



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

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

Provincial Gazette Extraordinary

9117

Buitengewone Provinsiale Koerant

9117

Isongezelelo kwiGazethi yePhondo

9117

Friday, 8 August 2025

Vrydag, 8 Augustus 2025

uLwesihlanu, 8 kweyeThupha 2025

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Ibhaliswe ePosini njengePhephandaba

CONTENTS

INHOUD

IZIQUULATHO

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

(*Afskrifte is verkrygbaar by Kamer M21, Provinsiale Wetgewer-gebou, Waalstraat 7, Kaapstad 8001.)

(*Ushicilelo oLutsha lufumaneka kwigumbi M21, kwiSakhiwo sePhondo seNdlu yoWiso-Mthetho, 7 Wale Street, eKapa 8001.)

Proclamation

Proklamasie

IsiMiselo

9 City of Cape Town Municipal Planning
Amendment By-law, 2025 2

9 Stad Kaapstad: Wysigingsverordening op
Munisipale Beplanning, 2025 2

9 UMthetho kaMasipala oLungisiweyo woCwa-
ngciso lukaMasipala weSixeko saseKapa
wango2025 2

PROCLAMATION

By the Executive Mayor of the City of Cape Town

NO. 9/2025

CITY OF CAPE TOWN MUNICIPAL PLANNING AMENDMENT BY-LAW, 2025

I hereby determine that the City of Cape Town Municipal Planning Amendment By-law, 2025, as adopted by the municipal council of the City of Cape Town on 26 June 2025, and as published herewith, shall come into operation on **1 October 2025**, except for:

- section 116 which shall come into operation on the **date of this proclamation**;
- the definition for affordable rental flat and affordable rental uni ; affordable rental flat as an additional use right in items 21(b), 26(1)(b) and 50(b), subject to item 25D; additional use right conditions in item 25D and the map 'Areas where affordable rental flats are an additional use right (as per item 25D(b) of the Municipal Planning Amendment By-law, 2025); which shall come into operation on **1 September 2025**.

An Afrikaans and Xhosa version of the amendment by-law will be available on request after the effective date of 1 October 2025.

EXECUTIVE MAYOR**PROKLAMASIE**

deur die uitvoerende burgemeester van die Stad Kaapstad

NR. 9/2025

STAD KAAPSTAD: WYSIGINGSVERORDENING OP MUNISIPALE BEPLANNING, 2025

Hiermee bepaal ek dat die Stad Kaapstad: Wysigingsverordening op Munisipale Beplanning, 2025, soos aangeneem deur die munisipale raad van die Stad Kaapstad op 26 Junie 2025, en soos hiermee gepubliseer, op **1 Oktober 2025** in werking tree, behalwe vir:

- artikel 116 wat op die **datum van hierdie proklamasie** in werking tree;
- die omskrywing vir bekostigbare huurwoonstel en bekostigbare wooneenheid ; bekostigbare huurwoonstel as n bykomende gebruiksreg in item 21(b), 26(1)(b) en 50(b), onderworpe aan item 25D; voorwaardes vir 'n bykomende gebruiksreg in item 25D en die kaart "Gebiede waar bekostigbare huurwoonstelle 'n bykomende gebruiksreg is (volgens item 25D(b) van die Wysigingsverordening op Munisipale Beplanning, 2025); wat op **1 September 2025** in werking tree.

'n Afrikaanse en Xhosa-weergawe van die wysigingsverordening sal op versoek na die effektiewe datum van 1 Oktober 2025 beskikbaar wees.

UITVOERENDE BURGEMEESTER**ISIBHENGEZO**

Esenziwa NguSodolophu weSigqeba weSixeko saseKapa

INOMBOLO. 9/2025

UMTHETHO KAMASIPALA OLUNGISIWEYO WOCWANGCISO LUKAMASIPALA WESIXEKO SASEKAPA WANGO2025

Ngokwenjenje ndiyabhengeza ukuba uMthetho kaMasipala oLungisiweyo woCwangciso lukaMasipala weSixeko saseKapa wango2025, njengoko wamkelwe libhunga likamasipala leSixeko saseKapa ngowama26 kweyeSiliMela (Juni) 2025, nanjengoko upapashiwe apha, uyakuthi uqalise ukusebenza **ngowo1 kweyeDwarha (Okthobha) 2025**, ngaphandle:

- kwecandelo 116 eliya kuqalisa ukusebenza **ngomhla wesi sibhengezo**;
- kwenkcazo yeflethi yokurenta efikelelekayo kunye neyuniti yokurenta efikelelekayo ; iflethi yokurenta efikelelekayo njengelungelo elongezelwego lokusetyenziswa kwimibandela 21(b), 26(1)(b) no50(b), ngokuxhomekeke kumbandela 25D; imiqathango yelungelo lokusetyenziswa elongezelwego kumbandela 25D kunye nemephu Lindawo aphi iiflethi zokurenta ezifikelelekayo zililungelo lokusetyenziswa elongezelwego (ngokombandela 25D(b) woMthetho kaMasipala oLungisiweyo woCwangciso lukaMasipala, wango2025); oya kuqalisa ukusebenza **ngowo1 kweyeMsintsi (Septemba) 2025**.

Inguqulelo yeAfrikansi neyesiXhosa yomthetho kamasipala olungisiweyo iya kufumaneka xa iceliwe emva komhla woku1 kweyeDwarha (Oktobha) 2025.

USODOLOPHU WESIGQEBA

GENERAL EXPLANATORY NOTE

- | A marginal line indicates an amendment, either an omission or insertion.
- ~~strikethrough~~ Words with a strikethrough indicate omissions from existing enactments.
- _____ Words underlined with a double solid line indicate insertions in existing enactments.
- [] An amendment note in square brackets and smaller font refers to previous amendments. The note will be updated after this amendment by-law is adopted.

BY-LAW**CITY OF CAPE TOWN
MUNICIPAL PLANNING AMENDMENT BY-LAW, 2025**

To amend the City of Cape Town Municipal Planning By-law, 2015, so as to make textual changes; to reformulate certain provisions in a clearer, contemporary drafting style; and:

in the preamble and Chapters 1 to 12: to amend the preamble to confirm that the By-law also governs building regulations; to amend existing definitions and to introduce new definitions: amendments to clarify are retroactive; to regulate an application for deviation from the municipal spatial development framework; to prescribe factors the City must consider when removing, suspending or amending a restrictive condition; to clarify, with retroactive effect, the City's power to grant approvals that would conflict with restrictive conditions; to provide for lapsing of a consolidation; to provide for deemng of subdivision under the By-law from the commencement of The Townships Ordinance, 1934 in certain circumstances; to provide for nil compensation for land designated as a public place on confirmation of a subdivision; to remove repetition of sections limiting the City's liability for damages; to enable the City to approve transfer of a land unit where an owners' association does not because it is non-functional; to regulate the planning law on temporary disaster housing and to provide for deviations from it; to legislate the functions of the Department and its officials for promoting lawful development; to provide for finality when the City refuses to accept an application; to supplement the duties of an applicant; to provide for deemed notice to members of a body corporate; to provide for notice to the Provincial Government, where the Land Use Planning Act, 2013 requires; to provide for notice to organs of state other than state departments; to empower the City Manager to prescribe further formal requirements for a petition; to require the City to publish a decision on its website; to require payment of administrative penalties before a land use approval becomes operative; to amend the conditions for extending

the validity of an approval, retroactively to clarify the current conditions, and to provide for automatic extension in limited circumstances; to empower the appeal authority to consider issues not raised by a party, and to cater for the wide appeal power; to limit the right of reply to a response to an appeal; to provide expressly that the appeal is an internal administrative remedy; to provide for additional methods of notice and for email as the default method of notice; to empower the Municipal Council to reappoint a person as a member of the Municipal Planning Tribunal; to empower the City to rectify an approval and a building plan approval, without the need for judicial review; to allow the City to choose enforcement measures within its available resources; to streamline the process for imposing and paying administrative penalties by providing for standard administrative penalties and the consequences of payment and non-payment; to provide that the City has a discretion, but not a duty, to litigate to enforce the By-law; to provide for impoundment of property used or likely to be used to contravene the By-law, the National Building Act or an order; to limit the City's liability for damages to fraud and corruption; to provide for factors for a court to consider in making a costs order against the City; to provide for the retrospective and retroactive operation of certain provisions; and

in the development management scheme: to introduce new defined terms into, to amend existing definitions and to remove other defined terms; to exempt events permitted under the City's by-law on events from the *development management scheme*; to simplify the regulation of height by replacing limits for 'wall plate', 'top of roof' and façade height with a limit for 'top of building'; to refer only to 'Residential Zonings' and to amend certain common boundary building lines; to amend the use restrictions and development rules under Residential Zoning 1: Conventional Housing (R1); to provide for a supplementary dwelling unit, affordable rental flat, small-scale wind turbine and place of instruction under R1 zoning; to amend the use restrictions and development rules under Residential Zoning 2: Incremental Housing (R2), General Residential Subzoning 1: Conventional Housing (GR1); to amend the use restrictions and development rules and to provide for a third dwelling and guest house and a restaurant under General Residential (GR2, GR3, GR4, GR5 & GR6); to amend the use restrictions and development rules and to provide for informal trading under Community Zoning 1: Local (CO1), Community Zoning 2: Regional (CO2) and Local Business Zoning 1: Intermediate Business (LB1), Agricultural Zoning (AG) Rural Zoning (RU); to amend the use restrictions and development rules under Local Business Zoning 2: Local Business (LB2), General Business Subzonings (GB1, GB2, GB3, GB4, GB5, GB6 & GB7), Mixed-Use Subzonings (MU1, MU2 & MU3), General Industry Subzonings (GI1 & GI2), Risk Industry Zoning (RI) and Transport Zoning 1: Transport Use (TR1); to amend the use restrictions and to provide for informal trading under Utility Zoning (UT), Open Space Zoning 1: Environmental conservation (OS1); to amend the use restrictions under Transport Zoning 2: Public road and public parking (TR2), Transport Zoning 3: Toll Road (TR3), Open Space Zoning 2: Public open space (OS2), Open Space Zoning 3: Special open space (OS3); to amend the general development rules on encroachment of building lines; to provide for a common boundary building line on an unscreened trafficable roof, balcony or terrace; to amend the provisions on site development plans, hazardous substances, and a base telecommunication station; to provide for small-, medium- and utility-scale

energy structures; to amend the provision on boundary walls; to amend the manner of approving and amending plans indicating reduced off-street parking requirements; to amend off-street parking requirements and parking layout requirements; to provide for use restrictions and development rules certain land units under the Incentive Overlay Zoning; to amend Part 2: Density Overlay Zoning; to supplement Part 1: Heritage Protection Overlay Zoning; to provide decision criteria for certain subdivisions in the Constantia – Tokai Local Area; and

to provide for connected matters.

BE IT ENACTED by the Council of the City of Cape Town as follows—

1. The City of Cape Town Municipal Planning By-law, 2015 is amended to the extent indicated in Schedule A.
2. This By-law is called the City of Cape Town: Municipal Planning Amendment By-law, 2025, and it, or parts of it, take effect on a date determined by the Executive Mayor by proclamation in the Western Cape *Provincial Gazette*.

Schedule A

CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015

BY-LAW

As amended by

City of Cape Town: Municipal Planning Amendment By-law, 2016
City of Cape Town: Municipal Planning Second Amendment By-law, 2016
City of Cape Town: Municipal Planning Amendment By-law, 2017
City of Cape Town: Municipal Planning Amendment By-law, 2019
City of Cape Town: Municipal Planning Amendment By-law, 2022

PREAMBLE

WHEREAS section 156(1) of the Constitution of the Republic of South Africa, 1996 confers on municipalities the executive authority and right to administer local government matters set out in Part B of Schedule 4 and Part B of Schedule 5 to the Constitution;

WHEREAS Part B of Schedule 4 to the Constitution lists building regulations and municipal planning and Part B of Schedule 5 lists pounds as local government matters;

WHEREAS section 156(2) of the Constitution empowers municipalities to make and administer laws for the effective administration of matters that ~~it~~they have has the right to administer;

WHEREAS Parliament has enacted the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and the Western Cape Provincial Legislature has enacted the Land Use Planning Act (Act 3 of 2014), which among other things set out development principles which apply to all organs of state responsible for the implementation of legislation regulating the use and development of land;

WHEREAS section 2(2) of the Spatial Planning and Land Use Management Act (Act 16 of 2013) permits other legislation to prescribe an alternative or parallel mechanism, measure, institution or system on spatial planning, land use, land use management and land development in a manner consistent with the provisions of that Act, and the City intends through this ~~By-Law~~By-law to prescribe such a mechanism, measure, institution and system;

[Inserted by s. 1 of City of Cape Town: Municipal Planning Amendment By-Law, 2016]

WHEREAS the City intends to regulate and control building regulations and municipal planning matters within the geographical area of the City.

AND NOW THEREFORE, BE IT ENACTED by the Council of the City of Cape Town as follows:—

ARRANGEMENT OF BY-LAW

CHAPTER 1 DEFINITIONS

1 Definitions

CHAPTER 2

APPLICATION OF THIS BY-LAW AND CONFLICT OF LAWS

2 Application of this By Law and conflict of laws
2A Interpretation

CHAPTER 3

SPATIAL PLANNING

Part 1

Introductory provisions concerning spatial development frameworks

3 Spatial development frameworks

Part 2

The municipal spatial development framework

4 Process for drafting the municipal spatial development framework
5 Process for amending the municipal spatial development framework
6 Decision on the adoption or amendment of the municipal spatial development framework
7 Submission of municipal spatial development framework to Provincial Minister
8 Publication of the adopted or amended municipal spatial development framework
9 Status of the municipal spatial development framework
10 Review of the municipal spatial development framework

Part 3

District spatial development frameworks and local spatial development frameworks

11 District spatial development frameworks
12 Local spatial development frameworks
13 Process for drafting or amending a district spatial development framework or a local spatial development framework
14 Decision on the adoption or amendment of a district spatial development framework or a local spatial development framework
15 Publication of the adopted or amended district spatial development framework or local spatial development framework
16 Status of a district spatial development framework and a local spatial development framework
17 Review of a district spatial development framework or a local spatial development framework
18 Withdrawal of a district spatial development framework or a local spatial development framework

Part 4

General provisions concerning spatial planning

19 Record of and access to spatial development frameworks
20 Structure plans
21 Policies to guide decision-making
22 Record of deviations from spatial development frameworks

23 Spatial development frameworks applicable to land incorporated into the geographic area of the City

CHAPTER 4. DEVELOPMENT MANAGEMENT

Part 1

Zoning scheme

24 Zoning
25 Zoning scheme
26 Development management scheme
27 Review of development management scheme
28 Zoning map
29 Adoption, amendment and substitution of zoning map
30 Error in zoning map
31 Status of zoning map ~~and exemption of City from liability for any error~~
32 Zoning register
33 Access to the zoning map and zoning register
34 Continuation of zoning schemes

Part 2

Use right and non-conforming use

35 Use right
36 Determination of zoning
37 Non-conforming use

Part 3

General lapsing provision

38 General lapsing provision

CHAPTER 5. GENERAL REQUIREMENTS FOR AN APPLICATION

39 Applications
40 Persons who may make application in terms of this By-LawBy-law
41 Continuation of application by new owner
42 Types of applications
43 Provisions which govern an application

CHAPTER 6. SPECIAL PROVISIONS FOR CERTAIN APPLICATIONS

Part 1

Rezoning, departure and consent use

44 Rezoning
45 Departure
46 Consent use
47 Lapsing of rezoning, consent use or departure

Part 2

Restrictive conditions

48 Removal, suspension or amendment of restrictive conditions
49 Endorsements in connection with alterations, suspensions or removals of restrictions or obligations

49A Application for the use or development of land that would conflict with a restrictive condition or a servitude

Part 3

Consolidation

50 Consolidation and construction of buildings
51 Lapsing of consolidation

Part 4

Subdivision

52 Approval of subdivision
53 Approval of general plan or diagram by Surveyor General
54 Transfer of land unit arising out of approved subdivision
55 Confirmation of subdivision
56 Lapsing of subdivision and extension of validity periods
57 Land for public places and other uses
58 Ownership of public places and land required for ~~municipal~~ engineering services and community facilities
59 Servitude in respect of services arising from subdivision
60 Amendment or cancellation of plan of subdivision

Part 5

Owners' association

61 Establishment and operation of an owners' association
62 Constitution of an owners' association
63 Owners' association which fails to meet an obligation or ceases to function

Part 6

Engineering services

64 Definitions in this Part
65 Responsibility for engineering services
66 Development charge

Part 7

Exemption of certain subdivisions and consolidations from the need for approval

67 Exemption of certain subdivisions and consolidations from the need for approval

Part 8

~~Emergency housing~~ ~~Temporary disaster housing~~ and urgent housing

68 ~~Emergency housing~~ ~~Temporary disaster housing~~
69 Urgent housing

CHAPTER 6A

POWERS AND FUNCTIONS OF DEPARTMENT

69A Powers and functions of Department to promote lawful development

CHAPTER 7

GENERAL PROCEDURES FOR ALL APPLICATIONS

Part 1

Making an application

70 Pre-application consultation
71 Information required

- 72 Application fee
- 73 Refusal to accept an application
- 74 Acceptance of application and call for additional information
- 75 Additional information
- 76 Complete application
- 77 Withdrawal of application
- 78 Duties of an applicant

Part 2

Notice and comment

- 79 Notice of application
- 80 Content of notice
- 81 Notice in the media
- 82 Notice to a person
- 83 Notice to a representative
- 84 Notice of no objection
- 85 Deemed notice to owners in a sectional title development
- 86 Notice to the Provincial Government
- 87 Notice to an organ of state other than the Provincial Government
- 88 Internal circulation
- 89 Intervener
- | 90 Objection to Comment on an application
- 91 Petition
- 92 Response from the applicant
- 93 Amendment of application before decision
- 94 Further notice
- 95 Access to information about an application

Part 3

Process and criteria for deciding application

- 96 Power to conduct inspection
- 97 Assessment of application
- 98 Determination of application
- 99 Criteria for deciding application
- 100 Conditions of approval
- 101 Further conditions and amendment of conditions
- 102 Timeframe for making a decision
- 103 Failure to decide timeously

Part 4

Decision

- 104 Requirement for writing and notification of decision
- 105 Effective date of decision
- | 106 Errors and omissions Condonation

Part 5

Extension of validity of an approval

- 107 Extension of validity of an approval

Part 6

Appeal

- 108 Appeal
- 109 Procedure for appeal
- | 109A Duty to exhaust an internal remedy

Part 7**Prescribed requirements and notification**

- 110 Prescribed requirements for applications
- 111 Method and date of notification
- 111A Further notifications
- 112 Costs of notification

Part 8**Integrated decisions**

- 113 Notice in terms of integrated procedure

CHAPTER 8.**DECISION-MAKERS**

- 114 Decision-makers
- 115 Establishment of Municipal Planning Tribunal
- 116 Term of office for members of the Municipal Planning Tribunal
- 117 Conditions of service and Code of Conduct of the Municipal Planning Tribunal.
- 118 Indemnity and Legal Representation
- 119 Vacancy or removal of a member
- 120 Functioning of Municipal Planning Tribunal
- 121 Advisory panel
- 122 Technical adviser

CHAPTER 8A**RECTIFICATION**

- 122A Definitions in this Chapter
- 122B Purposes and provisions of this Chapter
- 122C Revocation of approval or building plan approval
- 122D Amendment of an approval
- 122E Amendment of a building plan approval
- 122F Persons who may initiate a revocation or amendment
- 122G Procedure for revocation or amendment
- 122H Application for approval or a building plan approval on setting aside or revocation
- 122I Replacement building plan
- 122J Regularisation of a contravention
- 122K Decision-makers for rectification
- 122L No appeal against rectification
- 122M Contravention not rectified

CHAPTER 9.**ENFORCEMENT****Part 1****Introductory provisions for this Chapter**

- 123 Definitions in this Chapter
- 124 Choice of enforcement measure
- 124A Service of notices and documentation

Part 2**Complaint**

- 125 Complaint

Part 3**Civil enforcement**

- 126 Compliance notice
- 127 Withdrawal of approval
- 128 Directive
- 129 Administrative penalty
- 130 Rectification of contravention
- 131 Enforcement litigation
- 132 Urgent matter

Part 4**Criminal enforcement**

- 133 Offences and penalties
- 134 Prosecution of corporate body and partnership

Part 5**Enforcement and investigative powers of an investigator or enforcement official**

- 135 Powers and functions of an investigator or enforcement official

Part 6**Impoundment**

- 135A Definitions in this Part
- 135B Notice of impoundment power
- 135C Notice of intention to impound
- 135D Service of notice
- 135E Decision to impound and warrant
- 135F Execution of impoundment
- 135G Return or disposal of impounded property

CHAPTER 10:-**NAMING AND NUMBERING OF STREETS**

- 136 Naming and numbering of streets

CHAPTER 11:-**TRANSFER CERTIFICATE**

- 137 Transfer certificate

CHAPTER 12:-**GENERAL ADMINISTRATIVE PROVISIONS**

- 138 Policies, procedures, prescriptions, standards, requirements and guidelines
- 139 Delegations
- 140 Exemption
- 141 Liability of the City
- 142 Savings and transitional provisions
- 143 Short title and commencement

SCHEDULE 1**...STRUCTURE PLANS DEEMED TO BE A DISTRICT SPATIAL DEVELOPMENT FRAMEWORK****SCHEDULE 2****STRUCTURE PLANS DEEMED TO BE A LOCAL SPATIAL DEVELOPMENT FRAMEWORK****SCHEDULE 3****CITY OF CAPE TOWN DEVELOPMENT MANAGEMENT SCHEME****DIVISION I: INTERPRETATION AND PROCEDURES****CHAPTER 1: DEFINITIONS AND INTERPRETATION**

- 1 Definitions in this development management scheme
- 2 Interpretation
- 3 Methods of measuring distances, or heights and levels or and the requirement to round up or down
- 3A ...Approval of a ground level map
- 3B Existing ground level
- 4 Interpretation of boundaries
- 5 Interpretation of category of use and zoning
- 6 Evasion of intent of the development management scheme

CHAPTER 2: APPLICATION AND APPROVAL PROCEDURES

- 7 Development rules applicable to an approved consent use

DIVISION II: ZONING CATEGORIES, BASE ZONINGS AND DEVELOPMENT RULES**CHAPTER 3: ZONING AND USE OF PROPERTY****Part 1: Zonings**

