor area Ratio (FAR) and coverage, are applicable separately to the respective areas used for such purposes.

4.2. Exemptions and Exceptions

4.3. Nothing in this Land Use Scheme shall prohibit or restrict the letting of part of a dwelling house, provided that:

- a) No part of any dwelling house nor any additional freestanding building, which may be erected for use in conjunction with such dwelling house, may be used as a separate dwelling unit unless such building or part thereof complies with the provisions of this Scheme and has the approval of the Municipality.

- b) Notwithstanding the provision to paragraph 3.3.1 above, a dwelling house, which was existing at the effective date may with the special consent of the Municipality, be converted to two flats.
- c) Nothing in the scheme shall prohibit or restrict the occasional use of any building as a Place of Amusement, provided that such use shall be restricted to not more than twenty days in each calendar year and that the written consent of the Municipality has been obtained.
- d) Nothing in the Scheme shall prohibit or restrict the use of a building or portion of a building as a child minder facility for the daytime care of six or less children.

4.4. Nothing in this Scheme shall prohibit or restrict the practice of any profession or occupation in a residential building or dwelling unit, provided that:

- a) The person practising such profession or occupation shall reside in the dwelling unit concerned;
- b) Provided further that there is no public display of goods, no sign larger than 0,2 m² affixed to the premises and the formal authority of the Municipality has been applied for and obtained;
- c) The Municipality shall take into consideration the nature of the profession or occupation in relation to the character of the area and the number of persons to be employed and shall impose whatever conditions it considers necessary to protect the amenities of the neighbourhood or it may call on the applicant to apply for Special Consent provided that if it is subsequently found that there is, in fact, an interference with the amenities of the neighbourhood the Municipality may impose further conditions or call on the occupant to cease the practice.
- d) Nothing in this Land Use Scheme shall prohibit the owner of a nursery garden from selling his plants, or a farmer selling produce grown on the farm, by retail provided the written consent of the Municipality has been applied for and granted, with or without conditions.
- e) Nothing in this Land Use Scheme shall prohibit or restrict the erection or use of any traditional hut or rural residential settlement building or any outbuildings usually associated therewith, on Traditional Authority land where the land has been allocated under customary law.

- f) The Municipality may, in its discretion require the submission of formal building plans for traditional hut or rural residential settlement building or any outbuildings and compliance with the National Building Regulations.

5. *ADDITIONAL CONTROLS APPLICABLE TO CERTAIN LAND USES AND ZONES*

5.1.CELLULAR MAST

- a) The Municipality, in considering proposals for the location of Cellular mast, shall be mindful of the need for the development of an effective and efficient communications system within the Municipal area. In this regard, the Municipality shall give fair consideration to the requirements of the Service providers to develop an effective and efficient communications system and to the protection of the community in which such installations are to occur.
- b) The installation of Cellular mast shall be undertaken in such a manner that their impact upon the environment is minimized. The Cellular mast shall be as unobtrusive as possible thorough the choice of materials, colour, depth of silhouette and design which shall complement the aesthetics of the surrounding built and natural environment thereby minimizing the impact upon the environment.
- c) In considering the appropriate location of a Cellular mast, the applicant should be conscious of sites of historic, cultural and architectural importance. Cognisance must be taken of the impact's installations may have upon open spaces, coastal regions and prominent ridges.
- d) The Municipality shall require an application to erect telecommunication infrastructure on a lot, or part thereof, and within any land use zoning provided for in this Scheme.
- e) When considering an application to erect telecommunication infrastructure, the Municipality shall consider the following objectives:
 - (i) to encourage co-location as a means of preventing unnecessary proliferation and duplication of such infrastructure;
 - (ii) to minimize the visual impact of such infrastructure on the surrounding locality; and
 - (iii) to avoid impact on lines of sight and any impact that the infrastructure may have on the responsibilities of the South African Civil Aviation Authority.

- (iv) Municipality reserves the right to insist on the decoration of telecommunication masts/antennae if regarded necessary, as well as the possible relocation of and/or alterations to the mast by and at the expense of the applicant if the need arises.
- f) An application in terms of this clause is deemed to be an application submitted in terms of the applicable legislation, which requires the Consent of the Municipality.

6. ENVIRONMENTAL CONTROLS

6.1. Environmental Requirements Applicable to all Land Use Zones:

- a) Except as provided in 2 and 3 below, no development shall be permitted in environmentally sensitive areas including, but not limited to, flood plains, watercourses and wetlands, except within land set aside for Utilities and Services and Existing and Future Roads.
- b) Notwithstanding the wetlands identified in terms of this Scheme, the following provisions shall apply:
 - (i) Any developments within or adjacent to wetlands and watercourses, either identified or not identified in terms of this Scheme shall be subject to any environmental authorisation and/or water use licence processes in terms of applicable legislation.
 - (ii) No building or infrastructure shall be erected on any portion of land, which in the opinion of the Municipality is in a wetland or watercourse area as defined in this Scheme, unless Environmental Authorisation has been issued for these activities.
 - (iii) Where an erf may have a wetland, the Municipality may require the owner / applicant to appoint an independent wetland specialist to delineate the extent of the wetland using soil hydromorphic characteristics and establish appropriate buffers, and to indicate the delineation and buffers on the site plan or building plan.
- c) In considering any application for development of land situated within a scheme area it shall be the duty of the Municipality to ensure wherever it is considered appropriate, that adequate provision be made for protection of environmentally sensitive areas, by means of conditions qualifying approval of such development. Where possible, areas are to be set aside for conservation purposes, such areas being clearly indicated on a site plan.

- d) An Environmental Impact Assessment shall be undertaken in the manner prescribed in the Environmental Impact Assessment Regulations of the National Environmental Management Act No. 107 of 1998 as amended.
- e) Environmental authorisation shall be obtained from the relevant authority prior to the submission of any application for development to the Municipality.
- f) The Municipality shall at its discretion, include all conditions or part thereof contained in the Environmental Authorisation in its conditions of approval issued in terms of the Planning and Development Act No.6 Of 2008 or relevant Municipal Bylaws.

6.2.Environmental Requirements Applicable to Environmentally Sensitive Areas

- a) Notwithstanding the provisions of this Scheme, the Municipality, shall at its discretion, request an applicant to provide an environmental screening report for any development or land use activity on any site or portion thereof which it considers to be an environmentally sensitive area or in an area identified as being critical for biodiversity conservation.
- b) The environmental screening report as mentioned above must be undertaken by a person that has the necessary knowledge and experience in environmental management, natural resources or ecology, and should include:
 - c) information about the project including the spatial extent, timing, frequency and duration of the project;
 - d) the identification of relevant environmental legislation, regulations, policies and plans relevant to the proposed development and identification of those activities that require licensing or authorisation before they can proceed;
 - e) an understanding of the ecological context based on existing ecological information, data gathering, literature searches, site visits and preliminary ecological surveys, and any baseline studies already carried out;
 - f) identify project activities likely to cause damage, stress, disturbance or impact on ecosystems processes;
 - g) identify the factors affecting the integrity of the relevant ecosystems and the conservation status of relevant habitats and species; and, ecological features likely to be significantly affected and therefore requiring further study;

- h) identify other significant activities, e.g. access roads, associated with the project/proposal that could result in significant cumulative effects; and,
- i) potential strategies to avoid and/or minimise any negative environmental impacts and the identification of opportunities for enhancing biodiversity and promoting Provincial biodiversity objectives.
- j) The Environmental Screening Report shall be included as part of an application submitted to the Municipality else such application shall be deemed incomplete.

7. *NON-CONFORMING USE RIGHTS*

7.1. Where the lawful utilization of land at the commencement of this Land Use Scheme does not comply with the zoning in terms of this Scheme, including the approval of a duly lodged application, the utilization shall be deemed not to constitute an offence.

7.2. Any existing building or existing use, which is not in conformity with this Land Use Scheme, but for which authority was obtained from the Municipality or any other responsible authority prior to the date of adoption, may be completed and continue to be used for the purpose for which it was designed, subject to compliance with any conditions, which may have been imposed by the approving authority, and provided that:

- a) Such existing building or such existing use may be extended by an amount of not greater than 12% of its total floor area or total land area, in the case of the use of land that existed at the date of adoption, provided that the extended building or use is in conformity with the other provisions of the Land Use Scheme relating to the zone in which such building or use is situated.
- b) Any alteration or addition or change of use, which in the opinion of the Municipality alters the character of an existing building or use of land, shall automatically remove such building or land from the category of "existing building" or "existing use".
- c) Where the non-conforming existing use of any building or land is discontinued for a continuous period of 18 months or longer, such existing use shall be deemed to have lapsed and shall not be recommenced.

7.3. An existing building may be demolished and replaced by a new building on the same Erf and the existing use may continue in the new building, provided the proposed new building shall:

- a) Contain no greater volume above ground level than the existing building;
- b) Have no greater superficial area on the ground floor than the existing building; and
- c) Be in conformity with all other provisions of the Scheme applicable to the Use Zone in which it is situated.

7.4. Any new building shall be commenced within a period of 18 months after the date upon which the demolition of the existing building is commenced. Any failure to commence rebuilding within a period of 18 months shall be deemed to terminate the existing use.

7.5. Any applicant aggrieved by a decision of the Municipality in terms of these clauses shall have the right of in terms of the appeal procedures laid down in the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013).

8. *UN-SERVICED AREAS*

8.1. Costs associated with the provision of additional services and the payment of bulk engineering services contributions will be for the account of the developer/owner/applicant, or as per the written agreement reached between the developer/owner/applicant and Municipality.

8.2. The Municipality may prohibit or restrict, whether wholly or partially and either indefinitely or for a period to be determined by the Municipality, the erection of any building or the development or use of any land in any undeveloped part or parts of the area of the Scheme pending the extension thereto of streets, sewer, water, electricity or other essential public services.

8.3. The owner of un-serviced land who desires to commence with any building operations on such portion of land and which would contravene clause 10.2 above may apply to the Municipality for its approval of the carrying out of the operations specified in the application. In these cases, all costs associated with the provision, extension or upgrade of bulk, link and internal services shall be for the account of the applicant.

9. *ROADS, ACCESS, SURFACES AND DRAINAGE*

- 9.1. Road design shall consider any applicable Road Framework Plan/s and relevant standards set by Municipality.
- 9.2. Vehicular ingress to and egress from any Erf or Site, from and to respectively, the Public Street System, shall be located, constructed and maintained to the satisfaction of the Municipality.
- 9.3. Approval of the number of vehicular access points shall be at the sole discretion of the Municipality.
- 9.4. The Municipality may prohibit pedestrian or vehicular access across any boundary or boundaries and require that a suitable fence or wall be erected to prevent such access.
- 9.5. In respect to erven fronting onto any Provincial Road, the municipality's approval of the position and number of vehicular and pedestrian access points will be subject to the prior permission of the Provincial Roads authority.
- 9.6. The drainage of the site and arrangements and methods for the disposal of waste and storm water shall be to the satisfaction of the Municipality.
- 9.7. Storm water and wastewater control measures shall be implemented to avoid polluted water and run-off from entering the natural system. The installation of the necessary pollution control mechanisms, such as grease traps, etc. may be required and shall be undertaken to the satisfaction of Municipality.

10. *DECLARING, DIVERTING OR CLOSING OF STREETS*

- 10.1. All new streets, as well as the widening of existing streets, shown as such on the Scheme Map shall be declared new streets and widenings, and shall become effective at dates to be determined.
- 10.2. Where a width has been figured on the Map, the dimension so figured shall be the width of the street reserve or widening.
- 10.3. Street closures shown on the Scheme Map shall be affected after compliance with the relevant legislation.
- 10.4. Street closures shall be indicated on the Scheme Map by means of diagonal red lines with the colour of the zone to which the land shall be allocated after the street has been officially closed, in between.
- 10.5. All street closures shown as such on the Scheme Map shall be closed at dates to be determined.

11. *AMENITY AND APPEARANCE OF BUILDINGS: SIGNAGE, HOARDING AND ADVERTISEMENTS*

- 11.1.No signage or advertisements shall be displayed or hoardings erected without the permission of the Municipality.
- 11.2.Any person proposing to erect any sign, advertisement or hoarding shall submit drawings of such sign or advertisement or hoarding for approval.
- 11.3.No hoarding or advertisement shall be permitted which is likely to cause injury to the amenity of the neighbourhood or interfere with the effective use of signals, signs, lights, or other devices for the regulation and safety of vehicular and pedestrian traffic.
- 11.4.Name-plates not exceeding 0.5 m² in extent are not advertisements, signs or hoardings for the purpose of this clause.
- 11.5.This clause does not apply to casual advertisements for entertainments, property for sale, auctions to be held on the premises or meetings, provided they are not considered to be, in the opinion of the Municipality, unduly ostentatious.
- 11.6.All outdoor advertising shall be in broad accordance with the South African Manual for Outdoor Advertising Control, the Municipality's signage policy or Outdoor Advertising and Signage bylaw (which may be revised from time to time) and the associated plans.

12. *REMOVAL OF INJURIOUS CONDITIONS*

- 12.1.The use on a property shall not interfere with the amenity, character and aesthetics of the neighbourhood.
- 12.2.The owner(s) shall be responsible for the maintenance of the entire property, including landscaping.
- 12.3.Where, in the opinion of the Municipality, the amenity of any zone is injured by the condition or appearance of any fence, wall, garden or other structure or by the external appearance of any building or by the storage of anything, or by parking of any vehicle on a site, or for any other reason, the Municipality may serve a notice on the owner or occupant of the premises on which the injurious condition exists, requiring him to take such action as may be necessary to abate the injury within a specified period, not being less than 28 days from the date of service of the notice.
- 12.4.The said notice may specify the steps to be taken to abate the injury.

12.5. Any person on whom a notice is served in terms of this clause shall have the right of appeal to the Appeal Tribunal.

13. *TRAFFIC GENERATING SITES*

13.1. Municipality may, at its sole discretion, request the submission of a Traffic Impact Assessment to determine the impact that a development may have on the existing and future road networks.

13.2. Such assessment shall include any issues that the Municipality may deem relevant, such as an assessment of pedestrian movement, the impact of the development on Public Transport Systems, road improvements, etc.

13.3. The outcomes of such assessment shall be implemented at the Developer's cost.

14. *EXTERNAL APPEARANCE OF BUILDINGS*

14.1. The character, design and external appearance of buildings, including the materials used in their construction, shall be subject to the approval of the Municipality, and no building may be erected nor may any building work be commenced without approval of the Municipality.

14.2. In considering any application, the Municipality shall have regard to the character of the locality in which it is proposed to be erected, altered or extended for such building/structure and shall take into account whether such building erected, altered or extended will be injurious to the amenities of the locality by reason of its external appearance or the materials proposed to be used.

14.3. The approval by the Municipality of the design and external appearance of the proposed buildings or any additions or alterations to existing buildings shall not be deemed to be an approval in terms of any other provisions of this Land Use Scheme or of the National Building Regulations, which approvals shall first be applied for and obtained before any building work is commenced.

a) Any person intending to alter, extend or erect a building shall submit such drawings as are required by the Municipality together with whatever other indications the Municipality may require.

14.4. Within two months from the date of submission of the drawings and particulars, the Municipality shall approve the application either unconditionally or subject to such conditions as it may deem fit, or it may refuse to grant the application on the grounds that the external appearance of such building is unacceptable.

a) Any applicant aggrieved by any decision in terms of clause 3.12.5. above shall have the right of appeal.

14.5. In considering any application, it shall be the duty of the Municipality to ensure wherever it is considered appropriate, that adequate provision be made for the preservation of indigenous flora, the planting or replacement of trees and the protection of water-courses, by means of conditions of approval.

15. *CONVERSION OF USE OF A BUILDING*

15.1. If the use of a building which has been approved, erected and used for a specific purpose is to be changed, the use for such different purpose shall not be commenced with until the provisions of this Land Use Scheme relating to such different purpose have been complied with, including the submission of an amended building plan or Site Development Plan.

16. *CONDITIONS APPLICABLE TO SERVICE STATIONS AND OR PUBLIC GARAGES*

The following provisions, conditions and restrictions shall, in addition to any other relevant provision of the Land Use Scheme, be applicable to all Service Stations and the sites thereof within the area of the Land Use Scheme.

16.1. The layout of a Service Station including the siting of pumps, buildings and of vehicular access or egress shall be to the satisfaction of the Municipality.

16.2. No Service Station shall have direct vehicular access to an existing or proposed major traffic arterial.

16.3. The following prerequisites and conditions shall be observed whenever it is proposed to erect a new Service Station, or to extend an existing Service Station.

- a) No vehicular entrance to or exit from a Service Station shall be within 150 metres of a freeway interchange, 60 metres from an intersection with a road which in the opinion of the Municipality is a major road or 20 metres from an inter-section with any road.
- b) The frontage of a Service Station site shall not be less than 36 metres in length.
- c) The area of the site of a Service Station shall not be less than 1800m² in extent.
- d) Dwarf walls or other permanent structures satisfactory to the Municipality shall be erected on the street frontage of the site so as to confine the movement of vehicles into or out of the Service Station to authorised access points

- e) The depth of the site of a Service Station (measured at right angles to the street frontage) shall not be less than 30 metres. Filler points for underground tanks shall be so sited as to make it possible for tanker vehicles to stand wholly within the curtilage of the site when recharging the tanks and for such vehicles to enter and leave the site in a forward direction.
- f) Except with the approval of Municipality, no petrol or other fuel pump installation or other facility shall be located within 7.5 metres of any street boundary or within 2 metres of any side or rear boundary.

16.4.A Service Station shall be so sited and designed that traffic entering and leaving the site will not adversely affect movement of pedestrians or vehicles on any heavily trafficked public street or place.

16.5.The Municipality may relax any of the above conditions in respect of any application for a Service Station which, in the opinion of the Municipality, is not a traffic generator site.

16.6.Notwithstanding any other provision of the Land Use Scheme, the Municipality may approve of the conducting or carrying out of panel-beating, spray-painting or steam pressure cleaning ancillary to and on the same site as a Service Station.

16.7.Except where the Municipality, upon application for its authority to do so, may agree to a relaxation, an area of at least 40% of the area of the site of a Service Station shall be reserved for the parking of motor vehicles, provided that the following may be included in the area so reserved:

- a) any area, whether covered or not, required for parking;
- b) areas giving access to and/or allowing for manoeuvring of vehicles into parking bays;
- c) areas used to accommodate vehicles awaiting service or repair; and
- d) forecourt areas used for the refuelling of motor vehicles.

16.8.Screen Walls of such height, extent, materials, design and position as may be determined by Municipality shall be erected as and when required by Municipality in order to screen all working areas, storage areas and yards from outside view.

16.9.No dismantled vehicles shall be parked, nor vehicles or equipment undergoing repair be stored, nor repairs be done on vehicles or equipment, nor goods or other materials be stacked outside the garage building or screen walls so as to be visible from beyond the boundaries of the site.

16.10. Except where Municipality may approve of the provision of a single Dwelling Unit for the exclusive use of a caretaker, no Dwelling Unit of any description whatsoever shall be used or permitted to be used simultaneously with the use of a site as the site of a Service Station.

16.11. Municipality may, by Special Consent, permit the use of a restaurant and/or other type of shop ancillary to and on the same site as a Service Station, provided that such consent shall lapse in the event of the Service Station ceasing to operate; and furthermore provided that the definition of "shop" would only entail a cafe, supermarket, tea room, video hiring outlet and/or automatic banking teller machine and be limited to 200m² floor area.

16.12. Public conveniences, to the satisfaction of the Medical Officer of Health, shall be provided on the site of any Service Station; such public convenience shall be maintained to the satisfaction of the Medical Officer of Health. Provided that the Municipality, in consultation with the Medical Officer of Health may relax the requirements of this sub-clause

16.13. The change of land use to a service station is a scheduled land use and an environmental impact assessment application is therefore required to be made to the Department of Agricultural and Environmental Affairs.

16.14. Where public garages are to be erected the following land use conditions shall be complied with in addition to any other applicable environmental legislation:

16.15. No material of any kind whatsoever shall be stored or stacked to a height greater than a screen wall as indicated on an approved Site Development Plan;

16.16. No repairs to vehicles or equipment of any kind may be carried on outside the garage buildings or screen wall; and

16.17. No vehicle may be parked or material or equipment of any kind stored or stacked outside the garage building or the screen wall: Provided that petrol pumps and/or oil and fuel installations may be placed outside the building and/or screen wall to the satisfaction of the Municipality.

17. *MUNICIPALITY'S CONSENT DEEMED TO HAVE BEEN GRANTED*

17.1. If, in terms of any town planning scheme or other planning legislation substituted by this Land Use Scheme, the purpose for which a building has been lawfully erected and used without the consent of the Municipality is a purpose which, in terms of this Land Use Scheme, requires the consent of the Municipality, the Municipality's

consent to the erection and use of such building for such purpose shall be deemed to have been granted on the fixed date.

17.2. The provisions of this Land Use Scheme are applicable to any consent contemplated in sub-clause (19.1).

18. *CANCELLATION OR MODIFICATION OF MUNICIPALITY'S CONSENT USE OR FORMAL AUTHORITY*

18.1. Any owner of land may inform the Municipality in writing to cancel its consent use.

18.2. The Municipality may modify its consent use subsequent to the granting thereof if, in the opinion of the Municipality, any condition/s subsequent to which the consent or formal authority were granted should be amended, deleted or additional conditions should be added.

18.3. The Municipality may render void or withdraw its consent use in writing and subsequent to the granting thereof if, in the opinion of the Municipality:

- a) Any conditions subsequent to which the consent use was granted, are not complied with;
- b) Where any building or work referred to in any such consent use has not been substantially commenced within a period of 18 months or where an appeal has been lodged, within a period of 24 months from the date of notification of the outcome of such appeal;
- c) Such use has been discontinued or interrupted for a continuous period of 24 months or longer;
- d) The premises are not continuously used for residential purposes in addition to the consent use granted, where it is a condition of approval to do so; and
- e) The land use constitutes a nuisance or it is found that there is interference with the amenities of the neighbourhood arising from the use of land.
- f) Upon the lapsing or rendering void or withdrawal of a consent use in terms of Clause 20.3.

18.4. The practice of any consent use approved shall cease upon the relevant premises within a period to be determined by the Municipality, provided that such period shall not exceed six months from the date on which such consent lapsed, was rendered void or was withdrawn;

18.5. The Municipality may direct the owner of land to demolish structures and/or restore and/or alter buildings erected to conform to a relevant primary or free entry use

granted on the site. Costs associated with such building work will be for the account of the owner of land.

19. *APPLICATION PROCEDURES: APPLICATION FOR THE DEVELOPMENT OF LAND AND USE OF BUILDINGS*

19.1. The extent and location of the various zones shall be as set out on the adopted scheme maps. Within each zone, the defined buildings and land use activities contemplated are separated into four main categories as follows:

- a) Primary/permitted use rights: those buildings and uses permitted without first applying for Municipality's formal authority or consent;
- b) Secondary use rights permitted only with special Consent of Municipality/Special consent Uses: uses which may be approved by the Municipality but which require special consideration and which may involve the imposition of special requirements and/or conditions in relation to the approval given. (Where the written consent of the neighbouring property owners has been obtained, the Municipality may waive the public advertising procedure required under special consent); and
- c) Use rights permitted only with the written consent of the municipality: Those buildings and land uses, which are identified as only permitted subject to having obtained written consent from the Municipality.
- d) Use rights not permitted (prohibited uses): Those buildings and land uses, When approving an application in terms of the scheme, the Municipality shall take into account the nature of the proposed use in relation to the character of the area and impose whatever conditions it considers necessary to protect the amenities of the neighbourhood.
- e) Any proposed use or development shall conform to the uses listed in these clauses for each zone. In this regard attention is drawn to the offenses and penalties contemplated in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013).
- f) Any application for development on land falling under the ownership of a traditional leader will require consent and a letter of support from the applicable Traditional Leader/Municipality.

- g) Applicant must submit the application to the municipality in the prescribed form and having paid the correct application fee as determined by the municipality from time to time.
- h) In the case of an application that proposes an activity that is also regulated by other laws, the applicant must refer and satisfy the requirements stipulated in SPLUMA, 2013 section 30 (1) – (3) read together with section 33 (1) and (2) of the Act.
- i) An application to the municipality that should be disposed in terms of the alignment of authorizations must also in addition to satisfying the requirements in subsection (b) above comply with section 17 of the Spatial Planning and Land Use Management Regulations: Land use Management and General Matters, 2015
- j) The municipality has the final decision as the authority of first instance.
- k) Upon receipt of Municipality Approval, a lease diagram must be registered with the Surveyor General to depict the area of the proposed development
- l) The applicant shall lodge with the Municipality, a copy of the registered lease diagram and details of the land use which shall be captured and correctly depicted on the Land Use Scheme Map.
- m) Where the new property is transferred into new ownership, the municipality shall be informed in writing within 60 days of the date of transfer of the new ownership.
- n) Applications shall be made in writing, addressed to the municipality, contain all information required by the Municipality and may be subject to an application fee.
- o) An application shall not be accepted if the application is deemed to be incomplete.
- p) Any authority granted by the Municipality shall remain valid for 18 months from the date of granting of such authority, unless stated otherwise, or where an appeal is lodged, within a period of 18 months from the date of the notification of the outcome of such appeal.
- q) Where any building or work referred to in any such authority has not been substantially commenced within the said period of 18 months or where there has been an interruption in the development of the building or use of land for a continuous period of 18 months, the said authority shall

automatically be considered to have lapsed and building operations shall not be commenced or recommenced unless fresh authority has first been applied for and obtained.

- r) After the date of adoption, no person shall erect or extend a building or institute work which is not in conformity with the provisions of the Scheme relating to the erection and use of buildings and use of land.
- s) No person shall use or cause to be used any building or portion thereof for any use other than that for which it has been lawfully erected unless such building has been altered for any proposed new use and any necessary special consent or authority of the Municipality has first been applied for and obtained.
- t) No land in any use zone may be used for the purpose of the deposit or disposal of waste material or refuse, tipping, dumping, scrap yard, motor graveyard, used car site, or any other similar purpose until the owner or his duly authorised representative has applied for and received the written approval of the Municipality.
- u) Any decision, order or authorization given by the Appeal Tribunal in terms of the SPLUMA (2013) or any other relevant legislation, and as confirmed or altered on review, shall be deemed to be a valid authority granted by the Municipality and, as such, shall be construed as being in accordance with the duly adopted provisions of the Scheme.
- v) which are not identified as falling under any of the above categories.

20. SPAZA / HOUSE AND TUCK SHOP

The development of a spaza /house and tuck shop should be according to Makhuduthamaga Small and Medium Enterprises By law. The conditions in the by law should be satisfied with.