- 8 Zonings
- 9 Subzonings

Part 2: Uses permitted as of right

- 10 Primary uses
- 11 Additional use rights
- 12 Ancillary uses

Part 3: Uses permitted only with the City's approval

- 13 Consent uses
- 14 Occasional uses
- 15 Special use

Part 4: Deemed zoning or determined zoning

- 16 Public open space and public streets
- 17 Land subject to the provisions of section 13 of the Legal Succession of the South African Transport Services Act, 1989 (Act 9 of 1989)
- 18 ...
- 19 Special provisions

CHAPTER 4.: SUMMARY OF ZONINGS

20 Zoning summary table

CHAPTER 5.: SINGLE RESIDENTIAL ZONINGS

Part 1: Single Residential Zoning 1: Conventional Housing (SR1)(R1)

21 Use of the property
22 Development rules
23 Home occupation
24 Bed and breakfast establishment
25 Home ~~child care~~childcare
25A Second dwelling
25B Third dwelling
25C Supplementary dwelling unit
25D Affordable rental flat
25E Small-scale wind turbine
25F Place of instruction

Part 2: Single Residential Zoning 2: Incremental Housing (SR2)(R2)

26 Use of the property
27 Development rules
28 House shop
29 Shelter
30 Informal trading
31 Land constructed as or identified for roads
32 Land used as or identified for firebreaks
33 Approval of building plans

CHAPTER 6.: GENERAL RESIDENTIAL ZONINGS

Part 1: General Residential Subzoning 1: Group Housing (GR1)

34 Use of the property
35 Development rules for group housing
36 Site development plan
37 Flats as an Additional use right in a group housing scheme
38 Home occupation as an Additional use right in a group housing scheme
39 Development rules for a dwelling house or guest house outside a group housing scheme

Part 2: General Residential Subzonings (GR2, GR3, GR4, GR5 & GR6)

40 Use of the property
41 Development rules for flats, boarding houses and hotels
42 Dwelling house and second dwelling
43 Group housing
44 Institution, place of instruction and place of assembly
45 Shops and restaurants
45A Development rule for all uses in GR2-GR6, except dwelling house and second dwelling

CHAPTER 7.: COMMUNITY ZONINGS

Part 1: Community Zoning 1: Local (CO1)

46 Use of the property
47 Development rules
47A Informal trading

Part 2: Community Zoning 2: Regional (CO2)

48 Use of the property

49 Development rules
49A Informal trading

CHAPTER 8.: LOCAL BUSINESS ZONINGS

Part 1: Local Business Zoning 1: Intermediate Business (LB1)

50 Use of the property
51 Development rules
52 Home occupation, bed and breakfast establishment and home ~~child care~~childcare
and house shop
53 ...
54 ~~House shop~~
54A Informal trading

Part 2: Local Business Zoning 2: Local Business (LB2)

55 Use of the property
56 Development rules
57 Service station and motor repair garage
58 Informal trading

CHAPTER 9.: GENERAL BUSINESS AND MIXED USE ZONINGS

Part 1: General Business Subzonings (GB1, GB2, GB3, GB4, GB5, GB6 & GB7)

59 Use of the property
60 Development rules
61 Service station and motor repair garage
62 Informal trading

Part 2: Mixed Use Subzonings (MU1, MU2 & MU3)

63 Use of the property
64 Development rules
65 Service station and motor repair garage
66 Informal trading

CHAPTER 10.: INDUSTRIAL ZONINGS

Part 1: General Industry Subzonings (GI1 & GI2)

67 Use of the property
68 Development rules
69 Hazardous substances
70 Service station and motor repair garage
71 Factory shop
72 Adult shop
73 Informal trading

Part 2: Risk Industry Zoning (RI)

74 Use of the property
75 Development rules
76 Hazardous substances
77 Service station and motor repair garage
78 Factory shop
79 Informal trading

CHAPTER 11.: UTILITY, TRANSPORT AND NATIONAL PORT ZONINGS

Part 1: Utility Zoning (UT)

80 Use of the property
81 Development rules
81A Informal trading

Part 2: Transport Zoning 1: Transport Use (TR1)

- 82 Use of the property
- 83 Development rules
- 84 Service station and motor repair garage
- 85 Informal trading
- 86 Air and underground other rights

Part 3: Transport Zoning 2: Public road and public parking (TR2)

- 87 Use of the property
- 88 Development rules
- 89 Construction and deposit of materials
- 90 Air and underground other rights
- 91 Proposed public street, street widening and street closure
- 92 Informal trading

Part 3A: Transport Zoning 3: Toll Road (TR3)

- 92A Use of the property
- 92B Development rules

Part 4: National Port Zoning (NP)

- 93 Use of the property
- 94 Development rules
- 95 Port development framework plan
- 96 Deemed zoning of land transferred to National Ports Authority

CHAPTER 12: OPEN SPACE ZONINGS**Part 1: Open Space Zoning 1: Environmental conservation (OS1)**

- 97 Use of the property
- 98 Development rules
- 98A Informal trading

Part 2: Open Space Zoning 2: Public open space (OS2)

- 99 Use of the property
- 100 Development rules
- 101 Construction and deposit of materials
- 102 Air, and underground and other rights
- 103 Informal trading

Part 3: Open Space Zoning 3: Special open space (OS3)

- 104 Use of the property
- 105 Development rules
- 106 Approval of consent uses
- 107 Informal trading

CHAPTER 13: AGRICULTURAL, RURAL AND LIMITED USE ZONINGS**Part 1: Agricultural Zoning (AG)**

- 108 Use of the property
- 109 Development rules
- 110 Agricultural industry
- 111 Second dwelling and additional dwelling units
- 111A Renewable energy structures
- 111B Informal trading

Part 2: Rural Zoning (RU)

- 112 Use of the property
- 113 Development rules

- 114 Minimum subdivision size
- 115 Agricultural industry
- 116 Second dwelling
- 116A Informal trading

Part 3: Limited Use Zoning (LU)

- 117 Use of the property
- 118 Development rules
- 119 No rezoning to this zoning permitted
- 120 Reconstruction of destroyed property

DIVISION III: GENERAL PROVISIONS

CHAPTER 14.: GENERAL PROVISIONS

- 121 Encroachment of building lines
- 121A Common boundary building line for unscreened trafficable roof, balcony or terrace
- 122 Street centreline setback
- 123 Site development plans
- 124 Hazardous substance
- 125 Screening
- 126 Earth banks, retaining structures, support structures and similar devices
- 127 Maintenance of property
- 128 Parking of vehicles in residential zones
- 129 Recreational vehicles and watercraft
- 130 Base telecommunication station as a primary or consent use
- 131 Decommissioned antennas or base telecommunication stations
- 132 Satellite dish antenna systems
- 133 Geysers and structure-mounted energy systems~~solar panels~~ or similar infrastructure affixed to the roof of a building
- 133A Structure-mounted energy systems, ground-mounted energy systems and utility-scale energy structures
- 134 Flood-prone areas
- 135 Electronic or mechanical playing devices
- 136 Package of plans
- 136A Outbuildings
- 136B Boundary walls

CHAPTER 15.: PARKING, LOADING AND INFRASTRUCTURE

Part 1: Conventional parking requirements

- 137 Off-street parking requirements
- 138 Alternative parking supply
- 139 Combined parking requirements

Part 2: Site access and parking layout requirements

- 140 Site access and exits
- 141 Parking layout requirements

Part 3: Unconventional parking requirements

- 142 Parking for the physically disabled
- 143 Motorcycle and bicycle parking spaces
- 144 Loading
- 145 Refuse rooms

CHAPTER 16.: SUBDIVISION OF LAND

- 146 Deemed approval for building line and coverage departures
- 147 Subdivision of a property with consent use rights or a temporary land use departure

DIVISION IV: OVERLAY ZONING

CHAPTER 17.: GENERAL PROVISIONS IN RESPECT OF OVERLAY ZONINGS

- 148 Requirements for preparing an overlay zoning
- 149 Identification and numbering
- 150 Status of overlay zoning
- 151 Development rules
- 152 Process to designate a land unit, area or the city to have an overlay zoning

CHAPTER 18.: OVERLAY ZONINGS PROVIDING SPECIFIC DEVELOPMENT DIRECTIVES

- 153 Use of the property: Subdivisional Area Overlay Zoning
- 154 Development rules: Subdivisional Area Overlay Zoning

CHAPTER 19.: OVERLAY ZONINGS PROVIDING STRATEGIC DEVELOPMENT DIRECTIVES

Part 1: Incentive Overlay Zoning (ICO)

- 155 General provisions: Incentive Overlay Zoning
- 156 Specific provisions: Incentive Overlay Zoning
- 156A Designated land units in the Incentive Overlay Zoning
- 156B Use of property
- 156C Development rules

Part 2: Density Overlay Zoning (DO)

- 157 General provisions: Density Overlay Zoning
- 158 Specific provisions: Koeberg Restriction Area Overlay Zoning
- 158A ...

Part 3: Scheduled Public Transport Accessibility Overlay Zoning (SPTAO)

- 158B Designated erven in the Scheduled Public Transport Accessibility Overlay Zoning
- 158C Use of property: Scheduled Public Transport Accessibility Overlay Zoning
- 158D Development rules: Scheduled Public Transport Accessibility Overlay Zoning
- 158DA General provisions: Scheduled Public Transport Accessibility Overlay Zoning
- 158E General provisions: Extensive Residential Use Overlay Zoning
- 158F Specific provisions: Extensive Residential Use Overlay Zoning

CHAPTER 20.: OVERLAY ZONINGS FOR SPECIFIC MANAGEMENT MECHANISMS

Part 1: Heritage Protection Overlay Zoning (HPO)

- 159 Deemed Heritage Protection Overlay Zones
- 160 Use of the property: Heritage Protection Overlay Zoning
- 161 Development rules: Heritage Protection Overlay Zoning
- 162 General provisions: Heritage Protection Overlay Zoning
- 163 Specific provisions: Heritage Protection Overlay Zoning
- 164 Consideration of applications

Part 2: Environmental Management Overlay Zoning (EMO)

- 165 Development rules: Environmental Management Overlay Zoning
- 166 General provisions: Environmental Management Overlay Zoning
- 167 Specific provisions: Environmental Management Overlay Zoning
- 168 Consideration of applications

Part 3: Urban Edge Overlay Zoning (UEO)

- 169 Development rules: Urban Edge Overlay Zoning
- 170 Specific provisions: Urban Edge Overlay Zoning

Part 4: Scenic Drive Overlay Zoning (SDO)

171 General provisions: Scenic Drive Overlay Zoning
 172 Specific provision: Victoria Road, Clifton

Part 5: Local Area Overlay Zoning (LAO)

173 General provisions: Local Area Overlay Zoning
 174 Specific provisions: Strand Beachfront Local Area (LAO/1)
 175 Specific provisions: Gordon's Bay Local Area (LAO/10)
 176 Specific provisions: Harfield Village Local Area (LAO/2)
 177 Specific provisions: Constantia – Tokai Local Area (LAO/3)
 178 Specific provisions: St James – Clovelly Local Area (LAO/6)
 179 Specific provisions: Land Above Boyes Drive, Kalk Bay (LAO/7)
 180 Specific provisions: Marina Da Gama Extensions 1,2 & 4 (LAO/8)
 181 Specific provisions: Hout Bay Local Area (LAO/11)
 182 Specific provisions: Noordhoek Local Area (LAO/12)
 183 Specific provisions: Muizenberg Local Area (LAO/13)
 184 Specific provisions: Landudno Local Area (LAO/14)
 185 Specific provisions: whole of the Cape Town CBD Area (LAO/4)
 186 Specific provisions: St Georges Street subarea
 187 Specific provisions: Roggebaai subarea
 188 Specific provisions: Bakoven, Clifton and Glen Beach Bungalow Area (LAO/5)
 189 Specific provisions: Victoria Road, Clifton local area (LAO/5(ii))
 190 Specific provisions: Camps Bay and Bakoven local area (LAO/9)
 191 Specific provisions: Gardens, Tamboerskloof, Green point, Bantry Bay and Camps Bay / Bakoven local area (LAO/13(ii))

DIVISION V: ANNEXURES

CHAPTER 21: ANNEXURES

ANNEXURE A

LIST OF SPECIAL USES IN TERMS OF ITEM 15

ANNEXURE B

RECORD OF SPECIAL PLANNING AREAS IN TERMS OF ITEM 136(1)

ANNEXURE C

LIST OF PLANS IDENTIFYING PT1 AND PT2 AREAS IN TERMS OF ITEM 137

CHAPTER 1: DEFINITIONS (s 1)

1 Definitions

(1) In this By-LawBy-law, unless the context otherwise indicates otherwise—
 ‘adopt’, in relation to a spatial development framework, development management scheme, policy or strategy, means the approval thereof by the City;
 ‘advisory panel’ means the advisory panel contemplated in section 121;
 ‘appeal authority’ means the appeal authority contemplated in section 114(3);
 ‘applicant’ means a person contemplated in section 40;

'approval' means a permission including any conditions, granted or deemed to have been granted in terms of this By-law; and when a permission is granted on appeal in terms of this By-law, '**approval**' means only that decision including any conditions;

'authorised official' means an employee of the City responsible for carrying out any duty or function or exercising any power in terms of this By-LawBy-law and includes an employee delegated or designated to carry out or exercise such duty, function or power;

'base zoning' means the zoning before the application of any overlay zoning and may include a subzoning as contemplated in the development management scheme;

'certificate of registered title' has the meaning contemplated in the Deeds Registries Act No. 47 of 1937;

[Definition inserted by s. 1 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'City' means the municipality of the City of Cape Town established by Government Notice No. 479 of 2000 issued in terms of section 12 the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), and where the context so requires, includes—

- (a) the Municipal Council;
- (b) another political structure or a political office bearer of the City, authorised or delegated to perform a function or exercise a power in terms of this By-LawBy-law;
- (c) the Municipal Planning Tribunal authorised or delegated to perform a function or exercise a power in terms of this By-LawBy-law;
- (d) the City Manager; and
- (e) an authorised official;

'City Manager' means the person appointed as the accounting officer of the City in terms of section 54A of the Municipal Systems Act;

'commencement of construction' means to have begun a continuous programme of physical, on-site construction in accordance with building plans approved in terms of the National Building ActRegulations and Building Standards Act, 1977, and which has gone beyond site clearing, excavation or digging trenches in preparation for foundations;

'comment' includes an objection or a representation;

'community facilities' includes play equipment, street furniture, crèches, clinics, sports fields, indoor sports facilities and community halls;

'condition of approval' means a condition of approval imposed or deeded to have been imposed in terms of this By-law;

'consent use' means a land use permitted in terms of a particular zoning with the approval of the City;

'contravention' includes a failure to comply with a duty or requirement;

'councillor' means a member of the Municipal Council;

'date of notification' means the date contemplated in section 111(6);

'Deeds Registries Act' means the Deeds Registries Act, 1937 (Act 47 of 1937);

'Department' means the directoratesdepartment of the City responsible for spatial planning, land use management and building development management;

'departure' means a permanent departure or a temporary departure;

'determination' includes any associated conditions associated with the determination;

'development charge' means a once-off charge imposed by the City on a developer as a condition of approval of for a land development application, in order to cover the cost of municipal engineering services required as a result of an intensification of land use;

'development edge line' means a demarcated edge line, as depicted in the municipal spatial development framework;

'development management scheme' means the development management scheme contemplated in section 26(2);

'development rule' means a provision, restriction or condition in the development management scheme that sets out the permissible extent of the land use in terms of a zoning;

'deviation' in relation to a spatial development framework, means—

- (a) an approval which departs from the provisions of the municipal spatial development framework contemplated in section 22(2) of SPLUMA;
- (b) a deviation from the provisions of the municipal spatial development framework authorised by section 9(1) of this ~~By-Law~~~~By-law~~; or
- (c) a deviation from the provisions of a district spatial development framework or local spatial development framework authorised by section 16(2)(b) of this ~~By-Law~~~~By-law~~;

and 'deviate' has a corresponding meaning;

'diagram' means a diagram as defined in section 1 of the Land Survey Act;

'district spatial development framework' means a district spatial development framework contemplated in section 11;

'effective date of decision' means the date contemplated in section 105(2);

'engineering service' means a system for the provision of water, electricity, gas, roads or storm water drainage, or collection and removal of solid waste or sewerage, required for the purpose of land development;

'engineering services agreement' means an agreement between an applicant and the City ~~in cases~~, where an applicant constructs or installs external engineering services ~~in lieu instead of~~ the payment in full or in part of a development charge, and in ~~terms of~~ which the parties agree on their ~~respective~~ roles in the construction, installation and financing of infrastructure, including their ~~respective~~ responsibilities for maintenance and upkeep of infrastructure, from the date of installation to the date of transfer of the land;

'general plan' means a general plan as defined in section 1 of the Land Survey Act;

'Integrated Development Plan' means the plan envisaged in section 25 of the Municipal Systems Act;

'land development' means the erection of a building or structure on land or the change in use of land, including township establishment, ~~the rezoning, the subdivision or consolidation of land or any deviation from the land use or use permitted in terms of the development management scheme, and 'development of land' and 'develop land' have corresponding meanings;~~

'land' means any land unit or any portion of a land unit, and includes any ~~building or other improvement or building on the land and any real right in the land~~;

'land unit' means a portion of land registered or capable of being registered in a deeds registry and may include a portion of land to which a registered servitude right or registered lease relates;

[Definition substituted by s. 1 (b) of City of Cape Town: Municipal Planning Amendment ~~By-Law~~~~By-law~~, 2019]

'land use' means the purpose for which land is or may be used lawfully in terms of the ~~zoning or any approval~~ development management scheme;

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

'Land Survey Act' means the Land Survey Act, 1997 (Act 8 of 1997);

'local spatial development framework' means a local spatial development framework contemplated in section 12;

'Mayor' means the Executive Mayor of the City;

'Municipal Council' means the Municipal Council of the City;

'Municipal Planning Tribunal' means the Municipal Planning Tribunal referred to in section 114 ~~and includes a panel of the Municipal Planning Tribunal contemplated in section 120(3)~~;

'municipal spatial development framework' means the municipal spatial development framework adopted by the City in terms of Chapter 5 of the Municipal Systems Act;

'Municipal Systems Act' means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

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

'notification' has the meaning contemplated in section 111 and includes the method by which the City may 'serve' on, 'call for', 'invite' or 'require' a person to do something, and 'notice' and 'notify' have corresponding meanings;

'Ordinance' means the Land Use Planning Ordinance, 1985 (Cape) (Ordinance 15 of 1985); **'organ of state'** means an organ of state as defined in section 239 of the Constitution;

'overlay zoning' means a zoning, in addition to the base zoning, stipulating the purposes for which land may be used and the development rule which may be more or less restrictive than the base zoning;

'owner' includes their successor-in-title and means—

- (a) the person whose name is registered in a deeds registry as the owner of land;
- (b) the beneficial owner of land in law, whose right to ownership was acquired under any law and is not required to be registered in the Deeds Registry;
- (c) the owner of land by virtue of vesting in terms of this By-LawBy-law or another law; and
- (d) the legal representative of the owner or their estate where the registered owner lacks legal capacity for any reason including age, mental health, mental disability, death or insolvency;

'owners' association' means an owners' association established or deemed to have been established in terms of section 61;

'permanent departure' means right to use land otherwise than in accordance with the development rules of the zoning applicable to the property;

'person' means a natural or juristic person and includes thean organ of state;

'planning law' means the Townships Ordinance no 33 of 1934 or the Ordinance, whichever is applicable.

'prescribe' includes prescribe by procedure, standard, requirement or rule;

'previous zoning scheme' means—

- (a) a town planning scheme;
- (b) a town planning scheme in the course of preparation; or
- (c) zoning scheme regulations in operation in the geographic area of the City at any time before the commencement of this By-LawBy-law;

'private street' means privately owned land which provides vehiclevehicular access to a separate land unit or land units, and which is designated as private road or private street on an approved general plan, diagram or approved plan of subdivision; and it may include ancillary access control infrastructure such as a gatehouse, guardhouse, refuse room and utility room, but does not includeexcludes a driveway on a property or a servitude;

'Province' means the Province of the Western Cape;

'Provincial Government' means the provincial government of the Province;

'Provincial Minister' means the member of the Executive Council in the Provincial Government responsible for land use planning;

'public place' means any open or enclosed place, park, public street or thoroughfare or other similar area of land shown on a general plan or diagram that is for use by the general public and is owned by, or vests in the ownership of, the City, and includes a public open space and a servitude for any similar purpose in favour of the general public;

'public road' means any highway, thoroughfare, lane, footpath, sidewalk, alley, passage, bridge or any other place of a similar nature or any portion thereof, other than a toll road, serving as a public right of way, whether for vehicles or pedestrians, established or proclaimed in terms of the former Municipal Ordinance, 1974 (Ordinance 20 of 1974) or any equivalent current municipal by-law and/or national legislation and includes a public street;

'public street' means any land indicated on an approved general plan, diagram or map, other than a toll road, as having been set aside as a public right of way, whether for vehicles or pedestrians or public or urban squares, of which the ownership is registered in favour of or vests in the City in terms of this By-LawBy-law or any other law;

'registered planner' means a professional or technical planner registered in terms of the Planning Profession Act, 2002 (Act 36 of 2002), unless the South African Council for Planners has reserved the work to be performed by a registered planner in terms of this Act

for a particular category of registered persons in terms of section 16(2) of the Planning Profession Act, 2002, in which case a registered planner means the category of registered persons for whom the work has been reserved;

'Registrar of Deeds' means the Registrar of Deeds as defined in the Deeds Registries Act; **'relaxation'** means to make a development rule or restrictive condition ~~title deed restriction less strict, which may result in the extinction of thea development rule or restrictive condition to not exist anymore;~~ and **'relax'** has thea samecorresponding meaning;

'restrictive condition' means any condition registered against the title deed of land restricting the use, development or subdivision of land concerned, ~~imposed during or after township establishment or subdivision in terms of a contract, common law, customary law or legislation. Despite section 142(9), the amendment to this definition, in terms of the City of Cape Town: Municipal Planning Amendment By-law, 2025, is deemed to have come into operation on 3 February 2020;~~

[Definition substituted by s. 1 (c) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'rezoning' means the change of zoning in relation to a particular land unit or units in terms of this ~~By-Law~~**By-law**;

'road' includes a public street, a public road and a private street;

'road reserve' means a designated area of land that contains or is able to contain a public street or public road, including the road and associated verge, which land may or may not be defined by cadastral boundaries;

'Sectional Titles Act' means the Sectional Titles Act, 1986 (Act 95 of 1986);

'sectoral plan' means any written strategy or plan which deals mainly with one of the sectors or elements or particular subjects that form part of an integrated development plan and which may be an economic, land reform, environmental, housing, water, service or transport plan;

'service master plan' means a high level infrastructure plan prepared by the City to cater for future development and includes an Integrated Transport Plan, Electricity Business Plan, Bulk Water and Sanitation Master Plan, Storm Water Master Plan and Integrated Waste Management Plan;

'spatial development framework' means a national spatial development framework, regional spatial development framework (approved by either national or provincial government), provincial spatial development framework, municipal spatial development framework, district spatial development framework or local spatial development framework;

'SPLUMA' means the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and regulations promulgated in terms of thereof;

'state' includes an organ of state as defined in section 239 of the Constitution and a state-owned enterprise listed as a public entity in Schedule 2 or 3 to the Public Finance Management Act, 1999 (Act 1 of 1999);

'street' means 'public street' or 'private street';

'structure plan' means a structure plan approved in terms of section 4(6) or 4(10) of the Ordinance;

'subdivision plan' means a plan which depicts the relative location of newly proposed land units on a land unit that is to be subdivided;

'subdivision', in relation to land, means the division of a land unit into more land units and includes any physical activity on the land to prepare the land for subdivision but ~~excludesdoes not include the surveying of land for the preparation of a subdivision plan-and~~

'subdivide' has the samea corresponding meaning;

'subdivisional area' when referring to a zoning, means the subdivisional overlay zoning permitting subdivision provided for in the development management scheme; and when referring to land, means land zoned with a subdivisional overlay zoning;

'substitution scheme' means a zoning map or development rules which replaces, in terms of planning law, any other zoning map or portion thereof;

'Surveyor-General' means the Surveyor-General as defined in the Land Survey Act;

'temporary departure' means the right to use land on a temporary basis for a purpose for which no provision is made in the zoning applicable to the property;

'this By-LawBy-law' includes the development management scheme and the other schedules to this By-LawBy-law;

'title deed' means any deed registered in a deeds registry, which recording the ownership of land or a real right in land;

'Townships Ordinance, 1934' means the Townships Ordinance, 1934 (Cape) (Ordinance 33 of 1934);

'urban edge line' means a development edge line to demarcate the appropriate geographical limit to urban growth or to protect natural resources;

'use' means the use of land for a purpose or the improvement of land;

'use right', in relation to land, means the right to use that land in accordance with its zoning, a departure, consent use, condition of approval or any other approval granted in respect of the rights to use the land;

'zone' when used as a verb in relation to land, means to designate land for a particular zoning;

'zoning' includes base zoning and overlay zoning and means a land use category prescribed by the development management scheme regulating the use of and development of land and setting out—

(a) the purposes for which land may be used; and

(b) the development rules applicable to that land use category;

'zoning map' means the map of the zoning scheme contemplated in section 29(1);

'zoning register' means the zoning register of the zoning scheme contemplated in section 32; and

'zoning scheme' means the zoning scheme contemplated in section 25(1).