21. HOME ENTERPRISES, PROFESSION AND/OR OCCUPATION

21.1. Without prejudice to any of the powers of the Municipality under the provisions of this Land Use Scheme or any other law, nothing in the provisions of this part of the Land Use Scheme shall be construed as prohibiting or restricting or enabling the Municipality to prohibit or restrict the practice by any permanent occupant of a Dwelling House / Unit of a profession or occupation or use of a Dwelling House / Unit for the purpose of a Home Enterprise, provided that:

- 21.2. The dwelling house / unit shall not be used for a public garage, motor sales, motor workshop, heavy mechanical repairs (e.g. grinding, welding, sanding, etc.), car wash, industrial / commercial purposes, noxious industries, scrap yard, spray painting, panel beating, shop (retail outlet), house / spaza shop, tavern / shebeen, restaurant, coffee shop, tea garden, place of amusement, place of instruction, institution, guest house, boarding house, commune, hotel, funeral parlour, undertaker, pet salon or any such other uses as the Municipality may determine.
- 21.3. Not more than 25% of the built floor area of the dwelling house / unit may be used for non-residential purposes in total.
- 21.4. The principal of the non-residential activity shall be the permanent occupant on the site.
- 21.5. A maximum two other persons additional to the members of the household who permanently reside on the site and who own and operate the business from the home may be taken into partnership on the site in relation to the home enterprise / profession/s or occupation/s exercised from the site.
- 21.6. The enterprise should not negatively impact on any infrastructure services greater than normally required for domestic use.
- 21.7. Parking, as well as loading and off-loading activities directly related to the non-residential activity, shall be to the satisfaction of the Municipality.
- 21.8. The display of a non-luminous notice or sign on the boundary fence or building, to indicate only the name, profession / occupation, business logo and telephone number(s) of such a permanent resident, shall be permitted in compliance with the prevailing outdoor advertising by-laws.
- 21.9. An occupation, profession or home undertaking of such a nature that would cause an undue increase in traffic in the neighbourhood or the passing of heavy vehicles through the neighbourhood, neither the congregating of workers in relation to the profession/s or occupation/s exercised from the dwelling house / unit shall not be permitted.
- 21.10. Interference, in the opinion of the Municipality, with the amenities of the neighbourhood by means of noise, smell, dust, aesthetic appearance or any other manner, shall not be permitted.
- 21.11. The storing or keeping on the site of anything whatsoever which, in the opinion of the Municipality, is unsightly or undesirable or a risk to the safety and security of residents, such as ammunition, weapons, fire arms, explosives, fireworks, chemicals

and waste or something which cannot be accommodated by the ordinary design of a dwelling house or dwelling unit shall not be permitted.

21.12. Should the permanent occupant wish to practice a profession, occupation or home enterprise from a container or non-permanent structure on the site, such practice shall be subject to permission being granted by the written consent of the Municipality accompanied by a plan indicating the nature, size and position of the container or non-permanent structure on the site. This written consent may be subject to the submission of a building plan.

21.13. In developments governed by sectional title or resident's associations, such home enterprise, profession and/or occupation shall be accommodated subject to approval of the relevant Body Corporate / Home Owners Association.

21.14. All relevant legislation and Municipality's By-laws shall be complied with to the satisfaction of the Municipality.

22. *SUBSIDIARY DWELLING UNIT*

22.1. Notwithstanding the provisions of the land development requirements of the erf, as contained in the Land Use Scheme:

22.2. An owner may erect and use a maximum of two subsidiary dwelling units on an erf zoned Residential 1, subject to the following conditions: The two subsidiary dwelling units shall be inclusive of staff accommodation;

22.3. The total floor area of the subsidiary dwelling units shall not exceed 160m² or 90% of the main dwelling house whichever is the lesser;

22.4. A subsidiary dwelling unit may only be erected in relation to an existing dwelling house;

22.5. A subsidiary dwelling unit may be attached to or detached from the main dwelling house but in the former instance may not be interconnected;

22.6. A subsidiary dwelling unit may consist of interconnected rooms or unconnected rooms.

22.7. The unconnected rooms may be self-contained or may share communal ablution and/or kitchen facilities.

22.8. In an interconnected subsidiary dwelling unit, the unit may be rented out to a household or three (3) bedrooms may be rented to individual persons.

- 22.9. In an unconnected subsidiary unit, rentable rooms, the minimum size of a habitable space shall not be less than 9m², excluding ablutions and kitchens, or 6m² per person for more than one person.
- 22.10. Rentable rooms may be self-contained provided that the room may not exceed 25m².
- 22.11. A subsidiary dwelling unit is equivalent to three (3) rentable rooms which may share a kitchen and/or ablution facility or three (3) self-contained rentable rooms.
- 22.12. Parking shall be provided to the satisfaction of the Municipality;
- 22.13. No outbuildings may be erected in relation to the subsidiary dwelling units other than a garage/s;
- 22.14. The access, positioning and design of the subsidiary dwelling units shall be to the satisfaction of the Municipality;
- 22.15. The screening of the subsidiary dwelling units shall be to the satisfaction of the Municipality;
- 22.16. The amenity of the area shall not be disturbed;
- 22.17. Where an owner of a Residential 1 property exercised the right of a subsidiary dwelling unit, neither the subsidiary dwelling unit nor the dwelling house may be sectionalized;
- 22.18. In the event of subdivision in accordance with the prevailing density guidelines a newly erected portion may contain the detached subsidiary dwelling unit, which may now be re-defined as an existing dwelling house;
- 22.19. When an owner exercises the right for the subsidiary dwelling units, engineering services contributions in terms of the prevailing policies for engineering services, may be payable on submission of the building plan as determined by the Municipality.

23. *CONDITIONS FOR CHILD CARE CENTRES ON RESIDENTIAL ERVEN*

- 23.1. The Municipality may grant its consent to the erection upon an erf or site upon which a dwelling house or dwelling unit has been erected or to a building for use as a place of instruction for a child care centre.
- 23.2. The Municipality shall not grant its consent in terms of sub-clause (25.1) unless there is sufficient area on site for the activities connected with the proposed child care centre including the necessary parking requirements to the satisfaction of the

Municipality as well as the provision of areas for the dropping and collecting of children.

23.3.No consent use is required if six (6) or less children are accommodated on the erf.

24. *CONDITIONS RELATING TO RELIGIOUS PURPOSES*

24.1.The Municipality shall not grant its consent to any religious purposes where there is any interference with the amenities of the neighbourhood with regard to noise, parking, traffic, etc.

24.2.All applications shall be accompanied by a Traffic Management Plan to address peak hour operations.

24.3.No applications shall be permitted within residential complexes.

25. *ERVEN AFFECTED BY SERVITUDES*

The provisions of floor area, coverage, height and building lines shall not be affected by the indications of servitudes over an erf or site.

26. *CONSOLIDATION AND SUBDIVISION OF ERVEN*

26.1.The Municipality may grant its approval to the subdivision of any erf or consolidation of erven, subject to such conditions as it may deem fit and in accordance with the density guidelines and the applicable Municipality policy.

26.2.In considering an application for its approval for consolidation and/or subdivision as contemplated in sub-clause 28.1, the Municipality shall, in addition to any other relevant factors, have regard to:

26.3.Whether the said consolidation and/or subdivision is necessary and desirable in relation to the location of buildings on the erf to be subdivided and/or consolidated;

26.4.Whether there is adequate and unhindered access to and from the erven or sites; where a panhandle erf or site is created through subdivision the width of the panhandle shall be to the satisfaction of the Municipality which shall not be less than four (4) metres.

26.5.Where the major vegetation and/or prominent natural features are positioned on the erf or site that the owner retains such as far as possible.

26.6.No consolidation of two or more erven with different Use Zones or Schedules / Annexures shall be permitted unless appropriately rezoned.

26.7. Erven that have been developed with semi's (two dwelling units under one roof), in accordance with the provisions of previous town planning schemes, may be subdivided in accordance with the provisions of this Land Use Scheme.

26.8. The Municipality may grant approval to:

- a) the subdivision of an erf zoned "Residential 1", one dwelling house per erf;
- b) the subdivision of an erf zoned Residential 1, which would have the effect of creating an erf or erven smaller in size than the minimum area specified in Table 3:
- c) If an erf is subdivided in terms of a density of 20 units per hectare and/or other specific density policy and/or guideline in place, not more than four (4) portions may be created in terms of the provisions of sub-clause (a) and (b)
- d) If an erf is subdivided in terms of sub-clause 28.8 (a), (b) or (c) to 20 units per hectare or less, each subdivided portion shall have direct access to a public road.

26.9. The Municipality may grant its approval to the subdivision of an erf zoned Residential 2, 3 or 4, whether or not a density is indicated in terms of Table 3, in accordance with an approved Development Plan as contemplated.

26.10. Upon the approval of a subdivision the following conditions shall be included as conditions of title of each and every subdivided portion:

- a) The erf is subject to a servitude, 2 metres wide, in favour of the local authority, for sewerage and other municipal purposes, along any two boundaries other than a street boundary and in the case of a panhandle erf, an additional servitude for municipal purposes 2 metres wide across the access portion of the erf, if and when required by the local authority: Provided that the local authority may dispense with any such servitude.
- b) No building or other structure shall be erected within the aforesaid servitude area and no large-rooted trees shall be planted within the area of such servitude or within 2 metres thereof.
- c) The local authority shall be entitled to deposit temporarily on the land adjoining the aforesaid servitude such material as may be excavated by it during the course of the construction, maintenance or removal of such sewerage mains and other works as it, in its discretion may deem necessary and shall further be entitled to reasonable access to the said land for the

aforesaid purpose subject to any damage done during the process of the construction, maintenance or removal of such sewerage mains and other works being made good by the local authority.

26.11. The Municipality shall attach the conditions of the approved subdivision to the zoning of all the newly created erven concerned. In the event of the cancellation or lapsing of such subdivision the Municipality may remove such conditions and do the appropriate adjustments.

26.12. Upon the approval of a subdivision application all the conditions of approval shall:

- a) Be in addition to the general conditions, restrictions and other provisions of this Land Use Scheme
- b) Should there be conflict with any such other conditions, restrictions or provisions in this Land Use Scheme including the provisions and conditions contained in an Annexure or Schedule applicable to the erf, such conditions shall prevail.

27. ADDITIONAL GUIDELINES

27.1. GUIDELINES FOR LAND DEVELOPMENT IN BIODIVERSITY AREAS

- a) Critical Biodiversity Areas are identified by means of an overlay, referred to as the Biodiversity Management Overlay Map. The Critical Biodiversity Areas map identifies the minimum biodiversity network required to meet the conservation targets; support biodiversity features and ecosystem functioning; and ensure the persistence and maintenance of biodiversity patterns and ecological processes.
- b) Development or land uses within these identified areas needs to accommodate and support the biodiversity network, and in this regard the following development control measures must be implemented as per the relevant CBA map category:

CRITICAL BIODIVERSITY AREAS OVERLAY: DEVELOPMENT CONTROL MEASURES

CBA MAP CATEGORY	CONTROL MEASURES
Terrestrial CBA	<ul style="list-style-type: none"> • On Agricultural zone: Expansion of agriculture (crop & intensive animal production, excluding grazing of natural veld) and development footprint requires a biodiversity assessment and may not occur without authorisation from the Makhuduthamaga Local Municipality. • On other zones: Expansion of development footprint requires a biodiversity assessment and may not occur without permission from Makhuduthamaga Local Municipality.
ESA: Species specific	<ul style="list-style-type: none"> • Hardening of surfaces requires a biodiversity assessment and may not occur without authorisation from agriculture and permission from Makhuduthamaga Local Municipality.
River CBA	<ul style="list-style-type: none"> • Indigenous riparian vegetation must not be cleared. • A minimum buffer of 30m of indigenous vegetation must be maintained from the edge of the riparian vegetation, or where such does not occur 50m from the bank of the watercourse. • A minimum buffer of 100m must be maintained between hard surfaces and the riparian vegetation or where such does not occur the bank of the watercourse, where such buffer is maintained as undisturbed soil.
Wetland CBA	<ul style="list-style-type: none"> • The transformation of land or development of land within a 100m of a wetland CBA, must trigger a wetland assessment, undertaken by a qualified wetland specialist, to determine an appropriate wetland buffer. • The transformation of land or development of land within a 100m of a wetland CBA may not occur without Makhuduthamaga Local Municipality’s approval of the determined buffer.
River ESA	<p align="center">Indigenous riparian vegetation must not be cleared.</p>
fish sanctuaries	<ul style="list-style-type: none"> • Indigenous riverine vegetation must not be cleared.

	<ul style="list-style-type: none"> • No introduction of exotic, extralimital or invasive species into the river. • A minimum buffer of 100m must be maintained between hard surfaces and the riverine vegetation or where such does not occur the bank of the watercourse, where such buffer is maintained as vegetated undisturbed soil.
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- c) Sensitive Habitat or ecosystems are sensitive to development impacts and land uses must be controlled. These are not necessarily mapped in their entirety but if they occur on land within the scheme, the following standard biodiversity requirements should be taken into account.