(2) Unless the context otherwise indicates, words derived from defined terms, both in this section and elsewhere in this By-law, have corresponding meanings.

CHAPTER 2-

APPLICATION AND INTERPRETATION OF THIS BY-LAW AND CONFLICT OF LAWS (s 2-2A)

2 Application of this By-Law and conflict of laws

(1) This By-LawBy-law applies to all land within the geographical area of the City, including land owned by the state.

(2) This By-LawBy-law binds every owner and every user of land, including the state.

(2A) It is presumed that a decision of the City on a matter governed by this By-law is taken under only this By-law unless otherwise proven.

(3) When considering an apparent conflict between this By-Law and another law, a court must prefer any reasonable interpretation that avoids a conflict over any alternative interpretation that results in a conflict...

(4) If there is a conflict between this By-Law and another by law, this By-Law prevails over the affected provision of the other by-law in respect of any municipal planning matter...

2A Interpretation

(1) When considering an apparent conflict between this By-law and another law, a court must prefer any reasonable interpretation that avoids a conflict over any alternative interpretation that results in a conflict.

(2) If there is a conflict between this By-law and another by-law, this By-law prevails over the affected provision of the other by-law in respect of any municipal planning matter.

CHAPTER 3— SPATIAL PLANNING (ss 3-23)

Part 1

Introductory provisions concerning spatial development frameworks (s 3)

3 Spatial development frameworks

- | (1) The City's spatial development frameworks are—
 - (a) the municipal spatial development framework;
 - (b) district spatial development frameworks; and
 - (c) local spatial development frameworks.
- | (2) The Cape Town Spatial Development Framework adopted as part of the Integrated Development Plan as amended, until it is replaced, is deemed to be the municipal spatial development framework.
- | (3) The purposes of the City's spatial development frameworks include—
 - (a) providing a longer-term spatial depiction of the desired form and structure of the geographic area to which it applies;
 - (b) providing land use management guidelines regarding the appropriate nature, form, scale and location of development;
 - (c) contributing to spatial co-ordination;
 - (d) guiding investment and planning of municipal departments and where appropriate other spheres of government;
 - (e) guiding investment for the private sector;
 - (f) reflecting relevant provisions of strategies adopted by the Municipal Council; and
 - (g) guiding decision making on applications.

Part 2

The municipal spatial development framework (ss 4-10)

4 Process for drafting the municipal spatial development framework

- (1) The City must adopt a process, which includes a public participation process, for drafting the municipal spatial development framework which complies with the Municipal Systems Act and any other applicable law.
- | (2) Upon completion of the process contemplated in subsection (1), the Municipal Council must consider a written report from the Department that must at least—
 - (a) assess the draft municipal spatial development framework;
 - (b) summarise the process of drafting the municipal spatial development framework;
 - (c) summarise the consultation process;
 - (d) set out the City's responses to the comments received;
 - (e) describe how the City has complied with, is complying with and intends to comply with the requirements of relevant national and provincial legislation, and relevant provisions of strategies adopted by the Municipal Council; and
 - (f) recommend the adoption of the draft municipal spatial development framework; and
 - (g) address any other matter relevant to the adoption of the municipal spatial development framework.
- | (3) A registered planner must sign the report required by subsection (2).

5 Process for amending the municipal spatial development framework

(1) Section 34 of the Municipal Systems Act and the contemplated regulations govern the process for an amendment of the municipal spatial development framework.

(2) Sections 4(2) and 6 apply to amendments to the municipal spatial development framework as a result of comments received from the ~~p~~Provincial ~~m~~Minister responsible for local government as contemplated in section 32 or 33 of the Municipal Systems Act.

[Sub-s. (2) substituted by s. 2 of City of Cape Town: Municipal Planning Amendment ~~By Law~~^{By-law}, 2016]

(3) The City Manager may prescribe the form and process governing a request to amend the municipal spatial development framework other than as a result of the annual review process contemplated in section 34(a) of the Municipal Systems Act.

6 Decision on the adoption or amendment of the municipal spatial development framework

(1) The Municipal Council may—

(a) accept the report envisaged in section 4(2) and adopt the draft municipal spatial development framework in terms of Chapter 5 of the Municipal Systems Act ~~with or without conditions~~;

(b) adopt or refuse a draft amendment ~~with or without conditions~~; or

(c) refer the report on the adoption of the draft municipal spatial development framework or draft amendment back for ~~certain information or consultation, as the case may be~~ ~~further~~

(i) ~~specified information; and/or...~~

(ii) ~~specified consultation...~~

(2) The City must refer the report envisaged in section 4(2) back for further comment or ~~specified consultation before making an amendment that would materially and adversely affect the public or a person if the proposed amendment were not subject to consultation~~.

7 Submission of municipal spatial development framework to Provincial Minister

Within 10 days of the Municipal Council adopting the municipal spatial development framework or an amendment thereof, the City Manager must submit the following to the Provincial Minister responsible for local government

~~The City Manager must submit the following to the provincial minister responsible for local government, within 10 days of the Municipal Council adopting the municipal spatial development framework or an amendment—~~

(a) a written notice of the decision to adopt or amend the municipal spatial development framework;

(b) the adopted or amended municipal spatial development framework;

(c) a copy of the report referred to in section 4(2); and

(d) a further report or statement to the extent required to comply with section 32(1)(b) of the Municipal Systems Act or section 14 of the Land Use Planning Act or any other legislation.

[S. 7 amended by s.3 of City of Cape Town: Municipal Planning Amendment ~~By Law~~^{By-law}, 2016]

8 Publication of the adopted or amended municipal spatial development framework

~~The City Manager must, within 14 days of the Municipal Council adopting the municipal spatial development framework or an amendment thereof, the City Manager must—~~

(a) publish a notice of ~~its~~ ~~the~~ decision to adopt or amend the municipal spatial development framework in the ~~Provincial Gazette~~ Provincial Gazette and in accordance with section 19;

(b) give notice to the public and publicise a summary in accordance with section 25(4) of the Municipal Systems Act; and

- (c) publish a notice of the amendment of the municipal spatial development framework in the Provincial Gazette if the municipal spatial development framework is amended as contemplated in section 32 or section 33 of the Municipal Systems Act; and
- (d) publish a commencement date for the municipal spatial development framework or amendment.

9 Status of the municipal spatial development framework

- (1) Subject to section 22, the City may deviate from the provisions of the municipal spatial development framework only if site specific circumstances justify the deviation.
- (2) In determining whether the site specific circumstances exist, the City must have regard to the development application that has been submitted and any other relevant considerations....
- (3) If an application is inconsistent with the municipal spatial development framework, the applicant must describe the inconsistency in
 - (a) the application; and
 - (b) the advertisement of the application....
- (3A) An application must indicate whether approval of the application would deviate from the municipal spatial development framework.
- (3B) If approval of the application would so deviate, the application and notice of the application, must explain why site-specific circumstances justify the deviation.
- (3C) The City must consider the matters in subsections (2) and (2A) and any other relevant consideration when deciding the application.
- (4) The municipal spatial development framework does not confer or take away rights.
- (5) If there is a conflict between the municipal spatial development framework and a district spatial development framework or local spatial development framework, the municipal spatial development framework prevails over other development frameworks to the extent of the conflict.

10 Review of the municipal spatial development framework

- (1) The City must consider the following, when reviewing the municipal spatial development framework during a review of the integrated development plan in terms of section 34(a) of the Municipal Systems Act, in relation to the review of the municipal spatial development framework, the City must consider at least
 - (a) the record of deviations from the municipal spatial development framework and the reasons for the deviations;
 - (b) the requirements of provincial and national legislation relating to the municipal spatial development framework;
 - (c) relevant provisions of the strategies adopted by the Municipal Council; and
 - (d) comments received in the review process; and
 - (e) any other matter relevant to the review.
- (2) Sections 5(1), 6 and 7 apply to a proposal to amend the municipal spatial development framework resulting from the review process.

Part 3

District spatial development frameworks and local spatial development frameworks (ss 11-18)

11 District spatial development frameworks

- (1) The Municipal Council may adopt a district spatial development framework for a specified geographic area within the geographical area of the City.
- (2) A district spatial development framework must—

- (a) align with and give further effect to the municipal spatial development frameworks;
- (b) identify and depict on a map current and future significant elements which give structure or spatial order to a settlement including road circulation networks, public transport systems, public open spaces, public facilities, and external engineering services;
- | (c) provide land use management guidelines that relate to—
 - (i) desirable land use patterns;
 - (ii) appropriate development densities and urban form;
 - (iii) provision of public open space and public facilities;
 - (iv) environmentally sensitive areas; and
 - (v) high potential agricultural land;
- | (d) provide a spatial representation to support spatial restructuring and integration within the district by indicating—
 - (i) areas where public and private development should be prioritised and facilitated;
 - (ii) areas where strategic intervention is required to enable desired changes to land use or urban form;
 - | (iii) locations of future publicly-funded housing developments;
 - | (iv) key infrastructure requirements to enable development of areas that have been prioritised;
- (e) support the municipal spatial development framework by depicting spatially the co-ordination, alignment and integration of relevant sectoral plans or policies of City departments;
- (f) include an implementation plan setting out how the proposals of the district spatial development framework are to be achieved; and
- (g) identify areas where more detailed local spatial development frameworks must be developed.

12 Local spatial development frameworks

- (1) The Municipal Council may adopt a local spatial development framework for a specified geographic area within the geographical area of the City.
- | (2) A local spatial development framework must align with and give further effect to the municipal spatial development framework and any relevant district spatial development framework by providing more detailed, local planning.
- | (3) Where relevant, a local spatial development framework may contain the elements envisaged in sections 11(2)(a) to 11(2)(e).
- | (4) A local spatial development framework may include an implementation plan, which must among other things inform and guide actions aimed at realising proposals of the local spatial development framework.

13 Process for drafting or amending a district spatial development framework or a local spatial development framework

- | (1) If the City intends to adopt a district spatial development framework or a local spatial development framework, the City must—
 - (a) specify the geographic area concerned; and
 - (b) approve the drafting of a district spatial development framework or a local spatial development framework as the case may be.
- | (2) ...
[Sub-s. (2) deleted by s. 4 (a) of City of Cape Town: Municipal Planning Amendment ~~By-Law~~^{By-law}, 2016]
- | (3) The Department must provide a written report that must at least—
[Sub-s. (3) substituted by s. 4 (b) of City of Cape Town: Municipal Planning Amendment ~~By-Law~~^{By-law}, 2016]
 - (a) describe the manner in which how—

- (i) the draft district spatial development framework or draft amendment thereof aligns ~~to with~~ the municipal spatial development framework and relevant provisions of strategies adopted by the Municipal Council; or
- (ii) the draft local spatial development framework or draft amendment thereof aligns ~~to with~~ the municipal spatial development framework, the relevant district spatial development framework and relevant provisions of strategies adopted by the Municipal Council;

as the case may be;

- (b) summarise the process of drafting the district spatial development framework, local spatial development framework or amendment;
- (c) summarise the consultation process;
- (d) set out the City's responses to the comments received; and
- (e) recommend the adoption of the draft district spatial development framework, draft local spatial development framework or draft amendment; and
- (f) address any other matter relevant to the adoption of the draft spatial development framework, draft local spatial development framework or draft amendment.

14 Decision on the adoption or amendment of a district spatial development framework or a local spatial development framework

The Municipal Council may—

- (a) accept the report envisaged in section 13(3) and adopt the draft district spatial development framework, draft local spatial development framework or draft amendment, with or without a condition;
- (b) refer the report envisaged in section 13(3) back for further specified information and/or further specified consultation; or
- (c) refuse to adopt the draft district spatial development framework, draft local spatial development framework or draft amendment.

15 Publication of the adopted or amended district spatial development framework or local spatial development framework

Within 30 days of adopting or amending a district spatial development framework or a local spatial development framework, the City must publish the adopted or amended district spatial development framework or local spatial development framework on the City's website.

[S. 15 substituted by s. 5 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

16 Status of a district spatial development framework and a local spatial development framework

- (1) If an application is inconsistent with an applicable district spatial development framework or a local spatial development framework, the applicant must describe the inconsistency in—
 - (a) the application; and
 - (b) the advertisement of the application.
- (2) A person who takes a decision in terms of this By-LawBy-law—
 - (a) must be guided by an applicable district spatial development framework and/or local spatial development framework;
 - (b) subject to section 22, may deviate from the provisions of an applicable district spatial development framework and/or local spatial development framework only if the circumstances justify the deviation.
- (3) A district spatial development framework and a local spatial development framework do not confer or take away rights.

17 Review of a district spatial development framework or a local spatial development framework

(1) The City must review a district spatial development framework or a local spatial development framework or structure plan at least every 10 years.

(2) The City Manager must give notice in the media₁ in accordance with section 21 of the Municipal Systems Act₂ of the City's intention to review a district spatial development framework or a local spatial development framework and specify ~~give details of the person~~

(a) to whom and the date by which any comments or suggestions to be taken into account in the review process, must be submitted~~to whom comments or suggestions on the review must be submitted~~; and

(b) the due date for those comments or suggestions.

(3) When conducting a review for the purposes of subsection (1), the City must consider at least

(a) the record of deviations from the district spatial development framework or local spatial development framework and the reasons for the deviations;

(b) any relevant amendments to the municipal spatial development framework;

(c) the requirements of provincial and national legislation relating to the municipal spatial development framework;

(d) relevant provisions of strategies adopted by the Municipal Council; and

(e) comments received in the review process;

(f) any other matter relevant to the review.

18 Withdrawal of a district spatial development framework or a local spatial development framework

(1) If the City intends to withdraw a district spatial development framework or a local spatial development framework, the City~~it~~ must comply with subsection (2).

(2) Upon completion of the consultation process and the adopted process, the Department must provide a written report which must at least

(a) describe the reasons for withdrawing the district spatial development framework or the local spatial development framework or structure plan;

(b) summarise the consultation process;

(c) set out the City's responses to the comments received; and

(d) recommend the withdrawal of the district spatial development framework or local spatial development framework or structure plan; and

(e) any other matter relevant to the withdrawal.

(3) The Municipal Council may

(a) accept the report envisaged in subsection (2) and withdraw the district spatial development framework or local spatial development framework or structure plan;

(b) refer the report envisaged in subsection (2) back for further specified information, and/or require further specified consultation; or

(c) refuse to withdraw the district spatial development framework or local spatial development framework or structure plan.

(4) Within 30 days of withdrawing a district spatial development framework or a local spatial development framework, the City must publish the withdrawal in accordance with section 15.

Part 4
General provisions concerning spatial planning
(ss 19-23)

19 Record of and access to spatial development frameworks

(1) The City must keep, maintain and make accessible to the public, including on the City's website, the approved municipal spatial development framework, a district spatial development framework and a local spatial development framework and any amendment or withdrawal thereof.

(2) The City must provide a requester, on payment of the prescribed fee, with a copy of the approved municipal spatial development framework, a district spatial development framework and a local spatial development framework and any amendments thereto.

20 Structure plans

(1) A structure plan listed in Schedule 1, and which remains in force in terms of section 16(1)(b) of the Land Use Planning Act, is deemed to be a district spatial development framework approved in terms of this By-LawBy-law and remains in force indefinitely until withdrawn in terms of this By-LawBy-law.

(2) A structure plan approved in terms of section 4(6) or section 4(10) of the Ordinance and listed in Schedule 2—

(a) and which remains in force in terms of section 16(1)(b) of the Land Use Planning Act; and

(b) is deemed to be a local spatial development framework approved in terms of this By-LawBy-law and remains in force indefinitely until withdrawn in terms of this By-LawBy-law.

(3) Sections 13 to 18, with changes required by the context, apply to the amendment, status or withdrawal of a structure plan.

21 Policies to guide decision-making

(1) The City may adopt a policy or guidelines to guide decision making in respect of applications made in terms of this By-LawBy-law.

(2) The provisions of Section 138 applies to policies contemplated in subsection (1).

22 Record of deviations from spatial development frameworks

(1) A person who takes a decision in terms of this By-LawBy-law, which deviates from the provisions of the municipal spatial development framework and/or an applicable district spatial development framework and/or local spatial development framework or policy, must at the time of making the decision—

(a) record in writing the reasons for the deviation; and

(b) keep a record of the decision and the written reasons for the deviation.

(2) A record of decisions of applications that deviate from the municipal spatial development framework must be kept with the municipal spatial development framework.

23 Spatial development frameworks applicable to land incorporated into the geographic area of the City

When land situated in the geographic area of another municipality is incorporated into the geographic area of the City, any spatial development framework applicable to that area or to part of that area remains in force until the City reviews or amends it in terms of the provisions of this By-Law. A spatial development framework, applicable to land in a geographic area of another municipality, remains in force if—

(a) that area is incorporated into the City's geographic area; and

(b) the City does not review or amend that spatial development framework in terms of this By-law.

**CHAPTER 4—
DEVELOPMENT MANAGEMENT
(ss 24-38)**

**Part 1
Zoning scheme
(ss 24-34)**

24 Zoning

(1) All land within the geographic area of the City must have a zoning.

(2) A zoning may apply to a land unit or part thereof, and a zoning need not follow cadastral boundaries.

(3) The City may, by amendment of the development management scheme, on its own initiative, adopt a new overlay zoning or amend or remove an existing overlay zoning.

(4) In respect of each overlay zoning, except a subdivisional area overlay zoning, the City must publish in the ~~Provincial Gazette~~ *Provincial Gazette*—

- (a) ~~which the~~ specified area or land units ~~have with~~ the overlay zoning;
- (b) ~~a reference to a map available on the City's website that depicts which the~~ specified area or land units ~~that~~ have the overlay zoning; or
- (c) a statement that no specified area or land unit has the overlay zoning.

(5) The City may, at any time, designate ~~an overlay zoning to~~ a specified area or land unit to have an overlay zoning, or to no longer have ~~cancel~~ an overlay zoning, by following the process in the development management scheme, and it must publish the designation in the ~~Provincial Gazette~~ *Provincial Gazette*.

(6) The City is not required to follow the process in the development management scheme contemplated in subsection (5) when publishing a notice contemplated in subsection (4), if the area or land unit specified in the notice has the same or a substantially similar overlay zoning as it does when this ~~By Law~~*By-law* comes into operation.

25 Zoning scheme

(1) The zoning scheme comprises—

- (a) the development management scheme;
- (b) the zoning map; and
- (c) the zoning register.

(2) The zoning scheme applies to all land in the geographic area of the City.

26 Development management scheme

(1) The purposes of the development management scheme include—

- (a) regulation of use rights and control of the use of land;
- (b) facilitation of the implementation of policies and principles set out in relevant spatial development frameworks and binding policies and principles ~~set out in and in terms of~~ under national and provincial legislation;
- (c) facilitation of efficient, economic and sustainable use of land;
- (d) protection of areas with an environment which could be substantially adversely affected by development ~~in a substantial way~~;
- (e) other purposes lawfully prescribed by ~~in~~ national or provincial legislation.

(2) The development management scheme is the scheme in Schedule 3.

(3) The development management scheme is an integral part of this ~~By Law~~*By-law* and its provisions have ~~it has~~ the force of law.

(4) When considering an apparent conflict between the body of this ~~By Law~~ and the development management scheme, a court must prefer any reasonable interpretation that avoids a conflict over any alternative interpretation that results in a conflict....

(5) If there is a conflict between the body of this By-Law and the development management scheme, the body of this By-Law prevails over the affected provision of the development management scheme. A provision in Chapters 1 to 12 of this By-Law prevails over a provision of the development management scheme, if no reasonable interpretation of both provisions can avoid a conflict.

27 Review of development management scheme

(1) The City Manager must, at least every five years after the commencement of this By-Law, review the development management scheme.