SENSITIVE HABITATS/ECOSYSTEMS OVERLAY: DEVELOPMENT CONTROL MEASURES	
CATEGORY	CONTROL MEASURES

<p>Wetlands</p>	<ul style="list-style-type: none"> • Modification of the wetland or area adjacent to the wetland may not occur without an Environmental Authorisation and Water Use License. Where modification includes hardening of surfaces, clearing of indigenous vegetation, dredging, infilling, draining, etc. • To maintain the ecological and hydrological functioning of the wetland a buffer of vegetated (preferably natural vegetation) land must be maintained around the wetland. Although a standard wetland buffer width of 30 metres or 32 metres has been applied to wetlands in the province, this is not considered best practise as such does not take into account site specific conditions and development type. Wherever <ul style="list-style-type: none"> • possible, instead of the standard buffer, a site specific buffer should be determined and implemented, which maximised the functioning of the wetland and the corresponding ecosystem services • Storm water runoff should not be discharge directly into the wetland system but should filter through at a minimum the vegetated buffer. • Alien invasive vegetation should be removed/cleared from the wetland and buffer. Preferably by mechanical means or if chemical are utilised, such must have been determined to be non-toxic to aquatic species
<p>River</p>	<ul style="list-style-type: none"> • Indigenous riparian vegetation should not be cleared and should be maintained for erosion and sedimentation control as well as to provide a river corridor for movement of species. • A minimum buffer of 20m of undisturbed vegetated soil, must be maintained between hard surfaces and the riverine vegetation or where such does not occur the bank of the watercourse. • Storm water runoff should not be discharge directly into the river system, without settling and polishing of the runoff water occurring either through soft or engineering structures. • Alien invasive vegetation should be removed/cleared from the riparian area. Preferably by mechanical means or if

	chemical are utilised, such must have been determined to be non-toxic to aquatic species
27.2.Forest	<ul style="list-style-type: none"> • Removal or damaging of trees within a forest may not occur without a permit in terms of the National Forestry Act.
Power lines and Staywires	<ul style="list-style-type: none"> • The installation of power lines & masts with stray wires within know bird flight path areas, such as wetland systems and rivers, and/ or within known roosting, nesting and foraging areas of birds vulnerable to line collisions, such as cranes, bustards, storks, vultures and water birds, requires an avifaunal assessment. • Placement of lines should first avoid such areas, and only if this has been determined to not be possible should marking of the lines be considered as a possible mitigation measure

- d) A biodiversity assessment should be undertaken for the transformation of, or development on areas identified as being sensitive/ biodiversity priority areas. These areas include the critical biodiversity areas such as the above wetlands, rivers, estuaries and forest areas.

28. GUIDELINES FOR DEVELOPMENT IN AGRICULTURAL AREAS

AGRICULTURAL POLICY AREAS MANAGEMENT OVERLAY: DEVELOPMENT CONTROL MEASURES
<p>DAFF and LDARD has recently embarked on a new initiative to develop an Agricultural Land Zoning System, which categorise land in terms of its agricultural potential. Within each of these zones, permitted or preferred land uses are identified that will not compromise the value and production of the land. It is proposed that these zones be used as overlays in the scheme, since it is not according to cadastral. The overlay will cover the following agricultural zones:</p>

<p>Agriculture only (high potential agricultural land): Category A & B (Irreplaceable and Threatened)</p>	<ul style="list-style-type: none"> • A zoning overlay intended to provide for land and buildings where the primary activity is extensive agricultural production of crops, plantations, mostly free-roaming livestock, poultry, etc. or products for the commercial market. This zone comprises high value agricultural land with high production value for grazing land and it can support arable cropping systems. Limited changes to land use will be supported, and only if this takes place on the lowest potential areas and where the activity will complement existing farming practices without impacting negatively on the existing farming practices or the surrounding activities.
<p>Moderate to high potential agriculture: Category C and also might include B (Primary and Threatened)</p>	<ul style="list-style-type: none"> • This zoning overlay is intended to protect agriculture as the primary use of land and to serve as a buffer for higher agricultural potential. Although it might include less arable land for crop production, this zone is more suitable for extensive grazing and production of fodder crops. Changes to land use may be considered, but only if this takes place on the lowest potential areas and where the activity will not negatively impact existing agricultural land uses. Changes to land use may also be considered particularly if it is supplementary or adds to the viability of the farming unit as a whole and is placed in lower potential agricultural land.
<p>Low agricultural potential: Category D & E (Secondary and mixed)</p>	<ul style="list-style-type: none"> • This zoning overlay serves to promote activities to optimise agricultural production on land with low agricultural potential. it should also promote non-agricultural activities compatible with current and potential, local and surrounding agricultural activities on land which cannot be used productively. A preferred alternative on land that cannot be used productively would be intensive agricultural uses or agricultural uses, which are not dependent on the resource base. Changes to land use may be considered as long as it does not conflict with the surrounding agricultural activity and is placed on the lowest potential agricultural land.

28.2. Agro-biodiversity Overlay

AGRO-BIODIVERSITY OVERLAY MAPS: DEVELOPMENT CONTROL MEASURES

This is a zone overlay, which aims to highlight the importance of both sustainable agriculture and biodiversity conservation, because it is deemed to have high to moderate agricultural potential and high biodiversity value. The designation encourages indigenous biodiversity throughout the agricultural landscape wherever possible and links these areas through “corridors” with formal protected areas. In principle, rangeland can be utilised to provide viable habitats or to link areas to enable species to maintain genetic interaction between populations that would otherwise be isolated. This would involve protecting indigenous vegetation and maintaining it in a good state and/or re-establishing natural species, the removal of alien plant species, buffering wetlands and watercourses, management of pesticide, herbicide & fertiliser applications, control of surface runoff and prevention of soil erosion and degradation (in accordance with CARA (Act 43, of 1983). Since the most significant contribution towards facilitation of these concepts will rely on uncultivated land, the ploughing of any additional virgin land will, in principle not be supported and the area should thus be retained as extensive grazing. A limited level of resource harvesting may be permitted on a sustainable basis.

PREFERRED LAND USES

RIGHTS	DISCRETIONARY USES	PROHIBITED USES
<ul style="list-style-type: none"> • Dwelling house • Conservation • Agriculture (extensive grazing) 	<ul style="list-style-type: none"> • Camping site • Additional dwelling unit • Chalet Development • Spaza Shop/ Tuck Shop • Home business • Bird hides? • Trails 	<ul style="list-style-type: none"> • Mining • Renewable Energy Farms (Wind Farm, Solar Farm) • Building and land uses not included in columns 1 to 3.

29. GUIDELINES FOR DEVELOPMENT ON TRADITIONAL AUTHORITY LAND

29.1. All allocation of land in traditional Authority areas shall be done in accordance with the indigenous laws and customs of the relevant Traditional Authority, but also in line with the provisions of this Scheme and the Makhuduthamaga Local Municipality Spatial development framework and other relevant bylaws.

- 29.2.If land that is occupied in an unstructured manner by a traditional community or indigent households is included in the land use scheme, the community accepted land use patterns and land use management practices must not be unduly disturbed
- 29.3.The applications for planning approvals for land development in an area occupied in “an unstructured manner” by the traditional communities or indigent households.
- 29.4.Where an applicant wishes to obtain a site for residential purposes, the applicant must obtain consent from the Traditional Authority by following the necessary application procedure as required by the relevant Traditional Authority.
- 29.5.For non-residential uses, the applicant must submit the consent obtained from the Traditional Authority, together with the prescribed application form and supporting documents for consideration, and to enter into an agreement thereof.
- 29.6.Upon approval of the application, the relevant traditional authority shall issue the applicant with a lease diagram, which the applicant shall submit to the municipality. The lease diagram and details of the land use shall be captured and depicted accordingly on the Scheme map.
- 29.7.Where such use is indicated as a special consent or prohibited use in terms of this scheme, the applicant shall submit a special consent or scheme amendment / rezoning application in line with the provisions of this scheme and the SPLUMA
- 29.8.The following should be considered by the Traditional Authority when allocating a site.
- a) The zoning of the land as per the Scheme;
 - b) The management overlays of the scheme;
 - c) The location of the site in relation public facilities and infrastructure;
 - d) The location of the site in relation to road infrastructure and accessibility of the site, both by foot and vehicle;
 - e) Protection of agricultural land from settlement
 - f) Ensuring that applicants are not allocated on flood prone areas
 - g) Protection of the natural environment and cultural resources. People may not be allocated sites on wetlands, protected forests, heritage sites etc.
 - h) Ensuring that the applicant will have easy access to grazing land
 - i) Reservation of land for future uses/public facilities

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

30. CRITERIA FOR THE CONSIDERATION OF APPLICATIONS

30.1. Subject to the provisions of Clauses 31, 32 and 33 hereof, the local municipality may, when application is made for its special, written or temporary consent in terms of this scheme refuse or grant such consent subject to such conditions as it may think fit, with due consideration of:

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

30.2. Development Framework and any review thereof.

30.3. 30.2 The local municipality may upon the granting of any consent contemplated in Clauses 31 and 32 of this scheme, impose conditions regarding the payment of contributions for the provision of services, open spaces and parks, as envisaged in Section 49(4) of the Spatial Planning and Land Use management Act, Act 16 of 2013, read with the provision of the Makhuduthamaga Municipal Planning By-Law (PMPB) or its successor in title for which purposes the provisions of the MMPB shall mutatis mutandis apply.

31. SPECIAL CONSENT OF THE LOCAL MUNICIPALITY

31.1. Any owner (hereinafter referred to as "the applicant") intending to apply to the local municipality for special consent for:

- a) The erection and use of a building or for the use of land in any use zone, whether wholly or partially for any purposes which requires the special consent of the local municipality in terms of Column 4, Table "A"; and
- b) an increase in the density of an erf (see Column 10, Table "C"), shall submit such application to the local municipality in writing, in the prescribed manner.

31.2. An application shall include a report to the local municipality, containing full particulars on the criteria referred to in Clause 30.1, as well as particulars appearing

in notices as set out in Clause 31.4 or any other relevant particulars which may be required by the local municipality.

31.3. The applicant shall:

- a) At his own expense publish a notice twice (for two consecutive weeks) in a local newspaper/s, circulating in the area of the application;
- b) such notice shall be in any two of the official languages of which one should be in English;
- c) display a notice, referred to in sub-clauses 31.3.(a) and 31.3.(b) and maintain same, for a period of not less than 14 consecutive days from date of first publication, in a conspicuous position, visible from the street on each separate portion of the land to which such consent will apply.
- d) In the case of an application lodged in the “Agriculture” use zone, obtain the written comments of the adjacent land owners in the prescribed manner.
- e) Refer the application to any other person or body that may be required by the local municipality.

31.4. The notice referred to:

- a) in sub-clause 31.3.(a) and 31.3.(c) shall contain the name and address of the applicant; the description, address and locality of the property as well as particulars of the existing zoning and the purpose for which the land and buildings will be used and shall state that it lies for inspection at the local municipality offices and that any objection to or representation in connection with such application shall be lodged simultaneously with the local municipality and the applicant within a period of 28 days calculated from the day when the notice was first published and displayed on the site; and
- b) the notice in sub-clause 31.3.3 shall not be less than 594mm by 420mm in size and no letter thereon shall be less than 6mm in height.

31.5. The applicant shall within twenty-eight (28) days from the date of the first publishing and posting up of the notice on site as mentioned in sub-clauses 31.3.(a) and 31.3.(c) , lodge the application with the local municipality, failing which shall be deemed as non-compliance with the application procedures, save that the local municipality shall have the right to condone filing outside the 28 day time period, on good cause shown.

- 31.6. The applicant shall lodge, simultaneously with the application, an affidavit confirming that the notice referred to in sub-clause 31.3.3, was properly displayed and maintained.
- 31.7. The applicant shall submit proof that the application referred to in sub-clause 31.3.1, was published twice as prescribed.
- 31.8. The local municipality shall consider and hear any objection or representation received within the period determined by the local municipality, at a hearing arranged.
- 31.9. A reasonable time period referred to above shall be deemed to be 90 days calculated as from lapsing of 28 days referred to in paragraph 31.8 above.
- 31.10. Should any objection to, or representation against, the application be received by the local municipality, it shall set a time and place for the hearing of such objection or representation in a manner complying with the requirements of the administrative justice, and shall give written notice thereof, by registered post or by electronic communication or facsimile, at least 14 days prior to the hearing, to the applicant and/or his duly authorised agent and all objectors.
- 31.11. Where the objections or representations contemplated in Clause 31.8 of more than one person are contained in one document, it shall be deemed sufficient compliance with the provisions of Clause 31.10 if the person who has lodged the document or is a signatory thereto is notified as contemplated in the latter clause.
- 31.12. The local municipality shall after due consideration of any objections and the criteria stipulated in Clause 30 hereof, in writing notify the applicant and every person who has lodged an objection or had made representations, of such decision.
- 31.13. The decision of the local municipality shall (where any objection to this application was received) not come into operation before expiry of stipulated period on the Municipal Planning By-Law, calculated from the date of notification of the parties in writing envisaged in Clause 31.12 hereof.
- 31.14. The applicant may note an appeal in terms of the provisions of the SPLUMA Act if the application is refused by the local municipality.
- 31.15. Every applicant shall, after approval by the local municipality, of an application envisaged in this clause, be obliged to, on an annual basis, in the month, during which the applicant was notified of such an approval as envisaged in Clause

31.12, to the satisfaction of the local municipality, submit an affidavit in confirmation of inter alia the fact that the conditions pertaining to such approval and use, are fully complied with.

31.16. Any consent that the local municipality granted in terms of Clause 31.12 lapses under the following conditions:

- a) if any right to which the consent applies are not exercised within a period of 12 months from the date of such consent;
- b) if such rights have been exercised and such rights are discontinued for a period of 15 consecutive months; with the proviso that the local municipality may extend the periods in Clause 31.16.1 and 31.16.2. at its discretion.
- c) if a building for which such consent has been granted, is demolished, falls into disuse or becomes unsuitable for the purpose for which such consent was given; and
- d) if a condition that applies to any consent is not met, or if any act is contrary to such consent, provided that the local municipality has given 28 days written notice to the owner and the owner after elapse of such period, still does not comply with the notice.