(2) The City Manager must give notice in the media in accordance with section 21 of the Municipal Systems Act of the City's intention to review the development management scheme and give details of the person to whom and the date by which any comments or suggestions to be taken into account in the review process, must be submitted. The City Manager must give notice in the media, in accordance with section 21 of the Municipal Systems Act, of the City's intention to review the development management scheme and specify—

- (a) to whom comments or suggestions must be submitted for the purpose of the review; and
- (b) the due date for comments or suggestions.

(3) The City Manager must submit a review report to the Municipal Council setting out, for the period under review at least—

- (a) the proposed amendments to the development management scheme, including proposed overlay zones, aimed at aligning the development management scheme with the municipal spatial development framework;
- (b) the number of deviations from the municipal spatial development framework and the nature and reasons for each deviation;
- (c) the response to comments received as a result of in response to the notice published in the media, in accordance with subsection (2); and
- (d) any other matter relevant to the review.

(4) If the Municipal Council approves the recommendations in the review report, the City must commence a process to amend the development management scheme accordingly.

(5) The City must comply with the provisions of section 27 of the Land Use Planning Act before amending prior to adopting any amendment of the development management scheme.

(6) A review contemplated in terms of this section is not required for ad-hoc amendments to the development management scheme, undertaken on an ad hoc basis, not in terms of subsection (1).

28 Zoning map

(1) The zoning map must—

- (a) depict the zoning of every land unit in the City's geographical area;
- (b) depict overlay zones applicable to a land unit; and
- (c) be updated within a reasonable time after a use right has been granted or has lapsed.

(2) The zoning map may—

- (a) depict the proposed establishment, widening or closure of public streets and public roads;
- (b) indicate by means of a symbol that a decision has been taken about a land use right; and
- (c) be kept in electronic format.

29 Adoption, amendment and substitution of zoning map

- (1) The zoning map is the zoning map in operation for the City at the commencement of this ~~By Law~~By-law, as and it may subsequently be amended or substituted.
- (2) A lawful zoning recorded on the zoning map at the commencement of this ~~By Law~~By-law remains in force until it lapses or the zoning map is amended or substituted.
- (3) The City may amend or, after consultation, substitute the zoning map in terms of this ~~By Law~~By-law.
- (4) The substitution contemplated in subsection (3) takes effect when notification of approval of the substituted zoning map is published in the Provincial Gazette or on a future date fixed in the Provincial Gazette.

30 Error in zoning map

- (1) An owner who believes that the zoning map contains an error in respect of their property may apply to the City for the zoning map to be corrected.
- (2) An owner making an application contemplated in subsection (1)—
 - (a) must describe the nature of the error;
 - (b) bears the onus of proving the error and must provide written proof of the lawful land use rights; and
 - (c) must indicate the correct zoning.
- (3) The City must advertise the application—
 - (a) to another owner if the application materially ~~and adversely~~ affects the other owner; and
 - (b) for public comment if the application materially ~~and adversely~~ affects the public.
- (4) The City may approve or refuse the application.
- (5) ~~If the application is approved, the City Manager must amend the zoning map, if the City grants the application.~~
- (6) ~~If the City finds an error on the zoning map, the City may on its own initiative amend the zoning map after—~~
 - (a) ~~providing notice of the error and of the City's intention to correct the error to, and inviting representations within a specified time period from—~~
 - (i) ~~the owner of the property concerned;~~
 - (ii) ~~another owner if the proposed correction materially affects the other owner; and~~
 - (iii) ~~the public if the proposed correction materially affects the public;~~
 - (b) ~~considering any representations received; and~~
 - (c) ~~taking a decision to amend the zoning map. The City may, on its own initiative, amend the zoning map, to correct an error, after—~~
 - (a) ~~giving notice of the City's intention to correct the error to—~~
 - (i) ~~the owner of the property concerned;~~
 - (ii) ~~another owner if the proposed correction materially and adversely affects the other owner; and~~
 - (iii) ~~the public, if the proposed correction materially and adversely affects the public; and~~
 - (b) ~~inviting and considering representations from the persons listed in paragraph (a).~~

31 Status of zoning map and exemption of City from liability for any error

- (1) The zoning map is the City's record of the zoning of each land unit.
- (2) A zoning recorded in the zoning map is presumed to be the correct zoning unless otherwise proved otherwise.
- (3) A use right ceases to exist on the day it lapses in terms of this ~~By Law~~By-law or a previous zoning scheme, even if the zoning map still records the use right as ~~still being in existence~~ing.

(4) The City is exempt from liability for any damage which may be caused by—
(a) an error in the zoning map; or
(b) an erroneous representation by the City about a use right or the zoning of a land unit...

32 Zoning register

(1) The City must record in the zoning register—
(a) a decision taken in terms of this By LawBy-law after the commencement of this By Law to grant—
(i) a rezoning;
(ii) a permanent or temporary departure;
(iii) a consent;
(iv) a consolidation; or
(v) any other permission or approval granted in terms of the development management scheme;
(b) a non-conforming use which has been confirmed in terms of section 37(8); and
(c) any other matter which this By LawBy-law requires to be recorded in the zoning register.

(2) The City may keep the zoning register in electronic format.

33 Access to the zoning map and zoning register

(1) The zoning map is accessible to the public on the City's website.
(2) The zoning map and zoning register are also available for inspection at the district offices of the Department.
(3) The City must provide a requester, on payment of a fee, with a relevant extract in writing from the zoning map and zoning register.
(4) An extract contemplated in subsection (3) must be in writing and signed by an authorised official.

34 Continuation of zoning schemes

If the geographic area of the City is expanded to incorporate land from another municipality then the zoning scheme applicable to that land remains in force until the City amends, repeals or replaces it. The zoning scheme applicable to land from another municipality, which is incorporated into the geographic area of the City, remains in force until the City amends, repeals or replaces it.

Part 2

Use right and non-conforming use

(ss 35-37)

35 Use right

(1) A use right vests in land and not in a person.
(2) No person may use or develop land unless the use or development is permitted in terms of the zoning scheme or an approval is granted or deemed to have been granted in terms of this By LawBy-law.
(3) No person may contravene or fail to comply with a condition of approval imposed or deemed to have been imposed in terms of this By Law.
(4) A condition of approval imposed or deemed to have been imposed in terms of this By Law binds a successor-in-title of the land unit.

36 Determination of zoning

(1) Save where land is deemed to be zoned as contemplated inunder the development management scheme, the City, on its own initiative or on application by an owner, may determine a zoning for land which does not have a zoning on its own initiative or on application by an owner.

[Sub-s. (1) substituted by s. 6 (a) of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2016]

(2) When the City determines a zoning contemplated in subsection (1), it must have regard to at least—

- (a) the lawful use of the land, or the purposes for which it could be lawfully used immediately before the commencement of this By LawBy-law if possible to determine;
- (b) the zoning, if any, that is most compatible with that use and any applicable title deed conditionrestrictive condition;
- (c) any permanent departure or consent use that may be required in conjunction with that zoning;
- (d) where land was vacant immediately before the commencement of this By LawBy-law, the use permitted in terms of the title deed conditionsrestrictive conditions or, where more than one land use is so permitted, one of such land uses determined by the City; and
- (e) where the lawful use of the land and the purpose for which it could be lawfully used immediately before the commencement of this By LawBy-law cannot be determined, the zoning that is most desirable and compatible with any applicable title deedrestrictive condition together with any departure or consent use that may be required;
- (f) any other matter relevant to the zoning.

(3) When the City determines a zoning contemplated in subsection (1) and where the land is part of a protected area contemplated inunder the National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003) or similar legislation, the zoning is the zoning which would be most compatible with the objects of that legislation.

(4) The City must amend the zoning map as soon as practicable to reflect the zoning determined for the land.

[Sub-s. (4) substituted by s. 6 (b) of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2016]

(5) The City must give notice of its intention to determine a zoning to the owner, if it acts in terms of subsection (1).

(6) The City must comply with sections 79 and 80, if it acts in terms of subsection (1).

(7) If the lawful use of the land cannot be determined, the City must follow a rezoning process.

37 Non-conforming use

(1) For purposes of this section, 'Non-conforming use' means the use of land or a building or part thereof—

- (a) for a purpose and in a manner whichthat does not comply with the zoning scheme;¹⁷ and
- (b) without interruption lasting for more than an unbroken period of six months, following the commencement of this By-law, and it—
 - (a) but—
 - (i) has been so used lawfully for the same purpose and in the same manner continuously since at least 1 June 1950 without a material interruption; or
 - (ii) which once complied with an applicable previous zoning scheme and since then has been used lawfully, for the same purpose and in the same manner, continuously without a material interruption;¹⁸

and

(b) is continuously so used from the commencement of this By-Law without an interruption of longer than six months.

(2) For the purposes of subsection (1)(ba), a material interruption is regarded as an unbroken period of longer than exceeding—

- six months from 1 June 1950 to 30 June 1986; or
- two years from 1 July 1986 to the day before the commencement of this By-LawBy-law.

(3) A person claiming a non-conforming use has bears the onus of proving its existence.

(4) A non-conforming use—

- may continue as long as it otherwise remains otherwise lawful;
- does not constitute an offence in terms of this By-LawBy-law; and
- is confined to the part of a land unit or building for which proof of its existence exists.

(5) Notwithstanding Despite an existing the existence of a non-conforming use, no person may extend or alter the building concerned without approval in terms of this By-LawBy-law and any other applicable law.

(6) If a building or a substantial part of it, in respect of which a non-conforming use exists, is destroyed or must be demolished because of damage, the City may on application and in its discretion grant permission for its reconstruction within the envelope of the non-conforming use and subject to conditions.

(7) The permission in terms of subsection (6) does not relieve the owner from also obtaining authorisations required by any other applicable laws.

(8) The City may on its own initiative or on application make a binding determination as to the existence, nature and extent of a non-conforming use.

(9) The City must advertise give notice of the application or its intention to make a determination contemplated in subsection (8) to the following—

- to the owner concerned if the owner is not the applicant;
- to another owner, if the application materially and adversely affects the other owner; and
- for the public comment if the application materially and adversely affects the public.

(10) An applicant applying for a determination contemplated in subsection (8) must use the prescribed form and must provide any information which the City calls for.

Part 3 *General lapsing provision* (s 38)

38 General lapsing provision

(1) Unless otherwise specified provided in this By-LawBy-law, an approval granted or deemed to have been granted in terms of this By-LawBy-law to use or develop land lapses after five years after from the effective date of decision where

[Sub-s. (1) substituted by s. 7 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]
[Sub-s. (1) substituted by s. 2 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

(a) where the land is not used in accordance with the approval; or

(b) where an improvement of land is required in order to use the land in accordance with the approval, and lawful commencement of construction has not occurred.

(2) An applicant may apply in terms of and subject to the requirements of section 107 for an extension of the validity periods contemplated in subsection (1), save that but an extension may not exceed five years from the date that the original approval lapses.

[Sub-s. (2) substituted by s. 2 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

CHAPTER 5-
GENERAL REQUIREMENTS FOR AN APPLICATION
(ss 39-43)

39 Applications

(1) An applicant who requires approval ~~in terms of this By-Law~~ for the use or development of land must apply to the City in terms of section 42.

(2) An approval ~~granted or deemed to have been granted~~ in terms of this ~~By-Law~~By-law does not—

- (a) release anyone from their duty to ~~also~~ obtain any other authorisation required by this ~~By-Law~~By-law or another law, and to comply with all ~~laws~~, a ~~title deed~~ ~~restriction~~ ~~restrictive condition~~ or a requirement in the constitution of an owners' association; or
- (b) oblige anyone to use the approval.

40 Persons who may make application in terms of this ~~By-Law~~By-law

(1) An application may be submitted only by—

- (a) the owner of the land concerned;
- (b) the City in respect of land which it does not own, for the purposes of sections 44(1) and 48(1);
- (c) a person to whom the land concerned has been made available for development in writing by an organ of state or such person's duly authorised agent for housing purposes; or
- (d) a service provider responsible for the provision of infrastructure, utilities or other related services.

(2) A person duly authorised to make an application does so on behalf of the owner.

41 Continuation of application by new owner

~~If land that is the subject of an application in terms of this By-Law is transferred to a new owner, the new owner may continue with the application as the successor in title to the previous owner and the new owner will be regarded as the applicant for the purposes of this By-Law. A new owner, who acquires land that is the subject of an application under this By-law, becomes the applicant, and may continue with the application as the successor-in-title.~~

42 Types of applications

A person may make application for the following in terms of this ~~By-Law~~By-law—

- (a) rezoning of land, including rezoning to ~~subdivisional~~ area overlay zoning;
- (b) permanent departure;
- (c) temporary departure;
- (d) subdivision of land;
- (e) implementation of a subdivision approval in phases;
- (f) consolidation of land;
- (g) amendment, suspension or removal of a restrictive condition;
[Para (g) substituted by s. 3 (a) of City of Cape Town: Municipal Planning Amendment ~~By-Law~~By-law, 2019]
- (h) consent or approval in terms of, or the relaxation of, a restrictive condition ~~in a title deed~~ where the restriction relates to use, subdivision, development rules or design criteria;
- (i) consent, approval or any other permission ~~or requirement~~ in terms of the development management scheme;
- (j) amendment, deletion or addition of conditions in respect of an existing approval granted or deemed to be granted in terms of this ~~By-Law~~By-law;
- (k) extension of the period of validity of an approval;
- (l) amendment or cancellation of an approved plan of subdivision or general plan;

- (m) permission required in terms of the conditions of approval of an application;
- (n) determination of a zoning, a non-conforming use right or any other matter which the City may determine in terms of this By LawBy-law;
- (o) correction of a zoning map;
- (p) ...
[Para (p) deleted by s. 8 (a) of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2016]
- (q) alteration or amendment of a street name ~~or number~~ as contemplated in section 136;
[Para (q) substituted by s. 3 (b) of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]
- (r) determination of an administrative penalty as contemplated in section 129(1);
- (s) to exempt a subdivision from the need for approval in terms of this By LawBy-law as contemplated in section 67(3);
- (t) permission for the reconstruction of a building or a substantial part of it within the envelope of a non-conforming use as contemplated in section 37(6);
[Para (t) substituted by s. 8 (b) of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2016]
- (u) any other application which the City Manager may prescribe in terms of this By LawBy-law; ~~or~~
[Para (u) substituted by s. 3 (c) of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]
- (v) approval in terms of section 55(4)(b) of this By Law; ~~or~~
[Para (v) inserted by s. 3 (c) of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]
- (w) an exemption in terms of section 140.

43 Provisions which govern an application

- (1) Unless otherwise provided in this By LawBy-law, an application is governed by—
 - (a) the general procedures in Chapter 7;
 - (b) to the extent applicable, the special provisions in Chapter 6; and
 - (c) any other applicable provision in this By LawBy-law.
- (2) ~~In the event of an inconsistency between a special provision in Chapter 6 and another provision of this By Law, the special provision prevails over the other provision. A special provision in Chapter 6 prevails over another provision of this By-law, in the event of an inconsistency.~~

CHAPTER 6. **SPECIAL PROVISIONS FOR CERTAIN APPLICATIONS** (ss 44-69)

Part 1 **Rezoning, departure and consent use** (ss 44-47)

44 Rezoning

- (1) Subject to section 35(2) of the Land Use Planning Act and Chapter 7 of this By LawBy-law, the City may on its own initiative rezone land ~~which that~~ it does not own, to give effect to approved spatial development frameworks and other City policies or for the purpose contemplated in section 36(7).
[Sub-s. (1) substituted by s. 9 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2016]
- (2) No application for approval of subdivision involving a change of zoning to more than one zone may be considered unless the land is zoned or will be zoned to subdivisional area.
- (3) Applications for rezoning to subdivisional area and for approval of subdivision may be considered simultaneously.
- (4) The City must as soon as practicable after rezoning land amend the zoning map and the zoning register to reflect the rezoning.

45 Departure

(1) In respect of each land unit, a temporary departure to use land on a basis for which no provision is made in the zoning applicable to the land may not be granted—

- (a) for a period exceeding five years;
- (b) if another temporary departure is in operation at the time; or
- (c) if the temporary departure includes an improvement to land that is not permitted by the zoning applicable to the property. The City may not grant a temporary departure to use any land unit for a purpose for which no provision is made in its zoning—
- (a) for longer than five years;
- (b) if another temporary departure is still in operation; or
- (c) if the temporary departure includes an improvement to land that is not permitted by the applicable zoning.

(2) If a condition for the approval of a temporary departure is not complied with or is contravened, the City may withdraw the approval in terms of section 127. The City may withdraw the approval under section 127, if a condition of approval for a temporary departure is contravened.

46 Consent use

A consent use may be granted for a specified period of time or permanently. The City may grant a consent use for a fixed period or permanently.

47 Lapsing of rezoning, consent use or departure

(1) A rezoning, other than a rezoning to a subdivisional area zoning, consent use or permanent departure approved or deemed to have been approved in terms of this By-Law lapses five years after the effective date of the decision—

- (a) where the land is not used in accordance with the approval; or
- (b) where an improvement of land is required in order to use the land in accordance with the approval, lawful commencement of construction has not occurred. A rezoning, consent use or permanent departure approval lapses five years after the effective date of the decision where—
 - (a) the land is not used in accordance with the approval; or
 - (b) construction has not lawfully begun where an improvement of land is required to use the land in accordance with the approval.

(1A) Subsection (1) does not apply to rezoning to a subdivisional area zoning.

(2) A rezoning to a subdivisional area approval approved or deemed to have been approved in terms of this By-Law lapses five years after the effective date of decision, if no application is made, the applicant does not make an application for approval of subdivision in accordance with the approved subdivisional area zoning.

(3) An applicant may apply in terms of and subject to the requirements of section 107 for an extension of the validity period contemplated in subsections (1) and (2).

(4) In the case of a rezoning other than a rezoning to subdivisional area, consent use or departure—

- (a) the City must request the owner in writing prior to the lapsing period or extended lapsing period to submit proof that the land is being used in accordance with the approval;
- (b) the owner must notify the City in writing within the lapsing period or extended lapsing period that the land is being used in accordance with the approval, failing which the rezoning, consent use or departure is presumed to have lapsed.
 - (a) the City must, before the lapsing period or extended lapsing period, make written request to the owner to submit proof that the land is being used in accordance with the approval; and

(b) the owner must state in writing, before the period or extended period expires, whether the land is being used in accordance with the approval, failing which the rezoning, consent use or departure is presumed to have lapsed.

(5) If a rezoning lapses, the The zoning applicable to the land, as reflected on the zoning map prior to the granting of the approval, applies if a rezoning lapses.

(6) If a rezoning, including rezoning to a subdivisional area, consent use or departure lapses, the City must as soon as practicable after lapsing amend the zoning map and the zoning register to reflect the lapsing. The City must, as soon as practicable after lapsing of a rezoning, amend the zoning map and the zoning register accordingly.

Part 2
Restrictive conditions
(ss 48-49A)

48 Removal, suspension or amendment of restrictive conditions

(1) Subject to section 39 of the Land Use Planning Act, the City may on its own initiative or on application remove, suspend or amend a restrictive condition in respect of any land unit. The City may on application or on its own initiative remove, suspend or amend a restrictive condition in respect of any land unit.

(2) An applicant must submit—

- a certified copy of the title deed to the City; and
- the mortgage bond holder's consent to the application, if relevant, the mortgagee's written consent to the application, where the property is mortgaged.

(3) In addition to the procedures in Chapter 7, the City must cause notice of the application to be served on—

- any provincial or national department, if referred to in the title deed restriction/restrictive condition;
- a person whose rights or legitimate expectations are materially and adversely affected by the application;
- any person mentioned in the title deed for whose benefit the restrictive condition applies was imposed; and
- if the City so requires, the public or any other person.

(4) The City must have regard to section 39(5) of the Land Use Planning Act and section 47 of SPLUMA when considering whether to remove, suspend or amend a restrictive condition. The City must consider the following, when deciding an application for removal, suspension or amendment of a restrictive condition—

- whether the result would better align with the development management scheme;
- the decision-making criteria in section 99; and
- sections 42(1)(c) and 47 of SPLUMA.

(5) A decision to amend, suspend or remove any restrictive condition—

- must be published by notice in the Provincial Gazette by the City within 30 days of the effective date of the decision by notice in the Provincial Gazette;
- may be unconditional or subject to any condition specified in the notice;
- may be permanent or for a period specified in the notice; and
- does not lapse.

(6) The City must notify the Registrar of Deeds of the approval of the application as contemplated in subsection (5) and must forward a copy of the notification in the Provincial Gazette—Provincial Gazette.

49 Endorsements in connection with alterations, suspensions or removals of restrictions or obligations

(1) Upon notification of the approval of the application in the *Provincial Gazette* ~~Provincial Gazette~~ as contemplated in section 48(5)(a), the owner must, for purposes of the appropriate entries and endorsement, submit to the Registrar of Deeds—

- the original title deed;
- the original letter of approval; and
- a copy of the notification of notice in the *Provincial Gazette* ~~Provincial Gazette~~.

(2) The Registrar of Deeds concerned must, as soon as possible after the publication of the approval of the application in the *Provincial Gazette* ~~Provincial Gazette~~ as contemplated in section 48(5)(a), make, free of charge, such appropriate entries in and endorsements on any relevant register, title deeds, diagram or plan in its office or submitted to it as may be necessary to reflect the effect of the notice.

49A Application for the use or development of land that would conflict with a restrictive condition or a servitude

(1) The City may not grant an application ~~in terms of this By Law~~ for the use or development of land that would conflict with a restrictive condition or a servitude which is a condition of approval imposed in terms of this ~~By Law~~By-law, the Ordinance or the Townships Ordinance 33 of 1934.

(2) The City may grant an application contemplated in subsection (1) if it simultaneously grants applications to—

- amend or remove such condition of approval; and
- amend, suspend or remove such restrictive condition or servitude.

(2A) ~~A restrictive condition is not a law for purposes of the City's administration of this By-law or the National Building Act, if it is imposed otherwise than as condition of approval under this By-law, the Ordinance or the Townships Ordinance, 1934.~~

(3) ~~The City may grant an application in terms of this By-law or the National Building Act for the use or development of land, as the case may be, despite a conflict with a restrictive condition contemplated in subsection (2A). The City may grant an application in terms of this By-Law for the use or development of land that would conflict with a restrictive condition or a servitude which is not a condition of approval imposed in terms of this By Law, the Ordinance or the Townships Ordinance 33 of 1934.~~

(4) ~~Despite section 142(9), the amendment to this section in terms of the City of Cape Town: Municipal Planning Amendment By-law, 2025, is deemed to have come into operation on 3 February 2020.~~

[Section 49A inserted by s. 4 of City of Cape Town: Municipal Planning Amendment ~~By Law~~By-law, 2019]

Part 3
Consolidation
(ss 50–51)

50 Consolidation and construction of buildings

[Heading substituted by s. 1 (a) of City of Cape Town: Municipal Planning Second Amendment By-law, 2016]

(1) A person may not construct a building or structure that straddles the boundaries of two or more contiguous land units unless ~~the owners of the contiguous land units have~~

- ~~either the respective owners have taken legal steps to the City Manager's satisfaction, to ensure that such land units cannot be separately sold, leased, alienated or otherwise disposed of; or~~
- ~~the City has approved the consolidation of the land units.~~

[Sub-s. (1) substituted by s. 1 (b) of City of Cape Town: Municipal Planning Second Amendment By-law, 2016]

(2) An applicant who requires consolidation of land units must—

- (a) obtain the City's approval, unless the consolidation is exempt in terms of section 67;
- (b) submit a diagram for consolidation to the Surveyor-General for approval, who may approve the diagram in terms of the Land Survey Act, only if the City has granted approval in terms of this By-LawBy-law;
- (c) after the effective date of decision but before the City's approval lapses, obtain registration of the consolidation from the Registrar of Deeds in terms of the Deeds Registries Act.

(3) If the City approves a consolidation or exempts a consolidation in terms of section 67—

- (a) the applicant must, when submitting a diagram to the Surveyor-General for approval, include proof to the satisfaction of the Surveyor-General of—
 - (i) the City's decision to approve the consolidation or proof of exemption;
 - (ii) the City's any conditions of approval, if any; and
 - (iii) the approved the consolidation plan approved by the City;
- (b) the City must—
 - (i) amend the zoning map, and where applicable, the zoning register accordingly; and
 - (ii) notify the Surveyor-General.

(4) The City may not approve No a building plan may be approved in terms of section 7 of the National Building Regulations and Building Standards Act, in respect of a building or structure contemplated in subsection (1), until—

- (a) the consolidation or documentation arising out of the legal steps contemplated in subsection (1) has been registered; or
- (b) a conveyancer provides written proof that the consolidation or the documentation arising out of the legal steps has been lodged with the Registrar of Deeds for registration.

[Sub-s. (4) substituted by s. 1 (c) of City of Cape Town: Municipal Planning Second Amendment By-law, 2016]

51 Lapsing of consolidation

(1) Subject to subsection (2), an approved consolidation of land units lapses if the Registrar of Deeds does not register it within five years, after of the effective date of decision.

(2) If a consolidation of land units is approved as part of another application, the City may specify, as a condition of approval of the other application, that the consolidation lapses if the consolidation is not registered within the validity period of the other approval or a different specified period. applicant must obtain registration of the consolidation by the Registrar of Deeds within that the validity period of the other application failing which the consolidation will lapse.

(3) If an approval of a consolidation lapses—

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

Part 4

Subdivision

(ss 52-60)

52 Approval of subdivision

(1) No land may be subdivided without approval of the City in terms of this By-LawBy-law, unless the subdivision is exempt in terms of section 67.

(2) An application for approval of subdivision must be accompanied by a plan of subdivision showing ~~at least~~—

- (a) the location of proposed land units, public places and land needed for public purposes; and
- (b) the proposed zonings in respect of the proposed land units;
- (c) any other information relevant to the proposed subdivision.

(3) An applicant may apply for approval to implement a subdivision in phases.

(4) If the City approves the subdivision, the City ~~it~~ must—

- (a) impose any conditions of approval which the City ~~considers reasonable, as contemplated in~~ ~~under~~ section 100, which must include conditions relating to the provision of engineering services;
- (b) in the case of a phased subdivision—
 - (i) include in the conditions of approval, details of the phasing of the subdivision; and
 - (ii) require the owner to submit a separate general plan ~~or diagram~~ to the Surveyor-General for each phase; and
- (c) endorse a plan of subdivision which must be in accordance with the approved subdivision.

(5) Land ~~is deemed to be a confirmed subdivision if, that on the date of commencement of the Townships Ordinance, 1934 (Ordinance 33 of 1934) had been~~—

- (a) ~~the land was~~ laid out as a township or ~~had been~~ ~~was~~ subdivided by means of an actual survey into land units and public places; and
- (b) ~~the plan is registered in the office of the Surveyor-General concerned, is deemed to be a confirmed subdivision for the purposes of this By-Law except in so far as any portion thereof or any land unit therein is further subdivided or laid out.~~

(6) Subsection (5) does not apply in so far as any portion of land contemplated in subsection (5) or any land unit therein is further subdivided or laid out.

53 Approval of general plan or diagram by Surveyor General

(1) If the City approves a subdivision and has endorsed a plan of subdivision, the applicant must submit the general plan or diagram to the Surveyor-General for approval, including ~~and~~ proof to the satisfaction of the Surveyor-General of—

- (a) the decision to approve the subdivision or an indication on the plan of subdivision (contemplated in section 67(4)) that the subdivision is exempt from the approval requirement;
- (b) the endorsed plan of subdivision; and
- (c) the conditions of approval contemplated in sections 52(4)(a) and 52(4)(b).

(2) If the City approves a phased subdivision, the applicant must submit a general plan or diagram for each phase to the Surveyor-General for approval ~~in terms of the Land Survey Act.~~

54 Transfer of land unit arising out of approved subdivision

(1) No person may obtain transfer of a land unit or ~~a~~ certificate of registered title of a land unit arising out of an approved subdivision or phase of a subdivision approved by the City unless—

[Sub-s. (1) substituted by s. 10 (a) of City of Cape Town: Municipal Planning Amendment By-Law~~By-law~~, 2016]
[Sub-s. (1) substituted by s. 5 (a) of City of Cape Town: Municipal Planning Amendment By-Law~~By-law~~, 2019]

- (a) the Surveyor-General has granted the approval contemplated in section 53;
- (b) ~~the engineering services for the area or the approved phase of a subdivision on the approved general plan or diagram have been installed completely, where they are required by the conditions of approval, contemplated in section 52(4) and any other applicable legislation in respect of the area or the approved~~

~~phase of a subdivision on the approved general plan or diagram have been completely installed;~~

[Para. (b) substituted by s. 10 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

- (c) all other conditions of subdivision or the conditions relating to the approved phase of a subdivision on the approved general plan or diagram and all conditions precedent to the transfer of the land unit have been met; and

[Para. (c) substituted by s. 10 (c) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

- (d) where an owners' association is required—
 - (i) the City has certified the constitution of the association ~~(as contemplated in~~ under section 62(2));
 - (ii) the association has been or will be established upon transfer of the first land unit ~~(as contemplated in~~ under section 61(5)); and
 - (iii) all land designated in terms of the conditions of approval to be transferred to the owners' association, including private roads and private open space, arising from the subdivision or approved phase of a subdivision have been, or together with the transfer of the first land unit, will be transferred to the association, without compensation.

[Sub-para. (iii) substituted by s. 10 (d) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

- (2) No person may obtain transfer of a land unit arising out of an approved subdivision or certificate of registered title of a land unit, unless the City Manager has issued a transfer certificate contemplated in section 137.

[Sub-s. (2) substituted by s. 5 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (3) Where an owners' association is required, an applicant is guilty of an offence if the first land unit arising from a subdivision or an approved phase of a subdivision is transferred without all common property, including private roads and private open spaces originating from that subdivision, being transferred to the owners' association, and upon conviction is liable to the penalties contemplated in sections 133(2) and 133(3).

[Sub-s. (3) substituted by s. 10 (e) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

55 Confirmation of subdivision

- (1) ~~Within a period of five years after the effective date of decision, the~~An applicant for subdivision must, ~~within five years from the effective date of decision,~~ in respect of the approved general plan or diagram—
 - (a) meet all of the requirements in section 54(1); and
 - (b) obtain the registration of transfer in terms of the Deeds Registries Act of at least one land unit.

- (2) ~~Upon~~Compliance with subsection (1) confirms the subdivision or a phased part of the subdivision, the subdivision or phase of a subdivision is confirmed.

[Sub-s. (2) substituted by s. 11 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

- (3) Upon confirmation of a subdivision or part of itthereof—
 - (a) the subdivision or that part of it thereof cannot lapse;
 - (b) the zonings indicated on the approved subdivision plan are the zonings that apply to the land units arising from the subdivision or that part of it thereof;
 - (c) the zonings contemplated in paragraph (b) cannot lapse; and
 - (d) the City must, as soon as practicable, amend the zoning map and the zoning register.

- (4) No building or structure may be constructed on a land unit forming part of an approved subdivision unless—
 - (a) the subdivision or relevant part of it phased part thereof is confirmed; or
 - (b) the City approves the construction before confirmation under subsection (2) of the subdivision or part of it or phased part thereof is confirmed.

56 Lapsing of subdivision and extension of validity periods

(1) An approval of a subdivision or an approved part of it phase of subdivision lapses, if—

—

(a) the requirements of section 55(1) are not met; or—

(b) if only a portion of the general plan complies with sections 54(1)(b) and 54(1)(c), the approval for the subdivision or an approved phase of subdivision lapses.

(3) An applicant may apply in terms of and subject to the requirements of under section 107 for an extension of the period to comply with section 55(1).

(4) If an approval of a subdivision or an approved part of it phase of subdivision lapses—

—

(a) the zoning applicable to the land prior to before the granting of the approval of the rezoning to subdivisional area applies;

(b) the City must accordingly—

(i) amend the zoning map and, where applicable, the zoning register accordingly; and

(ii) notify the Surveyor-General accordingly;

(c) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the lapsing.

[S. 56 substituted by s. 12 of City of Cape Town: Municipal Planning Amendment By-law, 2016]

57 Land for public places and other uses

(1) When the City approves an application for subdivision, the The City may require an applicant may be required to provide land for public places, community facilities and engineering services when it approves an application for subdivision.

(2) The City must decide the extent of land required for public places is determined in accordance with the normal need arising from the subdivision or in accordance with a policy adopted by the City.

(3) The land required for parks or public open spaces must be provided within the land area concerned with relating to the application or may, with the consent of the City, be provided elsewhere within the municipal area.

(4) Where the application is approved without the required requiring the provision of land for parks or public open space, the City may require the applicant may be required to make payment of a monetary to pay an amount rather than provide in lieu of the provision of land for that purpose to the City.

58 Ownership of public places and land required for municipal engineering services and community facilities

(1) The ownership of all land designated as a public place on an approved plan of subdivision vests in the City upon confirmation of the subdivision or a part of it phased part thereof.

(2) All land which vests in the City as contemplated by subsection (1) must be registered in the name of the City at the cost of the applicant within a period of six months after confirmation of the subdivision or the phased portion thereof. The City must, in terms of section 31 of the Deeds Registries Act, seek registration of land that vests in it under subsection (1) in the City's name; and the applicant is liable for the costs.

(3) In terms of the conditions imposed in terms of section 100, the City may determine that land designated for the provision of municipal engineering services and, where relevant, community facilities on an approved subdivision plan be transferred to the City upon confirmation of the subdivision or a part thereof. The City may decide that land designated for the provision of engineering services and, where relevant, community facilities on an approved subdivision plan be transferred to the City—

(a) upon confirmation of the subdivision or a part of; and

(b) by imposing conditions under section 100.

(4) ~~Section 31 of the Deeds Registries Act applies to the transfer of the land to the City. The City must, in terms of section 31 of the Deeds Registries Act, seek registration of land that it decides must be transferred under subsection (3); and the applicant is liable for the costs.~~

(5) The City is not liable for compensation for—
(a) ~~the land referred to in subsection (1), if the City considers the provision of the public place to be a normal need arising from the subdivision or consistent with the policy referred to in section 57(2); or for~~
(b) ~~internal engineering services.~~
(6) ~~A person who fails to comply with subsection (2) is guilty of an offence and, upon conviction is liable to the penalties contemplated in sections 133(2) and 133(3).~~

59 Servitude in respect of services arising from subdivision

The owner of any land unit arising from a subdivision must, after the confirmation of a subdivision—

(a) without compensation, allow any service relating to the approval of the subdivision to be conveyed across or installed on the land unit in the manner and position that the City or ~~an~~ organs of state from time to time reasonably requires. The services include—
(i) gas mains;
(ii) electricity infrastructure;
(iii) telephone cables;
(iv) television cables;
(v) internet cables;
(vi) other electronic infrastructure;
(vii) main and other water pipes;
(viii) sewers;
(ix) storm water pipes;
(x) ditches and channels; and
(xi) surface installations such as mini-substations, meter kiosks and service pillars;
(b) allow access to the works contemplated in paragraph (a) on the land unit at any reasonable time including for the purpose of constructing, altering, repairing, maintaining, removing or inspecting the works; and
(c) receive such material or permit such excavation on the land unit ~~necessary for as may be required to allow use of the full width of an abutting street and provide a safe and proper slope to its bank because of a necessitated by~~ differences between the level of the street as finally constructed and the level of the land unit, unless the owner elects to build retaining walls to the satisfaction of and within a period determined by the City.

60 Amendment or cancellation of plan of subdivision

(1) The City may approve an application for the amendment, cancellation or partial cancellation of an approved plan of subdivision, diagram or general plan of—
(a) a subdivision which has not been confirmed; or
(b) a confirmed subdivision, in relation to land units shown on the general plan in respect of which no transfer has been registered in terms of the Deeds Registries Act.
(2) ~~Prior to approving an application in respect of a confirmed subdivision, any affected A public place indicated on a plan or diagram or general plan, must be closed in terms of the applicable legislation before the City may approve an application in respect of a confirmed subdivision.~~
(3) If an application contemplated in this section is approved—

- (a) the applicant must submit the amended or cancelled plan or diagram to the Surveyor-General to give effect to the amendment or cancellation;
- (b) the applicant is liable for any expenditure resulting from the amendment or cancellation incurred by the City in respect of land that must be retransferred to or that reverts to the owner of the remainder of the land;
- (c) after the subdivision or part thereof has been confirmed, any public place which has been closed must be given a deemed zoning or rezoned to an appropriate zoning; and
- (d) the City must amend the zoning map and zoning register accordingly.

Part 5
Owners' association
(ss 61-63)

61 Establishment and operation of an owners' association

(1) The City may, when approving an application for subdivision, require the applicant to establish an owners' association for an area determined in the conditions of approval.

(2) ~~The City may impose the requirement in subsection (1) may be imposed~~ only if the applicant satisfies the City that the owners' association is likely to have the financial resources to maintain the private open space, private roads and other internal engineering services and amenities arising from the subdivision.

(3) The owners of land units arising from the subdivision become members of the owners' association upon taking transfer of the land unit and may not resign from the owners' association.

(4) No person may apply to the Registrar of Deeds for registration of, and the Registrar of Deeds may not register, a land unit arising from the subdivision without the consent of the owners' association, which consent may not be unreasonably withheld.

(5) An owners' association—

- (a) comes into existence upon the transfer of the first unit arising from the subdivision or part thereof;
- (b) is a juristic person, has perpetual succession and is capable of suing and of being sued;
- (c) has as its members all the owners of land units in the association's area who are jointly liable for the expenditure incurred in connection with the association; and
- (d) must recover expenditure incurred in connection with the association from its members.

(6) The applicant for approval of subdivision must call the first meeting of the owners' association within 60 days of the transfer of ~~at least~~ 60% of the land units arising from the subdivision or within two years of the transfer of the first land unit, whichever is the earlier.

(7) An applicant, who contravenes subsection (6), is guilty of an offence and upon conviction is liable to the penalties contemplated in sections 133(2) and 133(3).

(8) Members of an owners' association must at the first meeting of the association elect the trustees of the association.

(9) The applicant for approval of subdivision must, within 60 days of the first meeting of the owners' association, notify the City that the meeting has taken place and provide the City with a copy of the minutes of the meeting.

(10) A ~~home~~ owners' ~~homeowners'~~ association, established in terms of a previous planning law, and which exists at the commencement of this By LawBy-law is deemed to be an owners' association established in terms of this By LawBy-law.

62 Constitution of an owners' association

(1) An owners' association must have a constitution which—

- (a) must at least provide for—

- (i) the association to act in accordance with the collective mutual interests of its members;
- (ii) the control, administration and management of private open space, private streets and other services and amenities arising from the subdivision and buildings on land under the association's control for the benefit of all members;
- (iii) the association's ownership of private open space, private streets and internal engineering services arising out of the subdivision concerned;
- (iv) the obligation to enforce certain conditions of subdivision approval or management plans listed in the conditions;
- (v) the matters in section 61(5);

[Sub-para. (v) substituted by s. 13 of City of Cape Town: Municipal Planning Amendment ~~By Law~~^{By-law}, 2016]

- (vi) where relevant, any further development which must form part of the association and the procedures for incorporating the development;
- (vii) the regulation of at least one yearly meeting of its members;
- (viii) the prohibition of the transfer of a land unit arising from the subdivision, unless the consent of the association ~~consents~~ has been obtained, and the grounds upon which such consent may be refused;
- (ix) arrangements for the transfer of a land unit ~~in the event that if~~ the association ceases to function; and
- (x) the association's implementation and enforcement of the provisions of subparagraphs (i) to (viii);

(b) may also provide for—

- (i) the control, administration and management of design guidelines for buildings and landscaping on land units arising from the subdivision, provided that design guidelines may not introduce more restrictive development rules or land uses than provided for in the development management scheme;
- (ii) financial penalties for a member who fails to comply with a provision of the constitution; and
- (iii) any other matter determined by the association which does not conflict with this ~~By Law~~^{By-law} or any other law.

(2) The City must certify that ~~whether the relevant parts of~~ the constitution of an owners' association ~~complies~~ ^{comply} with subsection (1)(a).

(3) The constitution of an owners' association, as certified by the City, is deemed to be the constitution of the owners' association and comes into force upon the transfer of the first land unit arising from the subdivision.

(4) The constitution of an owners' association may be amended in accordance with the ~~its provisions of the constitution~~, provided that an amendment concerning a matter ~~content referred to~~ in subsection (1)(a) becomes effective ~~operative~~ only when certified by the City certifies that content as compliant with subsection (1)(a).

(5) The constitution of an owners' association and any amendment thereof must be lodged with the City and ~~the version~~ of a constitution ~~in the City's records~~ is presumed to constitute ~~contain~~ the latest and operative version ~~provisions~~ of the constitution ~~content referred to~~ in subsection (1)(a).

(6) The City is exempt from liability for any damage which may be caused by its certification of a constitution of an owners' association or an amendment thereof or by the loss of a constitution lodged with the City...

(7) The owners' association must enforce the provisions of its constitution.

63 Owners' association which fails to meet an obligation or ceases to function

(1) If an owners' association fails to meet an obligation in section 61(5)(d) or section 62(1)(a)(ii) and the City believes that the community is adversely affected by the failure, the City may take appropriate action to rectify the failure ~~of an owners' association to meet~~

an obligation under section 61(5)(d) or section 62(1)(a)(ii), if the City believes that the failure adversely affects the members of the association.

(2) The City may recover any expenditure in respect of the action contemplated in subsection (1) from the owners' association or its members, who are jointly liable.

(3) The amount of any expenditure so recovered is considered to be expenditure incurred in connection with the owners' association for the purposes of section 61(5)(d). Any expenditure so recovered is expenditure incurred under section 61(5)(d).

(4) If an owners' association ceases to function effectively or to carry out its obligations, the City may give the association a binding instruction to—The City may instruct an owners' association that ceases to function effectively or to carry out its obligations to—

- (a) hold a meeting and to reconstitute itself; or
- (b) dissolve itself, subject to the amendment of the conditions of approval relating to an obligation to establish an owner's association and the removal of relevant provisions in the title deed.

(5) In determining whether to act in terms of subsection (4)(a) or (4)(b), the City must have regard to—For subsection (4), the City must consider—

- (a) the purpose of the association;
- (b) who the persons who will take over the maintenance of any internal engineering and other services, and other for which the association is responsible for, if at all;
- (c) the estimated costs of upgrading the internal engineering services and other infrastructure, if the City is/were to take over the infrastructure;
- (d) the impact of the dissolution of the association on its members and the community members of the association; and
- (e) any written representations from the association and its members.

(6) If the association is dissolved, the members must jointly pay the costs of—

- (a) the transfer to the City of the association's property which contains the internal engineering services and private open spaces;
- (b) the upgrading of the internal engineering services to the standards of the City.

(7) In the event that the owners' association has ceased to function and its constitution does not provide for an owner who wishes to transfer a land unit in that event, the owner must obtain the consent of at least 60% of the members of the association, which consent is deemed to be the consent of the owners' association unless the constitution provides for another procedure. An owner must obtain the consent of at least 60% of the members of the association, to transfer a land unit, if the owners' association ceases to function and its constitution does not provide for consent to transfer in those circumstances.

(8) In the event that an owners association provided for in the conditions of subdivision has a constitution approved by the City or a restrictive condition imposed by the City in favour of the owners association which provides that an erf may not be sold or transferred without obtaining the written prior written consent of the owners association, but has never been established or has never functioned, the City may grant consent for the transfer of an erf, if the owner satisfies the City that the owners association has never been established or never functioned and the owners association is not required to maintain any engineering services or private areas. The City may grant written consent for the sale or transfer of a land unit if—

- (a)- the consent of an owners' association is required by—
 - (i)- a restrictive condition imposed by the City in favour of the owners' association; or
 - (ii)- a City-approved constitution of an owners' association, which association is provided for in the conditions of subdivision; and
- (b)- the owner satisfies the City that an owners' association does not need to maintain any engineering services or private open spaces and—
 - (i) was never established or never functioned; or

(ii) has stopped functioning and cannot issue the necessary certificate.
(9)- Subsection (8) does not prevent the owner from approaching a competent court for relief.

Part 6
Engineering services
(ss 64-66)

64 Definitions in this Part

In this Part, unless the context indicates otherwise—

'bulk engineering service' means an engineering service required to provide an engineering service to multiple users in the municipal area and includes the land required for the bulk engineering service;

'external engineering service' means an municipal engineering service situated outside the boundaries of a land area, required to serve the use and development of the land area, and is either a bulk engineering service or a link engineering service;

'internal engineering service' means an engineering service situated within the boundaries of a land area required for the use and development of the land area and which is to be owned and operated by the City or a service provider or an owners' association and may include a bulk engineering service or a link engineering service means an engineering service, including a bulk engineering service or a link engineering service—

- (a) required for the use and development of a land area;
- (b) situated or to be situated on that land area; and
- (c) to be owned and operated by the City, a service provider or an owners' association; and

'link engineering service' means an engineering service required to connect an engineering service, situated within the boundaries of a land area, to a bulk engineering service and includes the land required for the link engineering service.