31.17. Granting of special consent for a noxious industry shall be considered: Provided that there is proof of compliance with the National Environmental Management Act, 2014 (Act 107 of 2014), as amended and a certificate be issued by the Medical Officer of Health of a local municipality certifying that the process proposed to be used in connection with any of the industries or factories listed in Schedule 1 of this scheme, will effectively eliminate any nuisance or health hazard in the vicinity of the property due to:

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

32. *WRITTEN CONSENT OF THE LOCAL MUNICIPALITY*

32.1. Any owner (hereinafter referred to as “the applicant”) intending to apply to the local municipality for consent to:

- a) erect and use of a building or for the use of land in any use zone, whether wholly or partially for any purposes which requires the written consent of the local municipality (see Column 5, Table “A”).
- b) the carrying on of a household enterprise from a dwelling unit in a “Residential 1” or “Agricultural” use zone in terms of Clause34;
- c) the use of a dwelling unit for a spaza or kiosk (see Column 5, Table “A”);
- d) relaxation of height;
- e) relaxation of coverage;
- f) relaxation of building lines;
- g) amendment of a site development plan;
- h) relaxation of lines of no access; and
- i) Consent in terms of these Clauses shall do so in writing in the prescribed manner (where applicable) to the local municipality.

32.2.An application shall include a report to the Local Municipality, containing full particulars on the criteria referred to in Clause 30.1 of the proposed uses, as well as:

- a) the name and address of the applicant;
- b) the description, address and the locality of the subject property;
- c) existing zoning of the property; and
- d) A complete description of the proposed use of the land and/or building.

32.3.No written consent shall be granted in terms of this clause until the applicant has, to the satisfaction of the local municipality, obtained the written comments of the surrounding owners, as envisaged in Clause 32.4.

32.4.The applicant shall:

- a) procure a form, as prescribed by the local municipality for the consent referred to in Clause 32.3, to be completed by every occupant or owner of land or his duly authorized agent, who owns property situated:
 - (i) in a township or rural settlement, within a radius of 50m or such other distance as determined by the local municipality from the

closest point of the property in respect of which an application is made; and

(ii) in the “Agriculture” use zone, that shares a common boundary or boundary point with the application property or such other owners of land in the surrounding area as determined by the local municipality.

- b) supply full particulars and a description of the nature and extent of the intended use; relaxation required; the property description; the owner; and record therein that none of the persons referred to in sub-clause not withstanding their being aware of their right in terms of Clause
- c) to object or to make representations against the application, has any objection thereto and such form shall be signed by, and disclose the name, street address and telephone number of, every person mentioned in sub-clause 32.4.1; and
- d) In the case of an application lodged in the “Residential 1” (Rural Settlement)” use zone, the surrounding owners as referred to in Sub- clause 32.4.1 may submit the relevant form directly to the local authority and not to the applicant.

32.5.The local municipality shall consider any objection received and hear any representation made at a hearing arranged by the local municipality within a reasonable time period for which purpose the provisions of Clauses 32.3, 32.4 and 32.5 and 32.6 shall apply mutatis mutandis.

32.6.The local municipality shall notify in writing, the applicant, and if applicable to the objectors within a reasonable time of its decision.

32.7.Every applicant shall, after approval by the local municipality, of an application envisaged in this clause, be obliged to, on an annual basis, in the month, during which the applicant was notified of such an approval as envisaged in Clause 32.6, to the satisfaction of the local municipality, submit an affidavit in confirmation of inter alia the fact that the conditions pertaining to such approval and use, are fully complied with.

33. *TEMPORARY CONSENT OF THE LOCAL MUNICIPALITY*

33.1.Notwithstanding any other provision of this scheme, the local municipality may, upon receipt of a written request, give its consent to the temporary use of any land or building within any use.

- 33.2. The erection and use of temporary buildings, or the use of existing buildings for site offices, storage rooms, workshops or such other uses as may be necessary during the erection of any permanent building or structure on the land; Provided that such consent shall ipso facto lapse upon completion of the permanent structure or on the expiry date thereof as determined by the local municipality.
- 33.3. The occasional use of land or buildings for public religious exercises, place of instruction, institution, place of amusement or social hall.
- 33.4. The use of land or buildings thereon for state or municipal purposes.
- 33.5. The use of land or the erection of buildings necessary for the purpose of informal retail trade.
- 33.6. The use of land or buildings, on a rural settlement in Use Zone 2 only, for the small-scale manufacturing of cement bricks for use by the owner of such rural settlement site or the selling of such bricks to owners of sites within the same rural settlement. The provisions of clauses 32.2 - 32.5 shall apply mutatis mutandis.
- 33.7. Any temporary consent granted in terms of this clause shall not be granted for any period in excess of 12 months, which period may however be extended by the local municipality for further periods of 12 months each, subject to a maximum period of 3 years in aggregate in cases falling within the ambit of Clauses 32.1, 32.2 and 32.3.

34. *CONSENT FOR THE PRACTICE OF A HOUSEHOLD ENTERPRISE*

- 34.1. In addition to any conditions imposed by the local municipality in the granting of a special or written consent, the exercise of a household enterprise, from a dwelling unit, shall be subject to the following:
- a) No title condition applicable to the property may be transgressed.
 - b) The applicant may practice his occupation in any trade form subject thereto that the he/she on a day-to-day basis in charge of the enterprise and holds the majority interest in the business.
 - c) The residential character and function of the dwelling unit must be maintained, and not more than 25% of the floor area of the dwelling unit, outbuildings excluded, or a maximum floor area of 75m² may be used for such practice.

- d) Should more than the prescribed number of persons be accommodated on the premises where the household enterprise is conducted or, if more than 20% of the dwelling unit, outbuildings excluded or more than the maximum floor area of 75m², is to be used for the household enterprise, the special consent of the local municipality must be obtained in terms of Clause 31.

34.2. For the purposes of this clause, an agent or representative of the applicant will be considered an employee of such applicant.

- a) The necessary building plans to indicate the change in use must be submitted if required by the local municipality. Parking is to be provided to the satisfaction of the local municipality in accordance with Table "B".
- b) No goods may be displayed in public, in a window or in any other manner.
- c) No notice or sign except such notice or sign as is normally displayed at the dwelling unit, to reflect the name of the applicant and the nature of the household enterprise may be displayed provided that the size of such notice shall not exceed 600mm by 450mm.
- d) The amenity of the area may not be prejudiced.

35. *CONSENT FOR SPECIFIC PURPOSES*

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

- a) the exploitation of minerals on any land not included in a proclaimed township;
- b) the letting of a dwelling unit for occupancy of only one family; and
- c) the letting of not more than two rooms of a dwelling unit.

36. *CONVERSION RIGHTS*

36.1. "Mining 1 and Quarrying" or "Mining 2"

- a) Where land is already zoned as "Mining 1 and Quarrying" or "Mining 2", the Mining Rights holder shall consequent upon complying with any relevant requirements prescribed in terms of Mining and Environmental legislation such as the National Environmental Management Act, 1998 (Act No. 107 of 1998) with its amendments, and the Mineral and Petroleum Resources Development Act 2002 (Act No. 28 of 2002); such rights holder shall have the right to convert the zoning to "Mining 1 and Quarrying".

- b) The mining company must provide the local municipality with:
 - (i) Written notification;
 - (ii) Maps indicating the area of which the status has changed as indicated above.
- c) Upon delivery of the documentation in paragraph 36.1.2 “Mining and Quarrying Purposes” rights shall commence forthwith.

36.2. “Protected Areas”

- a) Where an owner of land declared the land or a portion of the land as a “Protected Area” in terms of any relevant national or provincial environmental legislation, such owner shall have the right to convert the zoning to “Protected Areas”.
- b) The owner must provide the local municipality with;
 - (i) a copy of notice of declaration of land as a protected area; and
 - (ii) Maps indicating the area of which the status has changed as indicated above.
- c) Upon delivery of the documentation in paragraph 36.2.2 “Protected Areas” rights shall commence forthwith.

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

37.1. The local municipality shall keep a complete register of amendments, special and written consents approved by it in terms of this land-use scheme, or granted through the verdict of appeals, as well as conditions imposed in such approvals. Such register together with the land-use scheme will be available for inspection at any reasonable time to any interested person or body.

PART V: MANAGEMENT OF LAND DEVELOPMENT REQUIREMENTS & RIGHTS

This Part of the Makhuduthamaga Land Use Scheme contains all of the general land development rights associated and connected with the Use Zones, including height, coverage, floor area and density requirements. It also elaborates on building restrictions and parking requirements. The overall purpose of this Section is to determine the land development and administration processes that the Municipality has at its disposal to manage the urban form in a sustainable and innovative way.

38. *ERF CONTROLS*

- 38.1. No erf shall be less than the prescribed minimum erf size for the zone within which it is located, except in cases where subdivision took place prior to the date of adoption of this scheme, and where an existing lot in the Residential Zones has been reduced in area by the expropriation or alienation of land for street widening, street construction or open space purposes.
- 38.2. The Municipality may increase the minimum Erf size specified in these clauses where, in the Municipality's opinion, the method used for the disposal of sewage warrants such an increase.
- 38.3. Notwithstanding the provisions relating to minimum erf size, specified for each Use Zone elsewhere in the Land Use Scheme, no subdivision of any land shall be permitted unless water supply and sewage disposal systems are capable of being provided to the satisfaction of the municipality.
- 38.4. Notwithstanding the provisions relating to minimum erf size, specified for each Use Zone elsewhere in the Land Use Scheme, the municipality may consent to the subdivision of an existing Erf in order to facilitate the execution of public works provided that a fully motivated application is submitted to the municipality and the area of such subdivision shall not be less than 70% of the minimum Erf size of the specified Use Zone in which the Erf is situated.
- 38.5. No erf used for a Residential Estate shall be less than 3 hectares in extent; provided that the Municipality may reduce the minimum erf size requirement to not less than 1 hectare where certain circumstances warrant such reduction. Without detracting from the generality of this clause such circumstances shall include topographical features, vegetation thereon, availability of services or the use of adjoining recreational facilities in same ownership.
- 38.6. The Erf Area in any zone is exclusive of access ways in "hatchet-shaped" erven.

- 38.7. Where on the date of adoption, two dwelling houses were existing lawfully on a single erf, which is less in extent than the areas prescribed in these clauses, the Municipality may, in its discretion, grant authority for the subdivision of the erf into two separate erven, provided also that the area of either of the subdivided erven is not less in extent than 700 m² and each subdivision conforms to the other provisions of the Land Use Scheme. In giving any such authority the Municipality shall take into account the amenity of the locality and of the adjoining properties.
- 38.8. Where an existing erf in the Residential zone has been reduced in area by the expropriation or alienation of land for road widening or construction purposes and for open space purposes, the Municipality may allow the erection of a dwelling house on the erf provided that the erf has not been reduced in area to less than 700 m² and provided further that arrangements for the disposal of sewage have been made to the satisfaction of the Municipality.
- 38.9. Where an existing site in a High-Density Residential zone that has been reduced in area by the expropriation or alienation of land for road widening or construction purposes and for open space purposes, the Municipality may allow the erection of a residential building on the site provided that the erf has not been reduced in area to less than 1350 m² and provided further that arrangements for the disposal of sewage have been made to the satisfaction of the Municipality.
- 38.10. The Municipality may permit the erection of an additional self-contained residential unit (additional dwelling unit) on any single Residential (1 and 2) erf. Before granting such permission, the Municipality shall satisfy itself that the applicant has applied for Special Consent. For the purposes of this sub-clause only, such self-contained residential unit (additional dwelling unit) shall comprise not more than one bedroom, a combined lounge and dining room, a kitchen, a bathroom and a toilet. The total floor area shall not exceed 60m².
- 38.11. Where a township is established for the erection of dwellings wholly or partly financed by the State, the Municipality may authorise a reduction in the prescribed density, minimum Erf sizes and frontages for any Erfs so used provided that all such Erfs are served by a sewage disposal system to the satisfaction of the Municipality.
- 38.12. A site of irregular shape shall be capable of containing within its boundaries a rectangle, the ratio between the width and length of which shall not be less than 1:3 and which shall have an area of at least 50% of such Site, or the minimum prescribed area of a Site, whichever is the greater.

- 38.13. Except in special circumstances, the depth of an erf in relation to the frontage shall not exceed the ratio of 3 to 1 in proportion. An erf of irregular shape should be capable of containing within its boundaries a rectangle not exceeding the ratio 3 to 1 in proportion, having an area of 75 per cent of the minimum prescribed area.
- 38.14. In cases where access from any subdivided portion of land to the public street system is via an access strip or access road ("Panhandle" or "Hatchet-shaped" erven):
- 38.15. the area of the Site, does not include the area of such access strip or road;
- 38.16. such access strip or road not exceed 35 metres in length, provided that the Municipality may, under exceptional circumstances and at its sole discretion, approve a maximum length in excess of 35 metres;
- 38.17. Such access strip or road giving access to the site shall have a minimum width of not less than 4 metres length, or 10 metres in the case of an erf that would give access to larger vehicles such as trucks.
- 38.18. the average width of such site, measured to the satisfaction of the Municipality, shall be deemed to be the street frontage of such Site; and
- 38.19. the municipality may require a subdivision to be served with a registered right of way if the proposed access strip exceeds 200 metres;
- 38.20. the access strip or road at all times be kept in a dust free condition and be maintained to the satisfaction of the Municipality; provided that, if so, required by the Municipality, such access strip or road shall be hardened, surfaced or paved to the satisfaction of the Municipality.
- 38.21. Applications for the subdivision of land and /or the change of land use, of land outside areas shown to be exempt from the provisions of the Subdivision of Agricultural Land Act No. 70 of 1970, shall require the approved of the National Department of Agriculture in terms of the Subdivision of Agricultural Land Act No.70 of 1970 prior to approval by the Municipality.
- 38.22. In considering any application for development, it shall be the duty of the Municipality to ensure, wherever it is considered appropriate, that adequate provision be made for the preservation of indigenous flora, the planting or replacement of trees and the protection of water-courses, by means of conditions qualifying approval of such development.