65 Responsibility for engineering services

(1) The City is responsible for the—

- (a) provision of an external engineering service; and
- (b) installation of a bulk engineering service, if it is installed when planned according to the City's service master plans and capital budget.

(2) An applicant is responsible for the—

- (a) provision and installation of an internal engineering service;
- (b) installation of a link engineering service, unless otherwise agreed with the City in writing; and
- (c) installation of a bulk engineering service if the land development requires the installation of the bulk engineering service other than in accordance with the applicable service master plan or capital budget of the City, and if the City in the conditions of approval requires the applicant to perform the installation.

(3) If necessary to maintain the functionality of the City's long-term plans, the City may require an applicant, when installing a bulk engineering service or a link engineering service, to install a service in excess of the capacity of service required for the land development.

(4) Subject to subsection (5), the City must set off from the applicant's development charge liability the fair and reasonable costs to the applicant of installing the following, when required by the City to do so—

- (a) the portion of a link engineering service in excess of the capacity of service required for the land development; and
- (b) a bulk engineering service.

(5) An applicant is liable for the full costs of installing all bulk engineering services and link engineering services, to meet the capacity of service required for the land development, even if the costs exceed the total development charges for all phases of the development.

(6) If the City is not the provider of a bulk engineering service or a link engineering service, the applicant must satisfy the City that the applicant has made adequate arrangements ~~have been made~~ with the relevant service provider or sphere of government for the provision of that service.

(7) An applicant must ensure that the design of a bulk engineering service or a link engineering service, to be installed by the applicant—

- (a) accords with the City's guidelines, design manuals, engineering practices and approved policies;
- (b) meets the standard and capacity required by the City; and
- (c) is approved in writing by the City before the engineering service is installed.

(8) If the City requires the applicant to install a bulk engineering service or a link engineering service, the applicant may not commence installation until the applicant has concluded an engineering services agreement with the City.

(9) The construction and installation of engineering services must be in accordance with plans and specifications which the applicant submitted to the City for the development or for each phase of the development and, if applicable, in accordance with the engineering services agreement.

(10) An applicant may install internal engineering services and external engineering services in phases, provided that—

- (a) such phasing is made a condition of approval; and
- (b) the installation must be done in accordance with an approved phasing plan.

(11) The City may grant an exemption from the installation of engineering services in accordance with a policy approved by the Municipal Council or in accordance with applicable legislation.

66 Development charge

(1) The applicant must pay a development charge to the City in respect of the provision and installation of bulk engineering services and link engineering services in accordance with a policy adopted by the City.

(2) The City may grant an exemption or rebate from the payment of development charges in accordance with a policy approved by the Municipal Council or in accordance with applicable legislation.

(3) The development charge is subject to annual escalation as provided for in the approved policy.

Part 7

Exemption of certain subdivisions and consolidations from the need for approval

(s 67)

67 Exemption of certain subdivisions and consolidations from the need for approval

(1) Subject to subsection (5), the subdivision or consolidation of land units does not require approval in terms of this ~~By Law~~By-law, if it arises from—

- (a) the implementation of a court order;
- (b) an expropriation;
- (c) an amendment of the common boundary between two or more land units, if the resulting change in area of any of the land units is ~~not more than 10% or less~~;
- (d) the survey of closed streets or public open spaces in order to consolidate them with an abutting land unit;
- (e) construction or alteration of a public road or a public street;
- (f) the need to transfer land units to the City or an organ of state in terms of the Deeds Registries Act for municipal or government purposes;
- (g) the registration of a servitude or lease for the provision or construction of—

- (i) an engineering service or other service₁ provided by or on behalf of the state or a service provider₁ including communication infrastructure and pipelines;

[Sub-para. (i) amended by s. 14 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

- (ii) an encroachment into a road reserve;

[Sub-para. (ii) substituted by s. 6 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (iii) an municipal engineering service;

[Sub-para. (iii) substituted by s. 6 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (iv) the imposition of height restrictions;

[Sub-para. (iv) inserted by s. 14 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

- (v) the granting of a right of habitation, private right of way or usufruct;

[Sub-para. (v) inserted by s. 14 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

[Sub-para. (v) substituted by s. 6 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (vi) bore-hole or waterpipe;

[Sub-para. (vi) inserted by s. 14 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

[Sub-para. (vi) substituted by s. 6 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (vii) the granting of a right of way₁ provided₁ that it is located further than 30m from a common boundary to adjoining land, unless such₁ that adjoining land is owned by a beneficiary to₁ of the servitude or lease;

[Sub-para. (vii) inserted by s. 6 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (viii) provision of parking as contemplated in item 138; or

[Sub-para. (viii) inserted by s. 6 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (ix) a reservoir or dam more than 30m away from a common and street boundary₁; or

[Sub-para. (ix) inserted by s. 6 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (x) a private sewer, treatment works, storm water or water servitude.

- (h) an existing state- or City-owned housing scheme₁ whose purpose is₁ in order to make ownership of individual land units possible;

- (i) a consolidation of land required in terms of a condition of approval imposed in terms of the Ordinance prior to this By-Law coming into force;

[Para. (i) inserted by s. 14 (c) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

- (j) the consolidation of land units₁ where an existing building₁ constructed in terms of approved building plans and in accordance with such plans₁ straddled the boundaries of two or more contiguous land units prior to the commencement of this By-law;

[Para. (j) inserted by s. 14 (c) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

- (k) the cession of land to the City for inclusion into a road reserve.

[Para. (k) inserted by s. 2 of City of Cape Town: Municipal Planning Second Amendment By-law, 2016]

(2) Subject to subsection (5), the City may, by notice in the Provincial Gazette Provincial Gazette, exempt any other type of subdivision application from the need for approval in terms of this By-LawBy-law, if the exemption does₁ will not adversely affect the rights or legitimate expectations of any person.

(3) Subject to subsection (4), the City may, on application, exempt a subdivision from the need for approval in terms of this By-LawBy-law, if exceptional circumstances exist and if the exemption does₁ will not adversely affect the rights or legitimate expectations of any person.

(4) The City must endorse on the plan of subdivision that a subdivision is exempt from the need for approval in terms of this By-LawBy-law.

(5) The exemptions in subsection (1) and the power to exempt in subsection (2) do not apply—

- (a) if a rezoning or any other land use approval in terms of this By-LawBy-law is required;

- (b) when engineering services must be moved as a result of a subdivision or consolidation; or

[Para. (b) substituted by s. 6 (b) of City of Cape Town: Municipal Planning Second Amendment By-law, 2019]

(c) if the subdivision is required to create individual land units for new housing.

Part 8

Emergency housingTemporary disaster housing and urgent housing (ss 68-69)

68 EmergencyTemporary disaster housing

(1) In this section, unless the context indicates otherwise, 'emergencytemporary
disaster housing' means temporary housing required for households—

- (a) whose homes are uninhabitable as a result of a disaster situation caused by rain, flood, wind, fire, earthquake, accident or other circumstance sufficient in nature and scale to result in widespread homelessness; and
- (b) where the damage or threat to the homes cannot be rectified without temporary relocation and the households cannot be rehoused on site during the rectification.

(2) The City may permit a deviation from the substantive or procedural requirements in this By-law, in whole or in part, with or without notice to a person or the public whose rights or legitimate expectations will be materially and adversely affected by the deviation if—

- (a) the City identifies a need for temporary disaster housing on land, for which the owner has provided written consent, or on City-owned land;
- (b) the use of the land for that purpose is inconsistent with the land's use rights;
- (c) the City decides that the circumstances warrant the deviation; and
- (d) a deviation from a procedural requirement is reasonable and justifiable.

(3) In deciding whether a deviation from a procedural requirement contemplated in subsection (2) is reasonable and justifiable, the City must consider all relevant factors, including—

- (a) the objects of this section;
- (b) the nature and purpose of, and the need to permit, the deviation;
- (c) the likely effect of the deviation;
- (d) the urgency of permitting the deviation or the urgency of the temporary disaster housing; and
- (e) the need to promote an efficient administration and good governance.

(4) The City may not deviate for longer than 12 months, subject to subsection (8).

(5) The City must publish a decision under subsection (2) in the *Provincial Gazette* and on the City's website with the following information—

- (a) the provisions of this By-law, from which deviation has been permitted;
- (b) the reasons for the deviation;
- (c) the period for which the deviation will be in force; and
- (d) if there is no, or limited, public participation before the deviation was permitted, the reasons why such a process was not followed or was limited.

(6) The deviation does not exempt a person using land for temporary disaster housing from their duty to comply with other applicable laws.

(7) Despite section 105, an approval under subsection (2) is effective immediately and is not suspended by an appeal, the non-expiry of the time for an appeal or the non-payment of an administrative penalty.

(8) The City may extend the period of deviation for up to 6 months before the period expires, and it must publish its intention to extend the deviation; section 107 does not apply to this section.

(9) The City must request the Provincial Minister to authorise a deviation from the Land Use Planning Act under section 60(2) of that Act.

(2) If the City identifies a need for the establishment of emergency housing on land which is not zoned for the purpose, the City may approve the commencement of a process to declare the land to be an emergency housing site.

(3) The City may approve the commencement of a process to declare the land to be an emergency housing site only if it is satisfied that basic water and sanitation services can be provided to the site and with the consent of owner of the land if the City is not the owner of the land.

(4) The City must advertise its intention to establish an emergency housing site in accordance with the requirements of the Municipal Systems Act and any applicable City policy.

(5) The notice must contain at least the following information—

- (a) a description of the land and the physical address of the land;
- (b) the reason for declaring the land to be an emergency housing site;
- (c) that the City intends to suspend the zoning applicable to the land for a period of 90 days to allow the land to be used for emergency housing which would otherwise be in contravention of the development management scheme;
- (d) details of where and when particulars of the matter are available for inspection;
- (e) an invitation to members of the public to lodge with the City written comment or objection with reasons;
- (f) details of the procedure for that person to submit written comment and the date by when it must be lodged (which may be no less than 10 days after the publication of the notice);
- (g) a statement that no late comment or objection will be considered; and
- (h) a statement that any person who cannot write may come during office hours to a stated place where an authorised official will assist that person by transcribing that person's comment or objection and reasons.

(6) To the extent necessary, the City must request the Provincial Minister for authorisation in terms of section 60(2) of the Land Use Planning Act to deviate from the provisions of that Act.

(7) After considering any timeous comments, the City may declare the land to be an emergency housing site and suspend the zoning applicable to the land for a period of up to 90 days to allow the land to be used for emergency housing.

(8) A declaration contemplated in subsection (7)—

- (a) must be published by the City in the Provincial Gazette within 48 hours;
- (b) means that the use of the land for emergency housing will be regarded as consistent with this By-Law; and
- (c) does not exempt a person using land for emergency housing from their duty to comply with all other applicable law.

(9) After following a process which complies with the provisions of this section, the City may extend the declaration contemplated in subsection (7) for a further period of up to 90 days.

69 Urgent housing

(1) Subject to subsection (2), the City may declare an application for the establishment of housing to be an urgent housing application.

(2) The City may declare an application to be an urgent housing application only if—

- (a) the application relates to government-subsidised housing; and
- (b) the land concerned is either—
 - (i) designated for government subsidised housing in terms of the integrated development plan, the municipal spatial development framework, a district spatial development framework or a local spatial development framework; or
 - (ii) subject to an established high demand for government subsidised housing and a low supply of housing opportunities.

(3) The City may to the extent necessary exempt the applicant from a procedural requirement or shorten a time period provided for in this By-Law, provided that the

procedure must still comply with the provisions of applicable legislation dealing with advertising.

(4) To the extent necessary, the City must obtain authorisation from the Provincial Minister in terms of section 60(1) of the Land Use Planning Act to deviate from the provisions of that Act in the processing of an urgent housing application.

CHAPTER 6A **POWERS AND FUNCTIONS OF THE DEPARTMENT** **(ss 69A)**

69A Powers and functions of the Department to promote lawful development

(1) The Department must exercise its powers to promote lawful decision-making in respect of an application.

(2) The Department's functions in promoting lawful development include —

- (a) to advise a person contemplating, engaged in, or having undertaken, the use or development of land and an applicant —
 - (i) about compliance with applicable law and policy;
 - (ii) on the requirements of an application;
 - (iii) on the correct procedures governing an application; and
 - (iv) on rectification options for lawful use and development.
- (b) on request, to advise someone other than a person contemplated in paragraph (a) of any right to procedural fairness in relation to an application;
- (c) to make recommendations to the Municipal Planning Tribunal, appeal authority and, on request, any other department within the City on planning matters; and
- (d) to advise a prospective appellant or commenter on an appeal about the correct procedure on appeal.

(3) An official authorised under section 114(1)(b) to decide an application must remain impartial, and they may not give advice under subsections (2)(a) or (b) in connection with an application before them.

(4) The basic values and principles governing public administration, in terms of section 195 of the Constitution, apply to the Department.

CHAPTER 7. **GENERAL PROCEDURES FOR ALL APPLICATIONS** **(ss 70-113)**

Part 1 ***Making an application*** **(ss 70-78)**

70 Pre-application consultation

(1) The City may require an applicant to consult with an authorised official prior to submitting an application in terms of this By-Law in order to determine among other things the — The City may require an applicant to consult with an authorised official before making application in terms of this By-law, to determine —

- (a) which information which must be to submitted with the application;
- (b) the nature of the public notification to be carried out in accordance with Chapter -7;
- (c) which investigations which must be carried out;
- (d) further applications required in terms of this By-LawBy-law or another other relevant law;
- (e) the sequence in which the applications should be processed;

- (f) whether to combined advertising of different applications required in terms of different laws;
- (g) the engineering services required and the need to liaise with other organs of state for services regarding engineering services;
- (h) whether liaising with required with other organs of state is necessary in order to for aligning procedures for processing applications in terms of different legislation; and
- (i) consideration of whether a package of plans approach, as contemplated in item 136 of schedule 3 of this By-LawBy-law, is to be followed; and.
[Para. (i) substituted by s. 15 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]
- (j) any other matter relevant to the application, not limited to procedural matters.

(2) The City Manager may prescribe requirements to determine decide whether an application requires pre-application consultation, the nature of the information that is required, the procedures to be followed and the time periods within which such meetings must take place.

(3) An applicant may in writing request a pre-application consultation.

(4) The City must keep a record of a pre-application consultation.

71 Information required

- (1) An application must be accompanied by at least—
 - (a) the prescribed application form completed and signed by the applicant and owner, where the applicant is not the owner;
 - (b) the following authority—
 - (i) if the applicant is not the owner of the land, a power of attorney signed by the owner and the owner's contact details;
 - (ii) if the owner is a company, close corporation, trust, body corporate or an owners' association, proof that the applicant is authorised to act on behalf of the owner;
 - (iii) if the owner is a close corporation or company, proof that a close corporation or company has not been deregistered and is not in the process of being deregistered;
 - (iv) if the owner is a trust, a copy of the Trust Deed; and
 - (v) the consent of any mortgage bond holder, if any, in respect of an application prescribed by the City Manager;
 - (vi) the name of the representative with whom, and the method by which, the City will liaise and whom it will notify, and the method of communication;
 - (c) proof of payment of all fees in respect of the application;
 - (d) if pre-application consultation has taken place, the record of the pre-application consultation proceedings;
[Para. (d) substituted by s. 16 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]
 - (e) a full copy of the title deed and, if required by the City Manager, a conveyancer's certificate indicating that there are no restrictive conditions relating to the application;
 - (f) a locality plan, layout plan or plan depicting the proposed development in its cadastral context;
 - (g) a copy of the Surveyor-General's diagram of the subject property or extract from the approved general plan;
 - (h) written motivation for the application based on the criteria for decision and information to support such motivation;
 - (i) the information required in the pre-application consultation;
[Para. (i) substituted by s. 16 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]
 - (j) sufficient information as required in terms of the City's approved Development Charge policy;

- (k) any additional information that the City Manager prescribes in relation to that type of application;
- (l) any additional information that the City Manager calls for in relation to that particular application;
- (m) in the case of an application for the subdivision of land, the subdivision plan showing the following—
 - (i) location of the proposed land units;
 - (ii) proposed zonings in respect of the proposed land units;
 - (iii) public places;
 - (iv) existing structures;
 - (v) existing and proposed access points;
 - (vi) servitudes;
 - (vii) contours with at least a 1m interval or such interval as the City Manager may prescribe;
 - (viii) existing external engineering services;
 - (ix) any significant natural features;
 - (x) ...

[Sub-para. (x) deleted by s. 7 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (xi) scale of the plan; and
- (xii) the proposed names and numbers of streets;

- (n) any other information that may be prescribed.

(2) If a subdivision is to be implemented in phases, the subdivision application must be accompanied by a phasing plan showing—

- (a) the proposed timeline for the completion of the entire subdivision;
- (b) how the subdivision will be implemented and what engineering services must be in place before a certificate contemplated in section 137 may be granted;
- (c) that the engineering services for each phase will be able to function independently and in sequence;
- (d) the links in engineering services to the next phase;
- (e) proposed measures to avoid or mitigate any adverse impact on adjoining land units or proposed land units not located within the phase to be developed; and
- (f) a map indicating—
 - (i) the proposed subdivision which clearly marks, in bold lines, the boundaries of each proposed phase;
 - (ii) each phase labelled alphabetically; and
 - (iii) the roads, land units, open spaces, internal engineering services and external engineering services that the applicant will provide for each phase.

(3) If an application for subdivision requires a servitude over land which does not belong to the applicant, the applicant must provide a copy of a written agreement with the owner of the land over which the servitude will be registered. An applicant must provide a copy of a written agreement with the owner of adjoining land for the creation of a servitude, which the subdivision would necessitate.

(4) If an owners' association is to be established, the applicant must provide an indication of the financial costs of the maintenance of the private open spaces, private streets and internal engineering services and amenities for the owners' association. If an owners' association is to be established, the applicant must indicate the financial costs for maintaining private open spaces, private streets and internal engineering services and amenities for the owners' association.

(5) An application must comply with any information specification of by the City Manager in respect of for that particular application or that type of application, relating to matters such as size, scale, colour, number of hard copies, electronic format and file format.

(6) The City Manager may in writing waive any information requirement for a particular application or a type of application.

72 Application fee

(1) Before submitting an application, a An applicant must pay the required application fee.

(2) The City may refund an application fee only if permitted by the City's Tariff, fees and charges book.

73 Refusal to accept an application

(1) The City must refuse to accept an application if—

- (a) a pre-application consultation is required but has not taken place;
- (b) the City has not received the application fee;
- (c) the application does not comply with an information specification or lacks necessary information required in terms of section 71; or

[Para. (c) substituted by s. 8 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]

- (d) ~~in the City's opinion, a materially similar application was refused within the previous six months (other than by way of a deemed refusal contemplated in section 75(4)) and there has been no relevant change in law or policy or the factual considerations upon which the decision to refuse was based have not changed~~the City refused a materially similar application during the last six months, except a refusal under section 75(4) or 103, and in the City's opinion—
 - (i) there has been no relevant change in law or policy; or
 - (ii) the factual basis for refusing the earlier application has not changed materially.

(2) The City may refuse to accept an application, if the application it is not accompanied by an application for any another approval required in terms of this By LawBy-law.

(3) The City must provide reasons when it refuses to accept an application under subsection (1) or (2).

(4) The City may close the application and notify the applicant in writing, if the applicant does not address the reason(s) for refusal under subsection (3) within 60 days or such further period as agreed with the City Manager.

(5) If the City closes the application—

- (a) the application is deemed to be refused;
- (b) there is no appeal; and
- (c) the applicant may submit a new application and must pay a new application fee.

74 Acceptance of application and call for additional information

If the City accepts the application, the City Manager must—

- (a) acknowledge receipt of the application;
- (b) within 7 days after acknowledgement of receipt of the application, or such further period as may be agreed in writing with the City Manager either—

[Para. (b) substituted by s. 1 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2017]

- (i) call for additional information or fees; or
- (ii) notify the applicant that the application is complete.

[S. 74 substituted by s. 9 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]

75 Additional information

(1) The applicant must, within 20 days or such further period as agreed with the City Manager, provide the City with any additional information which that the City Manager calls for.

[Sub-s. (1) substituted by s. 2 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2017]

(2) If the applicant provides additional information or fees which the City Manager considers inadequate or non-compliant with an information specification, the City Manager may within 7 days or such further period as may be agreed, in writing either—

[Sub-s. (2) substituted by s. 3 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2017]

- (a) again call for additional information or fees again; or
- (b) notify the applicant that the application is has been closed, in which event subsection (4) applies.

(3) If the applicant does not timeously provide the additional information and does not timeously request the City Manager to make a determination as contemplated in subsection (5), the City may close the application and notify the applicant in writing. The City may close the application and notify the applicant accordingly in writing if the applicant does not—

- (a) timeously provide the additional information; or
- (b) within 21 days of the call for information, dispute that the additional information is necessary and request the City Manager to determine the dispute.

(4) If the City closes the application—

- (a) the application is deemed to be refused; and
- (b) the applicant may submit a new application and must pay a new application fee.

(5) If the applicant disputes that the additional information is necessary, the applicant may, within 21 days of the call for information, request the City Manager to make a determination...

76 Complete application

(1) An application is complete if the City has received the application fee, all information necessary for the City to assess the application and the information submitted is compliant with all information specifications.

(2) Within 7 days after receipt of any additional information which the City Manager called for and considers adequate and compliant with all information specifications, the City Manager must notify the applicant in writing that the application is complete. The City Manager must notify the applicant in writing that the application is complete, within 7 days of receipt of any additional information requested, if in the City Manager's opinion the application is compliant with all information specifications.

[Sub-s. (2) substituted by s. 4 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2017]

(3) The date that an application is complete is regarded as the date of submission.

77 Withdrawal of application

(1) An applicant may, at any time prior to a decision being taken, withdraw an application on written notice to the City.

(2) If an applicant withdraws their application—

- (a) the application fee is not refundable; and
- (b) the applicant must submit a new application to proceed with the application.

78 Duties of an applicant

(1) An applicant must ensure that—

- (a) no misrepresentation is made to the City;
- (b) the City is not misled;
- (c) all information furnished to the City is accurate; and
- (d) the application does not wilfully omit any relevant information
 - (i) required by this By-law;
 - (ii) called for by the City; or
 - (iii) which the applicant knows, or ought reasonably to know, the City needs to make an informed decision; and

(e) when submitting a building plan in terms of the National Building Act or any building by-law, the proposed uses depicted on the building plan are the uses to which the building will be put.

(1A) A person who applies for rectification under Chapter 8A of an existing use or development may not misrepresent the current use or development.