39. *DENSITY DEVELOPMENT REQUIREMENTS*

39.1. The number of dwelling houses or dwelling units that may be erected on an erf or site shall be in accordance with the Land Use Table.

39.2. In all Use Zones other than 1, 2, 3 and 4 (or where specified in an Annexure / Schedule) where residential use is permitted, dwelling houses, dwelling units, mobile dwelling units and residential buildings shall only be erected in accordance with the provisions relating to height, coverage and floor area ratio applicable to the erf or site concerned.

39.3. If an erf or site is situated in more than one Use Zone, buildings may be erected without subdivision of the erf or site, in accordance with purposes permitted in each use zone on the various parts of such erf or site.

39.4. In the event of a cluster development (Free Hold Title) on Residential 2, 3 and 4 the density shall be restricted to a maximum of 20 dwelling units per hectare.

40. *HEIGHT DEVELOPMENT REQUIREMENTS*

40.1. The number of storeys, excluding basement storeys that may be contained in a building shall be determined by a designated Height Zone detailed in Table A - E.

40.2. Save with the consent of the Municipality and/or the relevant controlling authority, no building shall exceed a height of 1950m above mean sea level. For the purpose of this clause the height exclusions in terms of the height definitions shall not apply.

40.3. Subject to the provisions of this Part of the Land Use Scheme, no building shall be erected so as to contain a number of stores without the consent of the Municipality.

40.4. In considering applications for the Municipality's consent in terms of sub-clause (40.2), the Municipality shall, in addition to any other relevant factors have regard to:

- a) The location and topography of the erf or site;
- b) Whether, for example, the additional open space resulting from a building containing more than four storeys is more desirable than that which would result from a four-storey building;
- c) The effect on the surrounding area with particular emphasis on the possible obstruction of view, overshadowing or breaking of the natural skyline; and
- d) The desirability of creating a focal point on the site.

40.5. TABLE 1: HEIGHT DEVELOPMENT REQUIREMENTS

LAND USE	STREET LINES	BUILDING BOUNDARY LINES	COMMON BOUNDARY LINES	MAXIMUM COVERAGE	MAXIMUM HEIGHT INCLUDING ROOF	MAXIMUM STOREY
MIXED USE ZONE¹						
For properties abutting Mixed Use (MU), Industrial (IND) and Utility Zones (UZ)	0m		0m	100%	30m	3
For properties abutting zones other than Mixed Use (MU), Industrial uses (IND) and Utility Zones (U)	0m		4,5m	100%	30m	4
INDUSTRIAL ZONE²						
For properties abutting Mixed Use (MU), Industrial Use (IND) and Utility Zones (UZ)	0m		0m	75%	21m	4
For properties abutting zones other than Mixed Use (MU), Industrial uses (IND) and Utility Zones (U)	0m		4,5m	75%	20m	4
UTILITY ZONE³						
Utility Zone (UZ)	5m		5m	60%	20m	4
TRANSPORT ZONE⁴						
Transport Zone (TZ)	5m		5m	60%	20m	4
BUSINESS ZONE⁵						

1.1. _____

1.1.¹ This zone is comprised of a mix of business, residential, tourist and community use in central business nodes, at strategic nodes, and along activity streets. This zone is meant to promote high intensity of development by allowing a high intensity of land use.

1.2.² The purpose of this zone is to provide for sufficient land to be retained for general manufacturing and large-scale industrial and warehousing purposes and the location of industrial uses in areas where negative impacts of such uses can be limited to the industrial area and its environs. However non-industrial uses which are compatible with the primary purpose of this zone are also permitted.

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

1.4.⁴ The purpose of this zone is to make provision for roads (i.e. private or public) as indicated on a general plan or diagram, whether or not constructed. Opportunities for additional uses and occasional uses on land units zoned for transport purposes are also accommodated.

1.5.⁵ The purpose of this zone is to make provision for lower order commercial and community uses to serve the surrounding community that will not impact negatively on the amenity of the surrounding residential area.

LAND USE	STREET BUILDING LINES	COMMON BOUNDARY LINES	MAXIMUM COVERAGE	MAXIMUM HEIGHT INCLUDING ROOF	MAXIMUM STOREY
For properties abutting Business Zones 1 – 6 (BZ), Mixed Use (MU), Industrial Use (IND) and Utility Zones (UZ)	0m				
For properties abutting zones other than (BZ), Mixed Use (MU), Industrial Use (IND) and Utility Zones (UZ)	0m				
RESIDENTIA UNITS/MULTI-UNIT HOUSING ZONE⁶					
All buildings up to a point 10m above base level	5m				
Buildings or portions exceeding 10m above base level	7m				
Group housing	External:3m Internal:0m				
CONVENTIONAL HOUSING/RESIDENTIAL DEVELOPMENT ZONE⁷					
Up to 250m ²	1m				
251m ² to 500m ²	2m				
>500m ²	4,5m				
Garages and carports	0m				

1.1. _____

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

1.7.⁷ The purpose of this zone is to make provision for the use of land for the purposes of predominantly lower density conventional housing; the welfare and safety of the occupants of dwelling houses within a neighbourhood by limiting uses which are likely to give rise to a public nuisance or impact adversely on residents' health, safety, and welfare.

LAND USE	STREET BUILDING LINES	COMMON BOUNDARY LINES	MAXIMUM COVERAGE	MAXIMUM HEIGHT INCLUDING ROOF	MAXIMUM STOREY
COMMUNITY USE ZONE⁸					
<2000m ²	5m				
≥2000m ²	5m				
OPEN SPACE ZONE⁹					
Employee housing	10m				
All other buildings	10m				
AGRICULTURE ZONE¹⁰					
Agricultural building	5m				
Dwelling house & second dwelling	5m				
Employee housing	5m				
All other structures	5m				
Crop covers	25m				
Land and structures used for the keeping of animals	5m				
Abutting another zone	5m				
NATURAL ENVIRONMENT ZONE¹¹					
Natural Environment zone	5m				
LIMITED USE ZONE/UNDETERMINED¹²					

1.1. _____

1.8.⁸ The purpose of this zone is to make provision for a wide range of community and welfare purposes including places of instruction, and places of assembly which include religious gatherings including and ancillary uses such as administrative offices, residential uses, libraries, school hostels, recreational and sports facilities and any other uses and buildings that are ordinarily associated with the particular facility.

1.9.⁹ The purpose of this zone is to make provision for active or passive recreational spaces; open and landscaped spaces which contribute to the sense of place or visual amenity of an area or fulfil other ecosystem services.

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

1.11.¹¹ The purpose of this zone is to make provision for the protection of the natural environment, whether the land has been proclaimed for conservation purposes in terms of the relevant legislation, or not; the controlled utilisation of such areas for recreation purposes.

1.12.¹² The purpose of this zone is to make provision for properties previously zoned “undetermined” or “other abolished zones” in previous schemes which cannot be appropriately converted to a new use zone. In this zone existing lawful land uses in such zones will be permitted to continue, but no new land uses shall be permitted unless if properties are rezoned to the appropriate use zone in order to permit new land uses. In this zone, no new rezoning to Limited Use Zone shall be permitted.

LAND USE	STREET LINES	BUILDING	COMMON BOUNDARY LINES	MAXIMUM COVERAGE	MAXIMUM HEIGHT INCLUDING ROOF	MAXIMUM STOREY
SUBDIVISIONAL AREA OVERLAY ZONE ¹³						
OCAL DEVELOPMENT ZONE ¹⁴		ECONOMIC OVERLAY				

1.1. _____

1.13.¹³ The purpose of this zone is to make provision for the designation of land for future subdivision with development rights by providing development & directives through specific conditions as approved in terms of the Planning Law and confirmation of the principle of development and acceptance of future subdivision of land; but not the detailed layout, which will be determined when an actual application for subdivision is approved.

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

41. **COVERAGE DEVELOPMENT REQUIREMENTS**

41.1.No building shall be erected so as to cover a greater proportion of its erf than is permitted in terms of Table A - E.

41.2.The provisions of sub-clause (41.1) shall apply to every storey in a building, including any basement storey.

41.3.The Municipality may grant its consent use:

41.4.In considering an application for its consent use in terms of clause 33 of this Land Use Scheme, the Municipality shall in addition to any other relevant factors have regard to the likely effect upon plant life, possible future road improvements and the location of essential services.

41.5.The Municipality may grant its written consent to the coverage being increased:

- a) In respect of an erf or site fronting onto a pedestrian mall;
- b) On any use zone to an additional maximum of 10%.
- c) In considering an application for its consent in terms of sub-clause 4.4.3 the Municipality shall in addition to any other relevant factors have regard to the likely effect upon plant life, possible future road improvements and the location of essential services

41.6.The coverage as reflected in Table 2 & Tables A-E shall not be applicable to residential cluster / group housing (freehold) development, in which instance the coverage shall be determined in terms of an approved Site Development Plan.

41.7.**TABLE 2: COVERAGE DEVELOPMENT REQUIREMENTS**

(1)Height Zone	(2)Dwelling Houses, Dwelling Units, Residential Buildings	(3)Shops, Business Purposes, Institutional- , Educational Facilities	(4)Industrial Purposes	(5)Other Uses
A	50% for one storey 50% for two storeys 40% for three storeys	50%	70%	70%
B	Residential 1: 60% Residential 2: 70% Residential 3: 80%	70%	85%	60%
C	100%	100%	100%	100%

42. FLOOR AREA RESTRICTIONS

42.1.No building shall be erected so as to exceed the floor area ratio as prescribed in Table 3 of the Land Use Scheme. The floor area ratios as given in columns 2, 3, 4 and 5 of Table 3 are applicable to buildings erected in the Height Zones given in Table 2.

42.2.In the case of an erf situated at the junction of two roads the applicable floor area ratios of which are not equal, the higher floor area ratio shall apply for a distance of 15,75m, measured along the street with the lower applicable floor area ratio.

42.3.The floor area ratio as reflected in Table 3 shall not be applicable to residential cluster / group housing (freehold) development, in which instance the floor area ratio shall be determined in terms of an approved Site Development Plan.

42.4. TABLE 3: FLOOR AREA DEVELOPMENT REQUIREMENTS

(1)Height Zone	(2)Dwelling Houses, Dwelling Units, Residential Buildings	(3)Shops, Business Purposes, Institutional-, Educational Facilities	(4)Industrial Purposes	(5)Other Uses
A	1.2	2.1	2.1	2.1
B	2.4	3.0	3.0	3.0
C	4.0	4.0	4.0	4.0

43. BUILDING RESTRICTION AREAS

43.1. BUILDING LINES AND BUILDING RESTRICTION AREAS

- a) The area between the property boundary and the building line shall be deemed a building restriction area.
- b) Any 1:100 flood line determined to demarcate a flood area shall be deemed to be a building restriction area where no building shall be erected without prior approval by the Municipality of special precautionary measures.
- c) Any geological constraints shall be deemed to be a building restriction area where no building shall be erected without prior approval by the Municipality of special precautionary measures.
- d) Building lines applicable to street boundaries are given in the Land Use Table.

- e) Subject to the provision of sub-clause (43.1.3), no building shall be erected in a building restriction area.
- f) Sub-clause (43.1.5) is not applicable to boundary fences; garden walls; garden fences; garden ornaments; garages and carports with indirect access and associated single storey domestic outbuildings related to dwelling houses; dwelling units and residential buildings; electrical high and low tension chambers; pergolas; guard houses; antenna; satellite dishes; or swimming pools: Provided that such exemption does not apply along any provincial road in so far as it would be contrary to the requirements of the controlling authority.
- g) Except where otherwise stated in these clauses all erven shall be subject to a building line as prescribed in the Land Use Table.
- h) Within a Medium Density Housing Site, a building line does not apply to the dwelling unit curtilage, except along street frontages of the Medium Density Housing site, where the building line shall be 5m.
- i) Within a Residential Estate the building line shall be 2m for less than 500m² Erven and 5m for than 500m² Erven from the boundary common to the stand and any internal road and 5 m from the boundary of any public road.
- j) Where in the Commercial zone new mid-block roads, rear access roads and parking courts are required, the building line along boundaries of affected lots shall be the boundary of such roads and parking courts provided that on all such affected lots there shall be provided a service yard to the satisfaction of the Municipality.
- k) Where a building line is laid down no building other than boundary walls, fences, pergolas or architectural and garden features, shall be erected between the building line and the street line. Where a new road or road widening is required, the building line is to be set back so as to take into consideration any such new road or widening.
- l) The Municipality may relax the building line if the architectural effect will enhance the appearance of the street and contribute to public amenity. Provided, that the written authority of all abutting owners and

any other owners the Municipality may determine, is obtained, the Municipality may waive the Special Consent procedure.

- m) The Municipality may relax the building line on corner lots in single Residential zones to 1m metres provided that such relaxation is confined to one boundary only. Where authority for such relaxation is given it shall be a condition that no buildings which are erected forward of the prescribed building line of 5 metres shall be permitted nearer than 1 metre to the side boundary of the lot adjoining. Provided that the written authority of all abutting owners and any other owners the Municipality may determine, is obtained, the Municipality may waive the Special Consent procedure.
- n) In the case of swimming pools and tennis courts the building line may be relaxed by the Municipality to not less than 1 metre, subject to such conditions as the Municipality may determine. Provided, that the written authority of all abutting owners and any other owners the Municipality may determine, is obtained, the Municipality may waive the Special Consent procedure.
- o) Development along national and provincial roads shall comply with the standards set down by the relevant authorities, and may only be relaxed by the Municipality, with the consent of the relevant authority.
- p) In the Service Station Zone Municipality may permit the building line to be reduced to 2m provided there is not effect on sight lines and traffic flow.
- q) In the case of substations, meter rooms, screen walls for bulk refuse bin areas and security kiosks and similar structures, the building line may be relaxed to the erf boundary by Municipality, subject to such conditions as the Municipality may determine.

44. *CONSENT TO BUILD IN THE BUILDING RESTRICTION AREA*

44.1. The Municipality may consent to the erection of buildings:

- a) In the building restriction area between the building line and street boundary;

- b) In the case of structures below ground level or mainly below ground level, in the building restriction area between the building line and the street boundary;
- c) Buildings may be erected between the building line and the boundary of a sanitary lane if it is not in conflict with the Municipality's by-laws.
- d) Such consent may not be granted along any provincial road where such consent would be contrary to the requirements of the controlling authority.

44.2. A consent granted in terms of sub-clause (43.2.1) shall be valid for the life of the building in respect of which such consent was granted, or for any shorter period that may be specified by the Municipality as a condition of its consent.

44.3. In considering an application for its consent in terms of sub-clause (43.2.1) the Municipality shall, in addition to any other relevant factors, have regard to:

- a) The possibility of future road improvements;
- b) The location of the building in relation to surrounding sites and buildings;
- c) The slope of the land comprising the erf or site in relation to the slope of surrounding land;
- d) The arrangement of the buildings on the erf;
- e) All existing and/or future servitudes for engineering services;
- f) Any factor indicating the compliance with the building line would unreasonably interfere with the development of the erf.

44.4. If an erf or site abuts a provincial road or a national road, a building restriction shall be applicable in accordance with the standards laid down by the relevant Provincial Department or controlling body.

45. *SIDE AND REAR SPACE*

45.1. The Municipality may authorise the erection of single storey outbuildings on the side and rear boundaries provided the owners of properties contiguous to the affected boundaries have indicated in writing that they would have no objection to such authorization.

45.2. In the case of commercial or industrial zones the side space requirement may be relaxed by the municipality provided, that vehicular access can be obtained to the rear of the erf, and except where such buildings adjoin erfs zoned for residential purposes.

45.3. The Municipality may permit in any zone any building to be erected closer to any boundary than the distances specified in this clause, if on account of the siting of existing buildings or the shape, size or levels of the site, the enforcement of this clause will, in the opinion of the Municipality, render the development of the site unreasonably difficult. In considering any application under this sub-clause the Municipality shall have due regard to any possible detrimental effect on adjoining properties. Provided, that the written authority of all abutting owners and any other owners the Municipality may determine, is obtained, the Municipality may waive the Special Consent procedure. Provided further that: -

45.4. Where a building is erected closer than 1 metre from a side boundary, no doors or windows shall be permitted in the wall concerned; and

45.5. For the future planning and provision of a midblock sewerage system, a rear space of up to 2 metres shall be required by the local authority.

45.6. Where access to parking courts is required, the side space of affected sites shall be calculated from the boundaries of such access road.

45.7. The Municipality may authorise the erection of single storey outbuildings on the side and rear boundaries provided the owners of properties contiguous to the affected boundaries have indicated in writing that they would have no objection to such authorisation.

46. *FRONTAGE*

46.1. Except in special circumstances the minimum frontage for all erven shall be as prescribed in the applicable zone.

46.2. Where an erf is of an irregular shape or occurs in a cul-de-sac or change of road direction, the frontage on the street may, with the authority of the Municipality, be less than 15 metres provided the proportion of the site is in conformity with the ratio provision set out in Clause 5.4.1 and provided also that the frontage on the street is not less than 9 metres.

46.3. The width of the access way for a "hatchet-shaped" erf in High Density Residential zones or Industrial zones, shall be a minimum of 9 metres throughout its length.

47. *PARKING DEVELOPMENT AND LOADING REQUIREMENTS*

47.1. Where the use proposed is not contained in this document, parking shall be provided at the discretion of the Municipality.

47.2. All car spaces, loading spaces and access ways shall first be approved by and constructed to the satisfaction of the Municipality before the use of the building or land is allowed.

47.3. Gross floor area for the purposes of this part of the scheme clauses shall be that floor area which is specified to be used for the purpose of calculating Floor Area Ratio.

47.4. Where the parking accommodation, in respect of a property has been determined in terms of this Land Use Scheme, the Municipality may, if satisfied of the necessity and desirability thereof and on account of the size of the property, the availability of public parking in the direct vicinity of the property, the nature of the buildings on the property and the likely parking demand, instead of the provision of the parking spaces on the property, authorise the provision of the required number of parking spaces elsewhere than on the property of the building concerned.

47.5. The Municipality may consider the provision of a fewer number of parking spaces required, in terms of this Scheme, by means of Written Consent and shall in addition to any other relevant factors, have regard to the following, which shall be included in a report by a suitably qualified professional:

- a) Accessibility of the property for private or public transport;
- b) The availability of existing parking and/or public transport facilities in the vicinity of the property;
- c) Availability of off-street parking in the vicinity of the property;
- d) The number of staff members and customers related to the use of the property;
- e) The socio-economic structure and density of the population which the development serves;

- f) The size and nature of the proposed development and the size of vehicles likely to be used in connection with the proposed development;
- g) The likelihood of a reduction in parking provision causing injury to the amenity of the area in which it is, or will be situated including, without prejudice to the generality of the foregoing, increased traffic and parking difficulties; and
- h) The likelihood of parking shared by different land uses.

47.6. Any person intending to erect, alter or extend a Building or develop or use any erf, shall provide loading and parking accommodation within the boundaries of the erf and shall submit proposals therefore in accordance with the following requirements in the Parking Requirements Table and to the satisfaction of the Municipality.

47.7. The provisions for parking in this Part of the Land Use Scheme shall not apply to land or land and buildings where such land or buildings, or both, are used exclusively for public or private parking areas: Provided that in a building to be used or erected and used, partly for a public parking area and partly for other uses, this Part shall apply to that part of said land or building used or erected and used for such other uses; parking shall not be used for the exclusive use of tenants. If parking is demarcated / reserved, it shall be over and above the standard requirement.

47.8. For the purposes of calculating the number of parking spaces that can be provided, it shall be deemed that one parking space is equal to an area of 30m²; should taxi bays be provided on-site, one (1) taxi bay shall be the equivalent of eight (8) parking bays; should non-motorised facilities be provided, five (5) non-motorised facilities shall be the equivalent of one (1) parking bay; drop-off zones for busses at any educational facility will be the equivalent of three (3) parking bays; provided that a maximum of 10% of the total number of parking bays required may be replaced by the afore-mentioned parking modes.

47.9. Subject to the provisions of sub-clause (43.5.16) parking accommodation shall be provided in a manner satisfactory to the Municipality in respect to buildings and use of land on erven or sites, which shall be the number of bays specified

in Table 6 or Table A - E, applied according to the locality of the erven or sites, which will fall in one of the following three (3) parking zones:

47.10. Parking in the inner urban areas/township nodes: If parking is to be provided it can only be provided as per ratios in Table 5

47.11. Parking areas as defined in the Spatial Development Framework (SDF) and Table 5 and described in sub-clause (43.5.12) below where parking other than the requirements in Table 6 with the consent use of the Municipality.

47.12. Parking within the remainder of the municipal areas: the area of jurisdiction, not defined under Table Zones A - E above, where less parking than the requirement in Table 5 may not be provided without the consent use of the Municipality.

47.13. Areas covered include the following:

- a) Public Transport priority areas: areas located within 500 meters walking distance from PRASA rail stations.
- b) Areas within the Integrated Rural Transport Networks (IRTN); Integrated Settlement Transport Networks (ISTN); Integrated Township Transport Networks (ITTN); priority Transit Oriented Development Corridors.
- c) Marginalized and rural areas.

47.14. The Municipality, when considering an application for deviation of the requirements in Zone B and the Remainder of the Municipality shall, in addition to any other relevant factors, take the following into account:

- a) The total parking provision (private / public) in the area where the proposed development is located.
- b) If public transport facilities are provided and maintained on site by the applicant / owner, at the owner's own cost.
- c) Availability of off-street parking in the vicinity of the site.
- d) The possible impact of shared-parking utilization in mixed land use developments located within reasonable walking distances on the same site.

- e) The number of staff members and customers related to the use of the land or building on site.
- f) The socio-economic structure and density of the population that is served by the development.
- g) The size and nature of the proposed development on the site and the size or type of vehicles likely to be used in connection with the land use conducted on the site.
- h) The likelihood of a reduction in parking provision causing injury to the amenity of the area in which it is or will be situated including, without prejudice to the generality of the foregoing, increased traffic and parking difficulties.

47.15. Retail shopping centres in excess of 5 000m² floor area shall provide public transport facilities and associated informal trading facilities and ablutions to the satisfaction of the Municipality.

47.16. Open air land uses are to be included as floor area for the purpose of calculating parking requirements for all land uses.

47.17. TABLE 5: ON-SITE PARKING REQUIREMENTS

BUILDING AND LAND USE TYPES FOR WHICH PARKING IS REQUIRED.	NUMBER OF PARKING SPACES REQUIRED	ADDITIONAL OR ALTERNATIVE PARKING REQUIREMENTS
Dwelling House	3 garages or covered space per Dwelling Unit	Visitors parking at a rate of 1 car space for every 2 units Provided that the additional car spaces are not placed on the private open area. Plus suitable loading and unloading areas.
Dwelling House (Special Area Zone 1)	2 car spaces per dwelling unit	
Medium Density Housing, residential development and Retirement village (with Medium Density Housing)	3 car space per dwelling unit	
Residential Development	3 car space for each dwelling unit	Visitors parking at a rate of 1 car space for every 2 dwelling units
Residential building 1 (school hostel)	1 car space per administrative staff member	
Residential building 1 (boarding house, guest house and residential hotel)	1 car space per habitable room	
Residential building 2	1 car space per habitable room	15 additional bays for hotels with a public restaurant
Residential building and Chalet	1 car space per dwelling unit	Visitors parking at the rate of 1 car space for every 2 dwelling units. Loading and unloading area with suitable access to the satisfaction of the Municipality

Residential development - Caravan park Zone	1 car space per dwelling unit, caravan or mobile home stand	Visitors parking at a rate of 1 car space for every 2 dwelling units or mobile home stands or 4 caravan stands
Bed and Breakfast / Guest House	1 car space per Dwelling Unit	1 Per Lettable Room
Lodge	1,25 car space per Lettable Room	1 per 20m ² floor area or part thereof of a lounge or function room, or part thereof

47.18. For any use or development not specified in the table above, parking accommodation shall be provided to the satisfaction of the Municipality.

47.19. In addition to the above Parking Requirements Table (5), there shall be provided adequate space for vehicular access and manoeuvring to the satisfaction of the Municipality.

47.20. Where, in any building, the area set aside for the parking or garaging of vehicles exceeds the minimum requirements by more than 50%, any such excess in area shall be taken into account when calculating the permitted maximum floor area for that building.

47.21. For every site intended for use as a shop, warehouse, restaurant, industry, service station, sufficient parking and turning space shall be provided as a loading and off-loading area with suitable access, to the satisfaction of the Municipality.

47.22. Except with the prior approval of the Municipality, no person shall bring onto any premises of a dwelling unit or cause or allow to be present thereon any public motor vehicle or trade vehicle, heavy or extra heavy vehicle for a period exceeding two hours, except for bona fide purposes of delivering or supplying goods or services to such premises.

47.23. Car space or parking accommodation means a parking bay of dimensions not less than 5, 5 x 2,5 metres and shall be surfaced and clearly marked to the satisfaction of the Municipality.

47.24. Covered parking shall be designed in harmony with the associated Buildings and amenity of the surrounding area.

47.25. In the Agricultural and Forestry, Caravan Park 1, Education, Hotel, Resort and Rural Residential zones all on-site parking shall be located behind the front, side and rear space and the Municipality may impose conditions relating to screening and landscaping.

48. *LINES OF NO ACCESS*

48.1. Vehicular entrances to and exits from a property, from or to a public street or road may be prohibited across any boundary or part thereof. Any boundary so designated shall be shown on the Map.

48.2. The Municipality may, on receipt of an application for its consent, relax the access restriction, subject to such conditions as it may deem necessary, if as a result of exceptional circumstances, observance of the access restriction would interfere with the development of the erf to an unreasonable degree.

48.3. The Municipality may not approve relaxations of the line of no access affecting Provincial roads without the agreement of the relevant "Controlling Authority".

PART VI: LAND USE MANAGEMENT IN AREAS UNDER TRADITIONAL LEADERSHIP AND RURAL/COMMUNAL LAND AREAS

49. *Incremental introduction of land use management and regulation in areas under traditional leadership.*

49.1. Most of the areas included under “incremental land use management areas” have never been subject to formal land use management processes and include many traditional villages.

49.2. This also includes informal settlements in the peri-urban or peri-township and rural/communal areas

49.3. While the general approach is to be more flexible towards land uses in these areas, and where possible, to make use of indigenous land use management processes, certain land uses still require formal management and environmental authorisation (e.g. a filling station). This section of the scheme can be revised over time as land use management becomes more accepted within these areas.

49.4. Demarcation of incremental land use zones:

- a) Geographic areas where land use management will be incrementally introduced are demarcated in the following manner on the scheme maps:
- b) Land uses should not be allocated outside of these areas without prior approval of the Municipality.
- c) Incremental land use management areas are divided into the following land use zones: Residential; Business; Industrial; Educational; Cemetery; Utilities; Agriculture; Public Open Space; Government; Filling station/ Public Garage and Commonage.

49.5. Role and responsibilities within incremental land use management areas

49.6. This scheme takes the approach that traditional authorities in Makhuduthamaga Municipality have exercised a land use function in the past through the allocation of land.