(2) A person who contravenes subsections (1)(a) or (1)(b) or (1A) is guilty of an offence and upon conviction is liable to the penalties contemplated in sections 133(2) and 133(3).

[Sub-s. (2) substituted by s. 10 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

Part 2
Notice and comment
(ss 79-95)

79 Notice of application

(1) The City must, in accordance with the requirements of this Part, cause notice to be given of its intention to consider an application.

(2) Subject to sections 80, 81 and 82, the City may require the use of, or use any one or a combination of, these methods of notice—

- (a) ~~publish publication of~~ a notice in the media as contemplated in section 81;
- (b) ~~serve service of~~ a notice to a person as contemplated in section 82;
- (c) ~~serve service of~~ a notice of no objection as contemplated in section 84.

(3) The City may, in addition to the methods contemplated in subsection (2), require the applicant to display a site notice, which must—

- (a) ~~be laminated and of a size of at least 60 cm by 42 cm; be laminated and at least A3 in size (297mm by 420mm);~~
- (b) be displayed on every boundary of the land unit or units concerned which abuts a street or at any other conspicuous place on the unit or units which the public is likely to see;
- (c) be displayed for a period and from a date set by the City Manager, which may not be less than 30 days; and
- (d) be replaced if it is damaged or removed during the notification period.

[Sub-s. (3) substituted by s. 17 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

(4) ~~Where an applicant gives notice, the applicant must give the City proof of having given notice under subsection (3) provide proof to the City within seven days of giving notice.~~

(5) ...

[Sub-s. (5) deleted by s. 11 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

80 Content of notice

(1) Any notice which is given regarding of an application must contain the following information—

- (a) details of the applicant and the owner of the land unit, (if different from the applicant);
- (b) a description and physical address of the land unit;
- (c) the purpose of the application to which the notice relates;
- (d) details of where and when particulars of the application may be inspected of which notice is given are available for inspection;
- (e) an invitation to members of the public to lodge with the City written comment or objection with reasons;
- (f) details of the procedure for a person to submit written comment or objection and the date by when it must be lodged, (which date may not be a date less sooner than 30 days from the date of the notice);
- (g) a statement that no late comment or objection will be considered unless the City Manager has agreed to it in writing; and

(h) a statement that any person who cannot write may come during office hours to a stated place where an authorised official will assist that person by transcribing that person's comment or objection and reasons.

(2) The notice must require a person providing written comment or objection to provide the details contemplated in section 90(5).

81 Notice in the media

(1) ~~...The City Manager must cause notice to be given in the media of the City's intention to consider an application listed in section 43 of the Land Use Planning Act.~~
[Sub-s. (1) substituted by s. 18 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

(2) The City Manager may prescribe any other type or category of application that requires the publication of a notice in the media.

(3) A notice in the media contemplated in subsection (1) or (2) must be published—
(a) in accordance with section 21 of the Municipal Systems Act in at least two of the official languages of the Province most spoken in the area concerned; ~~or~~
(b) ~~if publication as contemplated in paragraph (a) is considered to be ineffective, through other effective means, which may include announcements through a loudhailer, publication on websites or community notice boards, or communication through email lists or social media.~~

82 Notice to a person

(1) ~~...The City Manager must cause a notice to be served, as contemplated in subsections (2) and (4), of the City's intention to consider the following applications—~~
(a) ~~determination of a zoning or deemed zoning;~~
(b) ~~rezoning of land;~~
(c) ~~subdivision or amendment of subdivision;~~
(d) ~~consolidation;~~
(e) ~~amendment or imposition of a condition;~~
(f) ~~removal, suspension or amendment of a restrictive condition;~~
(g) ~~...~~
[Para. (g) deleted by s. 19 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

(1A) ~~The City may cause notice to be served as contemplated in subsections (3) and (4) of the City's intention to consider any other category of application contemplated in section 42...~~
[Sub-s. (1A) inserted by s. 19 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

(2) ~~Notice to a person must be served under section 111, if—~~
(a) ~~their rights or legitimate expectations would be materially and adversely affected if the application were approved; or~~
(b) ~~the person is the owner of land which the City intends to rezone.~~

(2) ~~The notice must be served—~~
(a) ~~on a person whose rights or legitimate expectations are materially and adversely affected if the application is approved;~~
(b) ~~in accordance with section 111 of this By-Law. Notice to a person must be served under section 111, if—~~
(a) ~~their rights or legitimate expectations would be materially and adversely affected if the application were approved; or~~
(b) ~~the person is the owner of land which the City intends to rezone.~~

(3) ~~...If the City intends to rezone land which it does not own it must give notice to the owner.~~

(4) If notice is given in only one official language of the Province, the notice must contain a statement in each of the other official languages of the Province that the City will, upon

request delivered within seven days of notification, translate the notice into another official language of the Province.

83 Notice to a representative

The City Manager may prescribe a category of application contemplated in section 42 which must be served on—

- (a) a councillor for the area to which the application relates; or
- (b) a named organisation which that—
 - (i) represents an interest of the area to which the application relates; and
 - (ii) which is registered with the City for this purpose.

84 Notice of no objection

(1) The City Manager may cause a notice to be served as contemplated in subsection (2) of the City's intention to consider the following applications—

- (a) departure;
- (b) consent use;
- (c) extension of time period;
- (d) consent in terms of or relaxation of a restrictive condition where provided for in the title deed restrictive condition; and
- (e) any other form of permission required in terms of the development management scheme.

(2) The notice must contain at least—

- (a) the information contemplated in sections 80(1)(a)–80(1)(d);
- (b) details of the land use proposal or building plan number, date and version as the case may be;
- (c) provisions to permit the person to whom notice is given to sign, indicating confirming that they have no objection to the proposed application and waiving their right to be notified in accordance with section 82; and
- (d) information relating to the person's right to receive notice of have the application advertised to them so that they may comment on or object to the application.

(3) Unless an alternative method of service is accepted by the person or authorised by the City Manager, the notice must be served personally on a person whose rights or legitimate expectations are likely to be materially and adversely affected by the approval of the application.

(4) The procedure in section 82 must be followed if—

- (a) the information on the notice of no objection is incomplete; or
- (b) an affected owner refuses to sign a notice of no objection or cannot be contacted to sign the notice.

(5) If the applicant furnishes a notice of no objection from all the persons the City Manager identifies, then—

- (a) that date will be regarded as the date of closure of the period for public comment; and the date of the notice is the date of closure of the period for public comment; and
- (b) the provisions of this Part do not apply, apart from sections 86, 87, 88, and 95. (b) apart from sections 86, 87, 88, and 95, this Part does not apply.

[Para. (b) substituted by s. 12 of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

85 Deemed notice to owners in a sectional title development

(1) Where there is a sectional title development constituted under the Sectional Titles Act, notification to the Body Corporate concerned is deemed to be notification to all owners in that sectional title development. Notification to the body corporate of a sectional title

development, constituted under the Sectional Title Act, is deemed to be notification to all owners in that sectional title development.

(2) The ~~c~~Chairperson of ~~the~~ ~~a~~ ~~b~~Body ~~c~~Corporate must ensure that all owners in the sectional title development are notified.

(3) Notification to a representative of the body corporate at the address on the City's database is deemed notice to the body corporate.

86 Notice to the Provincial Government

(1) ~~T~~When an application relating to any of the following is complete (in accordance with section 76), the City must refer ~~the~~ ~~a~~ ~~complete~~ application, in terms of section 76, to the head of the department in the Provincial Government responsible for land use for comment, if—

- (a) ~~required to do so in terms of the Land Use Planning Act; or~~
- (b) ~~the City Manager has prescribed that the application be referred for such comment.~~
- (a) ~~a development outside of the City's development edge line in the municipal spatial development framework; required to do so in terms of the Land Use Planning Act; or~~
- (b) ~~a rezoning of land zoned for agricultural purposes or conservation purposes; the City Manager has prescribed that the application be referred for such comment.~~
- (c) ~~a development prescribed by the City Manager; and~~
- (d) ~~a development prescribed by the Provincial Government.~~

(2) The City may not decide on an application contemplated in subsection (1) until—

- (a) it has received comment from the head of department; or
- (b) no comment has been received with 60 days of referral, or such further period agreed by the City Manager, in which event the Provincial Government will be regarded as having no comment.

87 Notice to an organ of state other than the Provincial Government

(1) An organ of state, which is given notice of an application and invited to comment, must do so within 60 days of notification of a complete application.—

- (a) ~~notification; or...~~
- (b) ~~receiving all information reasonably necessary to comment if the application is incomplete and the organ made a request for additional information within 14 days of notification....~~

(2) An organ of state that fails to comment within the period contemplated in subsection (1) will be regarded as having no comment.

(3) An organ of state may be given notice by means of email addressed to the Head of Department or Director General of that organ of state, or any other person in charge of its governance or management.

88 Internal circulation

(1) The City Manager must ~~forward~~ ~~circulate~~ an application simultaneously to every department of the City which may have a direct interest in the application.

(2) A department must submit comments relevant to the functional area of that department within the ~~time~~ period set by the City Manager, failing which it will be regarded as having no comment.

(3) ~~If as a result of circulation to departments, the City Manager may call for~~ requires additional information ~~from City departments under, the provisions of section 75 apply.~~

89 Intervener

(1) A person contemplated in subsection (2) may, within the period contemplated in subsection (3), submit a petition on the prescribed form to the City Manager to be granted intervener status.

(2) A person may submit a petition only if he or she has not been given notice of the application in terms of sections 82 or 83, and if the application—

- (a) if the application has not yet been decided, then the petitioner has an interest in the application; or
- (b) if the application has been decided, the petitioner has a pecuniary or proprietary interest which is adversely affected or is able to demonstrate that she or he will be adversely affected by the decision or an appeal in respect of the decision. has been decided, then the petitioner has a pecuniary or proprietary interest that—
 - (i) is adversely affected; or
 - (ii) they can show would be adversely affected by a decision or an appeal.

(3) A petition is invalid if it is submitted—

- (a) more than seven days after the petitioner became aware of the application or might reasonably have been expected to have become aware of the application; or
- (b) after the effective date of decision contemplated in section 105(2).

(4) A petitioner must submit, together with the petition—

- (a) if the application has not yet been decided, in accordance with section 90(5), any objection, comment or representations and the reasons therefor that the petitioner wishes the decision-maker to consider;
- (b) if the application has been decided, a written notice of appeal and grounds of appeal in accordance with section 108(1); and
- (c) an affidavit stating that he or she is not colluding with any applicant, objector or appellant and is willing to act as the City may direct in regard to the application or appeal as the City may direct.

(5) The City Manager must provide a copy of the petition and the information contemplated in subsection (4) to the existing parties to the proceedings for comment.

(6) The City Manager may—

- (a) refuse a petition if it is late;
- (b) if there is no question that the petition should be granted in the absence of any doubt as to whether to do so, grant the petitioner intervener status; or
- (c) in the event that a question arises as to whether the petition should be granted if in doubt as to whether to grant a petition, refer the petition for determination decision to—
 - (i) the Municipal Planning Tribunal or the authorised official who must decide the application for intervener status, if the application for approval has not yet been decided; or
 - (ii) the appeal authority, if the application has been decided.

(7) In deciding whether to grant a petitioner intervener status, the Municipal Planning Tribunal, authorised official or appeal authority, as the case may be, must consider at least whether—

- (a) the petitioner qualifies in terms of subsection (2);
- (b) no existing party to the proceedings adequately represents the interest of the petitioner;
- (c) the petitioner represents other persons, who have a similar interest in the proceedings and who are not otherwise represented;
- (d) refusing the petition would impede the ability of the petitioner to protect his or her interest; refusing the petition would prevent the petitioner from protecting their interests;

(e) ~~the petitioner's objection, comment or representations are relevant to the proceedings, different from those of the existing parties, and would assist the decision maker; and the petitioner's comment is relevant, different from those of the parties and would assist the decision-maker; and~~

(f) ~~granting the petition would not cause undue delay or otherwise prejudice the interest of any party to the proceedings. granting the petition would not cause undue delay or prejudice any party.~~

(8) The decision-maker must notify the petitioner and the existing parties to the proceedings of the outcome of the petition.

(9) There is no appeal against a determination decision to grant or to refuse a petition.

(10) A person who is granted intervener status after an application is decided is regarded as an appellant. A person who is granted intervener status, after an application for approval is decided, becomes an appellant.

90 Objection to Comment on an application

(1) A person who has been invited to comment or object, or any person in response to a public invitation to comment or object, may object to, comment on or make representations about the application in accordance with this section. A person who accepts an invitation or who responds to a public invitation to comment must comply with this section.

(2) An objection, comment or representation must be in writing.

(3) A late objection, comment or representation will not be considered, unless the City Manager condones the late submission in terms of subsection (4).

(4) The City Manager may condone the late submission of an objection, comment or representation if good cause is shown and consideration of the late objection, comment or representation would not—

(a) cause an unreasonable delay; or

(b) prejudice the public interest.

(5) A person who submits an objection, comment or representation must provide on the prescribed form—

[Sub-s. (5) substituted by s. 13 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]

(a) sufficient details of the application for it to be readily identified;

(b) their full name;

(c) their physical address, email address and other contact details and the method by which they may be notified;

(d) their interest in the application;

(e) the reason for their objection, comment or representation, including at least—

(i) the effect that the application will have on them or the area;

(ii) any aspect of the application that they consider is considered to be inconsistent with policy, and how.

(6) An objection, comment or representation which does not meet the requirements of subsection (5) may be disregarded.

(7) The City Manager may keep the information provided under subsections (5)(b) and (5)(c) confidential on good cause shown.

(8) No person may request the payment of money or any other form of consideration from the applicant or any person involved in the application in return for not submitting an objection or in return for submitting a notice of no objection or a supportive comment. No person may seek payment of money or other consideration from the applicant or anyone involved in the application in return for not objecting, submitting a notice of no objection or supporting the application.

(9) No person may offer a person payment of money or any other form of consideration in return for not submitting an objection or for submitting a notice of no objection or a supportive comment. No person may offer payment of money or other consideration to others not to object, to submit a notice of no objection or to support the application.

(10) Subsections (8) and (9) do not prohibit the request for, or the offer to undertake measures to, mitigate the impact of the development contemplated in the application.

(11) A person who contravenes subsections (8) or (9) is guilty of an offence and upon conviction is liable to the penalties contemplated in sections 133(2) and 133(3).

91 Petition

(1) The minimum requirements of a petition are that—

- (a) each page of the petition must contain—
 - (i) sufficient details of the application for it to be readily identified;
 - (ii) a brief statement of and reason for the petition; and
 - (iii) the effect that the application will have on the petitioners or the area;
- (b) each petitioner must give their full name, physical address and signature;
- (c) when the petition is submitted, the authorised representative of the petitioners must give their full name, postal address, telephone number and email address or fax number.

(1A) The City Manager may prescribe additional requirements to those in subsection (1) to achieve the objects of this By-law.

(2) A petition must be submitted within the time allowed for public comment as contemplated in Chapter 7.

(3) A late petition will not be considered unless the City Manager condones a late submission in terms of subsection (4).

(4) The City Manager may condone the late submission of a petition, if good cause is shown and consideration of the late petition would not—

- (a) cause an unreasonable delay; or
- (b) prejudice the public interest.

(5) Notice given to the person contemplated in subsection (1)(c) will be regarded as deemed to be notice to all petitioners.

(6) ~~If support for a petition is collected electronically, the provisions of this section apply as far as possible, provided that no signatures will be required. Support for a petition collected electronically does not require a signature.~~

(7) ~~A petition which does not meet the requirements of subsection (1) may be disregarded. The City may disregard a petition that does not comply with subsections (1) and (1A).~~

(8) A petition is will be regarded as a representation for the purposes of this Part.

92 Response from the applicant

(1) Within 7 days of the closing date for comment, ~~t~~ The City Manager must provide the applicant, within 7 days of the closing date for comment, with—

[Sub-s. (1) substituted by s. 5 of City of Cape Town: Municipal Planning Amendment By-Law, 2017]

- (a) copies of all comments, representations or objections received;
- (b) requirements of a department of the City; and
- (c) a notice informing the applicant of their rights in terms of this section.

(2) Within 20 days of notification, or within an additional period of 7 days if the City Manager approves an extension before expiry of the 20 days, the applicant may submit to the City a written response to the comments, representations, objections and requirements. ~~An applicant may submit to the City a written response to the comments and requirements, within—~~

- (a) 20 days of notification; or
- (b) an additional period of 7 days, if the City Manager approves an extension before expiry of the first 20 days.

[Sub-s. (2) substituted by s. 6 of City of Cape Town: Municipal Planning Amendment By-Law, 2017]

(3) An applicant who fails to submit a response within the period contemplated in subsection (2) will be regarded as having no response.

(4) The An applicant may elect to not submit a response in terms of subsection (2), in which event the date that the City receives a written communication to that effect will be regarded as the date of the applicant's response.

93 Amendment of application before decision

(1) The An applicant may amend their application at any time after notice of the application has been given in terms of Part 2 of Chapter 7 this By-Law and prior to the date before the City takes a decision is taken —

- (a) at the applicant's own initiative;
- (b) as a result of objections and comments made during the public notification process; or
- (c) at the request of the City.

(2) If an amendment is material, the City may require additional notification in terms of this By-Law and may require the recirculation of the application. If an amendment is material and will adversely affect a person other than the applicant, the City must require additional notification in terms of this By-law to that person.

(3) The City Manager may recirculate the application to a department with a direct interest in an amendment for comment under section 88(2).

94 Further notice

(1) The City may require that fresh notice of an application be given if the City has not decided the application within 24 months of the first notice, a period of more than 24 months has elapsed since the first notice of the application and the application has not been decided.

(2) The City may determine decide the manner of giving notice as contemplated in subsection (1).

(3) The City may require notice of an application to be republished or served again and recirculated to departments, at any stage during the processing of the application, if new information comes to its attention, which is material to the consideration of the application and which adversely affects any person.

95 Access to information about an application

(1) By lodging an application in terms of this By-LawBy-law, the applicant acknowledges that the information contained in the application and obtained during the process may be made available to the public.

(2) By lodging an objection, representation, comment or appeal, the person doing so acknowledges that information may be made available to the public and to the applicant.

(3) A record file created by the City concerning an application is available for inspection by the public during office hours at any stage during the processing of the application if not being used by the Department and copies are available to the public on payment of the fee prescribed by the City's Tariff, fees and charges book.

[Sub-s. (3) substituted by s. 14 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

(4) After a decision has been taken, copies of the decision and conditions imposed are available to the public on payment of the fee prescribed by the City's Tariff, fees and charges book.

[Sub-s. (4) substituted by s. 14 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

Part 3
Process and criteria for deciding application
(ss 96-103)

96 Power to conduct inspection

- (1) An authorised official may enter land or a building for the purpose of assessing an application in terms of this ~~By-Law~~By-law and preparing a report contemplated in section 97.
- (2) When conducting an inspection, the authorised official may—
 - (a) request that any relevant record, document or item be produced to assist in the inspection;
 - (b) make copies of, or take extracts from any document produced ~~by virtue of~~under paragraph (a) that is related to the inspection;
 - (c) on providing a receipt, remove a record, document or other item ~~that is~~ related to the inspection;
 - (d) take any photograph that the authorised official considers necessary; and
 - (e) inspect any building or structure and make enquiries regarding that building or structure.
- (3) No person may interfere with an authorised official who is conducting an inspection contemplated in subsection (1).
- (4) The authorised official must, on request, produce identification showing that the City has authorised them to conduct the inspection.
- (5) An inspection under subsection (1) must take place at a reasonable time and after reasonable notice to the owner or occupier of the land or building.

97 Assessment of application

(A1) In this section, ‘assessment report’ means the report contemplated in subsection (1).

- (1) The Department must provide a written report for consideration by the decision maker containing—
 - (a) an assessment of the application;
 - (b) a recommendation;
 - (c) where applicable, proposed conditions; and
 - (d) copies of all relevant information to enable the decision maker to take an informed decision.
- (2) The Department must provide the assessment report contemplated in subsection (1) to the decision maker within the ~~time~~-period determined by the City Manager.
- (3) ~~In the event that~~ If the Department fails to provide the assessment report within the ~~time~~-period contemplated in subsection (2), the applicant may request the City Manager to take steps to ensure that the report is provided to the decision maker within 30 days of the City Manager deciding that the report must be provided.
- (4) Where a decision is to be taken by an authorised official, the authorised official taking the decision must be senior to or at the same level as the authorised official assessing the application and making a recommendation.
- (5) A registered planner must provide the assessment report contemplated in subsection (1) when dealing with the—
 - (a) adoption or an amendment of the municipal spatial development framework;
 - (b) approval or amendment of the development management scheme;
 - (c) rezoning of land;
 - (d) subdivision of land into more than 20 land units;
 - (e) determination of a zoning;
 - (f) approval of an overlay zone through the amendment of this ~~By-Law~~By-law;
 - (g) removal, suspension or amendment of a restrictive condition, if a change of land use is involved;

- (h) amendment, deletion or additional conditions in respect of an existing use right;
or
- (i) phasing, amendment or cancellation of a plan of subdivision or a part thereof.

98 Determination of Decision on application

The City may in respect of an application—

- (a) conduct any necessary investigation including the power to conduct an inspection as contemplated in section 96;
- (b) approve the application—
 - (i) in whole or in part;
 - (ii) with ~~an~~an amendment, provided that ~~the~~an amendment does not materially change the nature of the application;
 - (iii) subject to conditions set out in section 100; and
 - (iv) limit the approval to one or more of the uses included within the zoning or description of the consent use in case of an approval of a rezoning application or a consent use;
- (c) refuse the application; ~~or~~
- (d) make an appropriate ~~determination~~decision regarding all matters necessary or incidental to the performance of its functions in terms of this ~~By-Law~~By-law and other applicable law.

99 Criteria for deciding application

(1) An application must be refused if the decision-maker is satisfied that it fails to comply with the following minimum threshold requirements—

- (a) ...
[Para. (a) deleted by s. 15 (a) of City of Cape Town: Municipal Planning Amendment ~~By-Law~~By-law, 2019]
- (b) the proposed use or development of land must comply with or be consistent with the municipal spatial development framework, or if not, a deviation from the municipal spatial development framework must be permissible under section 9;
[Para. (b) substituted by s. 15 (b) of City of Cape Town: Municipal Planning Amendment ~~By-Law~~By-law, 2019]
- (c) ...
[Para. (c) deleted by s. 15 (c) of City of Cape Town: Municipal Planning Amendment ~~By-Law~~By-law, 2019]
- (d) (i) subject to subparagraph d(ii), in the case of an application for a departure to alter the development rules relating to permitted floor space or height, approval of the application ~~would~~may not have the effect of granting the property the development rules of the next subzone within a zone;
(ii) the approval of an application for a departure to alter the development rules, relating to permitted floor space or height that does not exceed 10% of the maximum height or floor space of the ~~existing~~applicable subzone, does not trigger the minimum threshold requirement.