49.7. This scheme acknowledges this function, but seeks to establish the following rules:

- a) The Local municipality may enter into an agreement with a Traditional Authority as contemplated by section 17 (1) and (2) of the Spatial Planning and Land Use Regulations: Land Use Management and General Matters, 2015 read in conjunction with the Section 29 (1) – 3 of the SPLUMA Act for purposes of implementing this Land Use Scheme
- b) Applicants shall obtain consent or permission and proof from the Traditional Authority prior to the submission of an application with the Municipality for a decision to approve or not by the Municipality.
- c) Any application for rural land use shall comply and meet the specifications of any laws of Makhuduthamaga Local Municipality.
- d) In the event where the Municipal Planning Tribunal or Authorised Official does not approve a land use application submitted with the consent and permission from the Traditional Authority, the Municipal Planning Tribunal or Authorised Official will furnish reasons thereof to the relevant Traditional Authority if requested and as deemed fit and necessary by the Municipality.

49.8. Rules for the allocation of land uses

- a) General rules for the allocation of all land uses include the following:
 - (i) An applicant who wishes to amend the use of communal land given that such amendment will have a high impact on the community must apply to the Municipality for the amendment of the land use in the manner provided for in the Makhuduthamaga Local Municipality By-law on Municipal Land Use Planning.
 - (ii) Any application for traditional use shall comply and meet the specifications of Makhuduthamaga Local Municipality laws.
 - (iii) An applicant who wishes to make a land development application on land held by the Traditional Authority shall approach the Traditional Authority to lodge a notice to apply

for land to be developed by completing an appropriate form stating the description of the property, location, extent, purpose of intended use

(iv) An application request submitted to a Traditional Authority as contemplated in terms of sub-clauses 49.1 (b) means that the Traditional Authority shall upon receipt of such a notice to submit an application, submit such application to Makhuduthamaga Local Municipality for comments before the applicant can be notified of the outcome of the land application, whether it is supported or not and in such response the municipality shall determine the extent of the land to be allocated or highlight any other considerations as deem fit and necessary as the authority of first instance;

(v) The applicant shall after having been informed by the Traditional Authority of the outcome submit a land development application to the Municipality in accordance with Makhuduthamaga Local Municipality laws.

- b) In the event that earmarked land for allocation is depleted, the Traditional Authority should notify the Development Planning Department of Makhuduthamaga Local Municipality. The Municipality will update the scheme maps to allow for future areas that can be allocated.
- c) Any person who causes any development of land on land held by the Traditional Authority i.e. subdivision, consent use etc., without obtaining prior permission for such development from the traditional Authority shall be guilty of an offense and liable upon conviction to such fine and or imprisonment as stipulated in Spatial Planning and Land Use Management Act 16 of 2013.

49.9. Rules for the allocation of residential stands.

- a) Where an applicant wishes to obtain a residential site, the applicant shall apply to the Local Traditional Leader for allocation of a site as stipulated in sub-clauses 48.2.

- b) Where the applicant wishes to obtain a new residential site, it may only be allocated within areas earmarked for “Rural Residential”, as depicted on this Land Use Scheme, Municipal Local Spatial Development Framework or Traditional Authority Management Overlay (TCMO) or the Informal and Incremental Overlay Zone (IIOZ).
- c) Where the applicant wants to take over a site from a current occupant, the applicant must produce a letter of removal received from the previous area resident for background check purposes.
- d) Community dialogues must be conducted with prospective neighbours so that they are aware of the new occupant and welcome the applicant into the neighbourhood.
- e) The new residential site must be geo-referenced with proper polygons and submitted within 60 days from the date of the allocation of the site for incorporation into the Land Use Scheme map(s) and the Municipal GIS systems.

49.10. Non-Residential Uses (excluding Extractive Industries)

- a) Application for non-residential uses shall be undertaken as follows:
 - (i) Where an applicant wishes to obtain a non-residential site (excluding extractive industries), the applicant shall apply to the Local Traditional Leader for allocation of a site as stipulated in sub-clauses 48.2.
 - (ii) Where the applicant wishes to obtain a non-residential site, it may only be allocated within areas earmarked for “Non-Residential Uses”, as depicted on this Land Use Scheme, Municipal Local Spatial Development Framework or Traditional Authority Management Overlay (TCMO) or the Informal and Incremental Overlay Zone (IIOZ).
 - (iii) A land development application to the Municipality in accordance with the provisions of Makhuduthamaga Local Municipality laws on Municipal Land Use Planning.

- (iv) Upon receipt of Municipality Approval, a lease diagram must be registered with the Surveyor General to depict the area of the proposed development;
- (v) The applicant shall lodge with the Municipality, a copy of the registered lease diagram and details of the land use which shall be captured and correctly depicted on the Land Use Scheme Map.

49.11. Non-Residential Uses (Extractive Industries)

- a) Where an applicant wishes to obtain a non-residential site (excluding extractive industries), the applicant shall apply to the Local Traditional Leader for allocation of a site.
- b) Where the applicant wishes to obtain a non-residential site, it may only be allocated within areas earmarked for “Non-Residential Uses”, as depicted on this Land Use Scheme, Municipal Local Spatial Development Framework or Traditional Authority Management Overlay (TCMO) or the Informal and Incremental Overlay Zone (IIOZ).
- c) A land development application to the Municipality in accordance with the provisions of Makhuduthamaga Local Municipality laws on Municipal Land Use Planning.
- d) Upon receipt of Municipality Approval, a lease diagram must be registered with the Surveyor General to depict the area of the proposed development
 - (i) The applicant shall lodge with the Municipality, a copy of the registered lease diagram and details of the land use which shall be captured and correctly depicted on the Land Use Scheme Map.
 - (ii) In addition to the consent from the land owner being obtained, the provisions of the Mineral and Petroleum Resources Development Act (No. 28 of 2002) shall further be adhered to.

49.12. Rules for the allocation of taverns and shebeens

- a) Tavern / Shebeen can only be allocated further than two street blocks from any community facility indicated on the scheme map (church, school, crèche, library etc.)
- b) The owner of the house tavern must be a South African resident of 18 years or older,
- c) The applicant must be the permanent inhabitant of the property;
- d) In addition to the Tavern / Shebeen, the property must have a residence occupied by the owner of the Tavern / Shebeen;
- e) No more than three persons, including the occupant of the residence are permitted to be involved in the operation of the business activities on the relevant property (the names of the individuals involved must be mentioned in the land use application);
- f) House Tavern / Shebeen may only be operated from a structure approved in terms of the National Building Regulations and Building Standards and thus informal/temporary structures or containers cannot be permitted
- g) Trading must be restricted to the boundaries of the property.
- h) The following are not permitted in a Tavern / Shebeen: storage or sale of any explosive or flammable goods; Slot machines; Video games, snooker or gaming tables or a juke box;
- i) Safety and health regulations must be obeyed with at all times;
- j) The Tavern / Shebeen must be in possession of a liquor licence;
- k) Permission to operate a Shebeen or Tavern is granted to a specific person who operates from a designated property and is not transferable;
- l) Applicants who cease to operate the business must inform the Traditional Authority in writing;
- m) No activities which may cause a nuisance or disturbance to the residents in other neighbouring residences are permitted;
- n) The trading hours of the house tavern/ shebeen must adhere to the Municipal Liquor Trading By-law and in the absence of the municipal

by-law comply with the trading hours as prescribed in the Provincial Liquor Act;

- o) There must no record of any criminal activity on the property under application;
- p) Should the business cause a nuisance or criminal activity be reported after approval, the land use authorisation must be withdrawn;
- q) The Makhuduthamaga Local Municipality reserves the right to impose any additional conditions and to rescind any approval in case of valid objections/complaints having been received or should the approval conditions not be complied with;
- r) Rules for allocation of business stands
- s) Lower order business that can be allocated by a traditional authority includes a shop.
- t) The primary purpose of shops in this zone is to serve the surrounding workforce and goods for sale shall therefore be limited to convenience goods such as foodstuffs, take away food, groceries, household cleaning agents and toiletries.
- u) Business stands must be allocated close to nodes as identified in the Municipal Local Spatial Development Framework.

49.13. Approval of Building Plans

- a) In accordance with the National Building Regulations and Building Standards Act, 1977 (No. 103 of 1977), all buildings not constructed in a traditional manner shall requires building plans to be submitted to the Municipality for Municipality's approval before construction of the building may commence.
- b) The procedure to obtain approval for building plan shall be undertaken in terms of Makhuduthamaga Local Municipality By-laws.

49.14. Rules for the demarcation of sites in areas under traditional leadership must be determined by the size of the erf/property.

- a) The Traditional Authority must submit a formal request for a new/extension demarcation of site to the Local Municipality.

- b) The Municipality must process the request and assist the Traditional Authority
- c) The Application procedure that will be followed in demarcating the requested sites is as follows:
- d) The Municipality is responsible for the appointment of a competent service provider to undertake the demarcation of sites application process.
- e) An application must be lodged in terms of the Makhuduthamaga Local Municipality Laws, and other relevant legislation
- f) The application shall be accompanied by supporting documents such as Motivational Memorandum, Zoning certificate, locality Maps, Series Maps, Title Deed or proof of ownership, Site Development Plan, Layout Plan with contour survey plan, Specialists Studies i.e. Environmental Impact Assessment, Geotechnical Study, Civil Engineering Study, Ecological Study (if necessary), Heritage Study, community resolution, etc.
- g) No application must be approved without supporting documents requested by the Local Municipality.
- h) The responsible official will use this Land Use Scheme, Makhuduthamaga Spatial Planning and Land Use Management By-law and other relevant legislations/policies to identify all outstanding documents which could be required in order to assess the application properly
- i) Authorized official shall assess and comment on the application and assist in determining conditions of approval
- j) The Authorised official or MPT may refuse or approve an application
- k) Appeal may be lodged provided that the applicant is not satisfied with the Municipality decision
- l) After the consent has been granted Building plans and site development plans must be submitted to the Municipality prior to the erection or commencement of any building work.

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

50. *BINDING FORCE OF CONDITIONS*

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

50.2. ENTRY UPON AND INSPECTION OF PROPERTIES

- a) The local municipality may, through its authorized officials, enter upon any property at all reasonable times to conduct any inspection which the local municipality or its representative may consider necessary or desirable for the application of this scheme.
- b) No person shall in any manner hinder, obstruct or interfere with the execution of any duties by any authorized officer of the local municipality, or in so far as it may fall within his power, permit such official to be hindered, obstructed or interfered with.

50.3. SERVING OF NOTICES

- a) Any directive, notice or other document which in terms of this scheme, requires or is authorized to be served, shall be signed by the Municipal Manager or another official authorized thereto by the local municipality, and shall be served in any of the following ways:
 - (i) On the person concerned, in person, or on his authorized representative.
 - (ii) If service cannot be effected in the manner contemplated in sub-clause 57.1.3, at his residence or place of business or place of employment, on a person apparently not less than 16 years of age and apparently residing or employed there.
 - (iii) If no such person can be found on the property mentioned in sub-clause by affixing such directive, notice or other documents at a conspicuous place on the premises and by dispatching a copy of such directive, notice or other document

by pre-paid registered post to the last known place of residence, business, employment or post box of the person concerned.

- (iv) If such person upon whom a notice is to be served has chosen a domicilium et executandi, on such domicilium.
- (v) Where any service is affected in accordance with the provision of sub-clause
- (vi) such service shall be deemed to have been effected at the time when a letter containing such directive, notice or other document would have been delivered in the ordinary course of postal deliveries and proof that such directive, notice or other documents was properly addressed and registered, shall be deemed sufficient proof of service thereof.
- (vii) Any directive, notice or other document which in terms of the provisions of this land-use scheme is required to be given to the owner or occupant of any particular premises, may be addressed to the "owner" or "occupant" of such premises in respect whereof the directive, notice or other document is given, without any further name or description, and shall be deemed to be in compliance with the provisions of this clause.

50.4. POWERS OF LOCAL MUNICIPALITY IN CASE OF CONTRAVENTION OF LAND-USE SCHEME

- a) Where any person, in conflict with any provision of the land-use scheme in operation–
 - (i) Undertakes or proceeds with erection or alteration of or addition to a building or causes it to be undertaken or proceeded with;
 - (ii) Performs, undertakes or proceeds with any other work or causes it to be to performed, undertaken or proceeded with;
 - (iii) Uses any land or building or causes it to be used;
 - (iv) The local municipality shall direct such person in writing:

- to discontinue such erection, alteration, addition or other work or to discontinue such use or cause it to be discontinued; and
 - at his/her own expense to:
 - remove such building or other work or cause it to be removed;
 - To cause such building or other work or such use to comply with the provisions of the scheme.
- b) Any person who contravenes the provisions of this scheme or fails to comply with an instruction issued in terms of Clause 57.1 commits an offence.
- c) If a person fails to comply with a directive issued in terms of Clause 57.1, the local municipality may irrespective of the fact that such a person has criminally been charged or prosecuted, remove the building or other works at the expense of such a person, obtain a court order to remove the building or other work or cause, the building or other work to comply with the provisions of its land-use scheme and to recover all expenditure incurred in connection therewith, from such person.
- d) Whenever any person is required to perform any act to the satisfaction of the local municipality:
- e) the local municipality shall have the right to inspect the property or works under question to satisfy itself of compliance;
- f) if the local municipality is not satisfied that compliance is taking place it shall:
- (i) send a notice to such a person informing the person of non-compliance, giving such a person 14 days and
 - (ii) Failing which the stipulations of Clause 31.2 and 31.3 shall apply mutatis mutandis to this clause.