[Para. (d) substituted by s. 15 (d) of City of Cape Town: Municipal Planning Amendment ~~By-Law~~By-law, 2019]

(2) If an application is not refused under subsection (1), when deciding whether ~~or not~~ to approve the application, the decision maker must consider all relevant considerations including, ~~where relevant, the following~~—

- (a) any applicable spatial development framework;
- (b) relevant criteria contemplated in the development management scheme ~~this By-law~~;
- (c) any applicable policy or strategy approved by the City to guide ~~land-use~~ decision making, ~~which includes the Social Development Strategy and the Economic Growth Strategy~~;

[Para. (c) substituted by s. 7 of City of Cape Town: Municipal Planning Amendment ~~By-Law~~By-law, 2017]

(d) the desirability of the proposed use or development of land as contemplated in subsection (3);

[Para. (d) substituted by s. 15 (e) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

(e) impact on existing rights—(other than the right to be protected against trade competition);

(f) in an application for the consolidation of land unit—

(i) the scale and design of the development;

(ii) the impact of the building massing; and

(iii) the impact on surrounding properties; and

(g) ~~other considerations prescribed in relevant national or provincial legislation, which includes the development principles as contained in section 7 of the Spatial Planning and Land Use Management Act, 2013 (Act no. 16 of 2013), other considerations prescribed in relevant national or provincial legislation, including the development principles in section 7 of SPLUMA; and~~

[Para. (g) substituted by s. 8 of City of Cape Town: Municipal Planning Amendment By-Law, 2017]

(h) whether the application complies with the requirements of this By-law.

[Para. (h) inserted by s. 15 (f) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

(3) The following considerations are relevant to the assessment₁ under subsection (2)(d)₁ of the desirability of the proposed use or development of land—

[Sub-s. (3) substituted by s. 15 (g) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

(a) socio-economic impact;

(b) ...

(c) ...

(d) compatibility with surrounding uses;

(e) impact on the external engineering services;

(f) impact on safety, health and wellbeing of the surrounding community;

(g) impact on heritage;

(h) impact on the biophysical environment;

(i) traffic impacts, parking, access and other transport related considerations; and

(j) whether the imposition of conditions ~~can~~ could mitigate an adverse impact of the proposed use or development of land.

[Para. (j) substituted by s. 15 (h) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

[Sub-s. (3) substituted by s. 20 of City of Cape Town: Municipal Planning Amendment By-Law, 2016]

(4) An application in respect of an existing use or construction work ~~which that~~ has commenced in contravention of this By-Law must be dealt with in terms of section 130~~122~~J.

(5) No decision required to be made in terms of this By-Law may be delayed pending the creation of a policy to guide decision-making on the matter.

100 Conditions of approval

(1) The City, when granting an approval or making a determination in terms of this By-Law, may impose reasonable conditions which arise from the proposed use of land.

(2) The conditions may include but are not limited to conditions relating to—

(a) the provision of land needed for public places or the payment of money ~~in lieu~~ instead of the provision of land;

(b) the cession of land or the payment of money;

(c) the provision and installation of engineering services and indicate—

(i) whether the applicant is required to provide or install engineering services as contemplated in section 65, or pay a development charge, or partly provide or install the engineering services and partly pay a development charge;

(ii) ~~if relevant, the development charge payable and the date that it is payable;~~ any development charge payable and the due date for payment;

- (iii) if a phasing plan for the development is approved, that the installation of engineering services and the payment of development charges ~~may~~could take place separately for each phase;
- (iv) if the City will take over responsibility for the engineering services, whether the applicant ~~is~~would be required to maintain the engineering services for a specified period~~of time~~period or provide a maintenance guarantee;
- (v) a requirement to provide proof that an organ of state ~~or~~state owned enterprise responsible for the provision of a service, is able to provide that service before the transfer of the first land unit;
- (d) the provision of land needed by, and other requirements of, other organs of state;
- (e) the endorsement in terms of section 31 of the Deeds Registries Act in respect of public places where ownership vests in the City;
- (f) the registration of public places in the name of the City;
- (g) the transfer of ownership to the municipality of land needed for other public purposes or community facilities;
- (h) the implementation of a subdivision in phases;
- (i) the establishment of an owners' association by the applicant in respect of a subdivision as contemplated in section 61;
- (j) a requirement to carry forward into the title deed of each land unit arising from an approved subdivision that—
 - (i) every owner ~~of a land unit arising from an approved subdivision~~ becomes a member of the owners' association on registration of transfer into their name and must remain a member whilst owning the land unit~~for as long as~~ as long as ~~they are an owner~~; and
 - (ii) the land unit may not be sold or transferred except with the consent of the owners' association, which ~~consent~~ may not be unreasonably withheld;
- (k) the payment of ~~an~~ administrative penalty as contemplated in section 129 in respect of the unlawful use of land;
- (l) conditions contemplated in the development management scheme in respect of a particular application.

(3) A condition contemplated in subsection (2)(b) may require a proportional contribution to municipal public expenditure~~+~~ according to the normal need arising from the approval, as determined by the City in accordance with norms and standards as may be prescribed or in accordance with an approved policy.

(4) Municipal public expenditure contemplated in subsection (3) includes, ~~but is not limited to~~, municipal public expenditure for municipal service infrastructure and amenities relating to—

- (a) community facilities, including play equipment, street furniture, crèches, clinics, sports fields, indoor sports facilities or community halls;
- (b) environment conservation purposes;
- (c) engineering services; ~~or~~and
- (d) municipal public transport.

(5) Apart from public places and land needed for internal engineering services, any additional land required by the City or another organ of state arising from an approved subdivision must—

- (a) be acquired subject to any applicable law that provides for the acquisition or expropriation of land; or
- (b) be purchased at the time specified in a condition~~+~~ or in the absence of any time specified in the condition, when the applicant can prove to the City or organ of state that 50% of the saleable land units arising from the subdivision have been sold.

(6) Where relevant to the type of condition, a condition must contain an objective criterion that is measurable, ascertainable or both which must be met.

(7) The decision maker may not impose a condition that stipulates that approval in terms of other legislation is required.

(8) If the City approves an application subject to a condition, it must specify—
(a) the date or event by which ~~when~~ a condition must be met (such as before the sale, development or transfer of the land); or
(b) whether it applies for the duration of the approval.

(9) A conditional approval of an application lapses if a condition is not met within—
(a) the period for compliance specified in such approval;
(b) if no period for compliance is specified in the approval, five years from the effective date of decision; or
(c) any period of extension granted in terms of section 107.

(10) An applicable lapsing provision in this By-law is deemed to be a condition of approval unless the City imposes a different lapsing provision as a condition of approval.

101 Further conditions and amendment of conditions

~~The City may amend or remove a condition imposed or deemed to have been imposed in terms of this By Law, or impose a condition—~~

~~(a) on application; or
(b) on its own initiative after notice to the owner and any affected person.~~

~~The City may on application, or on its own initiative, on notice to the owner and any person materially and adversely affected—~~

~~(a) impose a condition; or
(b) amend or remove a condition of approval or a condition imposed under a previous zoning scheme or another law regulating land use.~~

102 Timeframe for making a decision

(1) If an application complies with all the requirements of this ~~By Law~~By-law and any other applicable legislation the decision-maker must decide ~~on~~ the application within 90 days or such other period agreed with the applicant, calculated from—

[Sub-s. (1) substituted by s. 9 of City of Cape Town: Municipal Planning Amendment ~~By Law~~By-law, 2017]

(a) the date the application is complete as contemplated in section 76, in cases where no notice of the application has been given.

(b) the latest closing date for the submission of comments, ~~objections or representations~~, where the City does not receive any comment, ~~objection or representation~~; or

(c) the date that the applicant responds to comments, ~~objections or representations~~ or the closing date for a response if the applicant does not respond, where the City receives a comment, ~~objection or representation~~.

(2) The City may, ~~without the applicant's agreement,~~ extend the period contemplated in subsection (1) and notify the applicant of the period of the extension and the reasons for the extension—
(a) in exceptional circumstances related to the nature or complexity of the application;
(b) if the City is in recess; or
(c) where the City Manager has taken steps contemplated in section 97(3) to ensure that the report contemplated in that subsection is provided to the decision maker.

103 Failure to decide timeously

If the decision maker fails to decide ~~on~~ an application within the period referred to in section 102, then the applicant may exercise a right of appeal and the appeal authority must decide ~~on~~ the application.

Part 4
Decision
(ss 104-106)

104 Requirement for writing and notification of decision

(1) A decision in terms of this ~~By-Law~~~~By-law~~ is valid only if it is in writing.
(2) Within 14 days of a decision in terms of this ~~By-Law~~~~By-law~~, the City must notify the persons contemplated in subsection (3) in writing—

[Sub-s. (2) substituted by s. 10 of City of Cape Town: Municipal Planning Amendment By-Law, 2017]

(a) the decision;
(b) where the decision may be inspected;
(c) if applicable, their right of appeal and right to request reasons; and
(d) the effective date of decision contemplated in section 105.

(3) The City must notify the following persons, if applicable—
(a) the owner;
(b) the applicant, if different from the owner;
(c) where there is—
(i) no appeal by any person, any person who comments on, objects to, or intervenes in an application; or
(ii) an appeal, the parties to the appeal; and
(d) a person in respect of whom an enforcement action is taken in terms of Chapter 9.

105 Effective date of decision

(1) ~~The operation of the approval of an application is suspended until the effective date of the decision contemplated in subsections (2) and (3). An approval is suspended until the effective date of the decision contemplated in this section.~~

(2) The effective date of a decision in terms of this ~~By-Law~~~~By-law~~ is—
(a) the date ~~that when~~ the City gives notice that ~~there is no right of appeal or no appeal has been timeously lodged and that the decision is accordingly effective; or~~
(b) subject to subsection (3), if an appeal is timeously lodged, the date that the appeal is decided by the appeal authority.

(2A) ~~The effective date of a land use application decided together with an administrative penalty application is suspended until any administrative penalty is paid.~~

(3) ~~If an appeal is lodged only against a condition imposed in terms of section 100, the City may determine that the operation of the approval of the application is not suspended. If an appeal is lodged against only a condition imposed in terms of section 100, the City may decide that the approval is not suspended.~~

(4) ...
[Sub-s. (4) deleted by s. 16 of City of Cape Town: Municipal Planning Amendment ~~By-Law~~~~By-law~~, 2019]

106 Errors and omissionsCondonation

(1) ~~The City may at any time correct an error in the wording of its decision as long as the correction does not change its decision or result in an alteration, suspension or deletion of a condition of its approval...~~

(2) ~~The City may at any time, of its own accord or on application by an applicant or interested party, upon good cause being shown, condone an error in the procedure. The City may at any time, in its discretion, of its own accord or on application by an applicant or interested party, condone an error in the procedure on good cause shown, provided that such condonation does not have material adverse impact on or unreasonably prejudice any party.~~

(3) The City may not grant condonation under subsection (2) without notice to a person whose rights or legitimate expectations will be materially and adversely affected or to the public if its rights will be materially and adversely affected.

Part 5
Extension of validity of an approval
(s 107)

107 Extension of validity of an approval

(1) Subject to the remaining provisions of this section, and unless another provision of this By Law provides otherwise, the City may approve an application for the extension of the validity period of an approval granted or deemed to be granted in terms of this By Law. Unless otherwise provided in this By-law, the City may approve an application for an extension of the validity of an approval.

(1A)- The City must give notice of an extension application to a person whose rights or legitimate expectations will be materially and adversely affected or to the public if its rights will be materially and adversely affected by an extension.

(2)- The City may not grant the extension if—

(a)- the application for extension is submitted after the validity period has expired;
(b)- the circumstances which prevailed at the time of the original approval have materially changed;...

(c)- the legislative or policy requirements applicable to the approval which prevailed at the time of the original approval have materially changed;...

(d)- the City believes that new or further conditions of approval are necessary; or...

(e)- an approval for a temporary departure was granted.it extends a temporary departure.

(2A)- Subject to subsection (2), the City has a discretion in deciding the extension application, guided by whether it believes that—

(a)- there has been a material change in relevant circumstances or the legislative or policy requirements applicable to the approval which prevailed at the time of the original approval, which makes it unlikely the approval would be granted now; or

(b)- new or further conditions of approval are necessary.

(3) An extension under subsection (1) may not exceed five years from the date that the original approval lapses.

(4) An extension under subsection (1) takes effect and is calculated from the date that on which the original approval lapses, regardless of the date upon which the extension is granted.

(5) A validity period may be extended only once under subsection (1).

(6) If the City has not decided an application contemplated in subsection (1) by the date of expiry of the original validity period, the use rights at issue may not be exercised until and unless the City extends the validity period.

(7)- When an approval is not implemented pending proceedings for the judicial review of the approval or because a court order prohibits the implementation, the validity period of the approval is automatically extended until the final determination of the proceedings or by the duration of the prohibition. Section 142(10)(b) governs this subsection.

(8) Apart from subsection (7), section 142(10)(a) governs the amendment of this section by the City of Cape Town: Municipal Planning Amendment By-law, 2025.

Part 6
Appeal
(ss 108-109)

108 Appeal

(1) A person contemplated in subsection (2) and an applicant contemplated in section 103 may appeal to the appeal authority by giving written notice of the appeal and grounds of appeal and by completing and signing the prescribed form.

[Sub-s. (1) substituted by s. 17 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

(2) The following persons may appeal against a decision made in terms of this By-LawBy-law—

- (a) the applicant;
- (b) the owner, if the owner is not the applicant;
- (c) the City Manager;
- (d) an intervener person—contemplated in section 89 who is granted intervener status;
- (e) a person contemplated in section 90(1) who submits a comment on or objection to the application which complies with the requirements of section 90; and a person who submits a comment that complies with section 90; and
- (f) the owner or otherany person—
 - (i) in respect of whom the City decides in terms of section 127 to withdraw an approval for a temporary departure or an approval granted for a limited period of time;
 - (ii) who is issued with a directive in terms of section 128; or
 - (iii) upon whom an administrative penalty contemplated in section 129 is imposed.

(3) An appeal contemplated in subsection (1) must be lodged within 21 days of the date of notification of the decision or, in the case of an appeal contemplated in section 103, within 21 days of the expiry of the period referred to in section 102. An appeal contemplated in subsection (1) must be lodged within 21 days of—

- (a) the date of notification of the decision;
- (b) in the case of an appeal against a deemed refusal under section 103, the date by which the first decision-maker should have made its decision, according to section 102.

(4) An appeal is invalid if it does not comply with this section.

(5) The appeal is a complete rehearing and the appeal authority may—

- (a) receive relevant information; and
- (b) invite comment from any person on an issue in the appeal;
- (c) reconsider the matter afresh; and
- (d) of their own accord, consider a relevant issue not raised by a party to the appeal, if the appeal authority invites comment from anyone whose rights or legitimate expectations would be materially and adversely affected by considering the new issue on appeal.

(5A) The appeal authority has the ancillary powers necessary to—

- (a) perform the functions in subsection (5); and
- (b) correct any substantive or procedural error or irregularity by the first decision-maker based on the record and any new information.

(6) The appeal authority must decide—

- (a) may not consider an appeal which is lodged late whether the appeal has been lodged timeously; and
- (b) must decide the appeal according to the criteria for decision contemplated in section 99.

(7) The appeal authority may—

- (a) dismiss the appeal and confirm the decision appealed against;

- | (b) uphold part or all of the appeal and—
 - (i) vary the decision appealed against;
 - (ii) set aside the decision and make a new decision; or
 - (iii) set aside the decision and remit the matter to the decision-maker, with or without directions to any person or body to take appropriate steps;
- (c) decide on an application contemplated in section 103; or
- (d) ~~refer the appeal back to the advisory panel, if one was appointed, or to the Department with directions to investigate, obtain further information from a relevant department of the City or consider specific facts or issues and to report back to the appeal authority.~~ refer the appeal back to the advisory panel, if one was appointed, or to the Department with directions to report back to the appeal authority after further investigating, obtaining information or considering specific facts or issues.

(8) Since the commencement of this By-law, the appeal authority's decision replaces the decision by the first decision-maker, and when there is an appeal decision, it is the only decision of the City with legal effect. Section 142(10)(b) governs this subsection.

(9) Apart from subsection (8), section 142(10)(a) governs the amendment of this section by the City of Cape Town: Municipal Planning Amendment By-law, 2025.

109 Procedure for appeal

- (1) A person authorised to appeal must lodge the appeal with the City Manager, provided that if the appeal is by the City Manager, the City Manager must lodge the appeal with the appeal authority. An appellant must lodge the appeal with the City Manager, but if City Manager is the appellant, they must lodge the appeal with the appeal authority.
- (2) No later than 14 days after an appeal is lodged, the City Manager must give notice of the appeal to, and invite comment on the appeal in writing within 21 days from—
 - (a) the applicant, if the applicant is not the appellant; or
[Para. (a) substituted by s. 18 (a) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]
 - (b) any person who submitted an objection to, comment on or representation about the application, if the applicant is the appellant.
[Para. (b) substituted by s. 18 (b) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]
- (3) After receipt of an appeal, the City—
 - (a) may request the Provincial Minister to comment in writing within 60 days on the appeal; and
 - (b) must request such comment, if the appeal concerns an application referred to in section 45(1)(a) to (f) of the Land Use Planning Act.
- (4) Late opposition to or comment on the appeal will not be considered, unless the appeal authority condones the late submission on good cause shown.
- (4A) An appellant may not reply to opposition or comment on an appeal, subject to subsection (4B).
- (4B) The appeal authority may grant an appellant a right of reply, if satisfied that—
 - (a) a party has raised material and adverse information for the first time in its response to an appeal; and
 - (b) fairness requires the appellant to be heard on the new matter.
- (5) The appeal authority may not decide on the appeal until all the parties entitled to comment have done so or the time period allowed for comment has lapsed.
- (6) The Department must provide a report to the appeal authority assessing the appeal and all comments contemplated in subsections (2) or (3). draft a report assessing the appeal and all comments contemplated in subsections (2) or (3) and must provide the report to the decision maker for comment.
- (7) As soon as possible and within 150 days after the lodgement of the appeal, the City Manager must submit the appeal to the appeal authority together with all necessary documentation, including the report and comments contemplated in this section.

(8) The appeal authority must decide on the appeal within 90 days after the City Manager has submitted the appeal and documentation to the appeal authority.

(9) The appeal authority may, without the agreement of the parties to the appeal, extend the period contemplated in subsection (8) and notify the parties of the extension and the reasons for the extension—

- (a) in exceptional circumstances related to the nature or complexity of the application; or
- (b) if the City is in recess.

(10) The City must within 30 days of an appeal decision of the appeal authority in writing give written notice of the decision and the reasons for the decision to—

- (a) the parties to the appeal; and
- (b) the Provincial Minister, if the appeal concerns an application referred to in section 45(1)(a) to (f) of the Land Use Planning Act.

(11) The City may determine prescribe additional procedures required for the determination of appeals.

109A Duty to exhaust an internal remedy

Subject to section 7(2) of the Promotion of Administrative Justice Act 3 of 2000, a person must exhaust an internal remedy under this By-law before approaching a court or tribunal to review an administrative action taken under this By-law.

Part 7

Prescribed requirements and notification

(ss 110-112)

110 Prescribed requirements for applications

(1) The City Manager may prescribe in relation to for applications—

- (a) necessary information specifications relating to matters such as size, scale, colour, hard copy, number of copies, electronic format and file format;
- (b) the manner of submission and communication with the City;
- (c) the method by which a person may be notified;
- (d) other information requirements; and
- (e) other procedural requirements.

(2) A prescription contemplated in subsection (1) may—

- (a) relate to the whole application or any part of it; and
- (b) differentiate between types of application, categories of application or categories of applicant.

(3) The provisions of section 138 apply to a prescription in terms of subsection (1).

111 Method and date of notification

(1) The City may give notification to a person contemplated in this section—
Notification to a person contemplated in this By-Law may be given—

- (a) ...by the City by orally informing the person; or
- (b) in writing—
 - (i) by hand to that person personally;
 - (ii) left at that person's place of residence or business in the Republic or at the land unit concerned with a person apparently over the age of sixteen years;
 - (iiA) by affixing the notice to the boundary of the land unit which abuts a street or any other conspicuous place on the unit;
 - (iii) by registered post to that person's last known residential or business address in the Republic as recorded in the City's information system;

- (iv) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by subparagraphs (i), (ii) or (iii) in this subsection;
- (v) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates;
- (vi) by email;
- (vii) by fax; or
- (viii) by some other form of electronic communication contemplated in the Electronic Communications and Transactions Act, 2002 (25 of 2002).

(1A) ~~The City may give oral notification to a person contemplated in this By-law.~~

(2) ~~If the City gives a person notification orally, it must as soon as reasonably possible thereafter record in writing the content of the notification and the date upon which it was given and give service of the record in accordance with subsection (1)(b). If the City gives a person notification orally—~~

- (a) ~~it must keep a written record of the content of the notification and the date; and~~
- (b) ~~serve the record in accordance with subsection (1).~~

(3) ~~...Unless a person has consented to being notified by fax, email or some other form of electronic communication or the City Manager has prescribed or this By Law authorises that as the method of notification, if the City uses that method of notification then the City must also serve the notification in the relevant manner provided by subsections (1)(b)(i)–(1)(b)(v).~~

(4) ~~Where an owner has authorised a person to represent them in an application, or they are legally represented, a notification provided to the representative is regarded as having been provided effective notification to the owner.~~

(5) ~~When any notice must be served on the owner, occupier or holder of any property or right in any property, or their representative, it is sufficient if that person is described in the notice as the owner, occupier or holder of the property or right in question, or their representative, and it is not necessary to name that person.~~

(6) ~~For the purposes of this By Law, the date of notification, A person is deemed to have knowledge of the information in a notification, if the notification is provided—~~

- (a) orally, ~~is on~~ the date of oral communication;
- (b) by hand, ~~is on~~ the date of delivery or collection;
- (c) by registered post, ~~is regarded as on~~ the fourth day after the date stamped upon the receipt for registration issued by the post office which accepted the notice;
- (d) by email, fax or some other form of electronic communication, ~~is on~~ the date that the email, fax or other form of electronic communication is sent, provided that the person concerned has consented to being so notified or the City Manager has prescribed that as the method of notification.

(7) ~~Email in the context of a notification to a person means an email sent to an email address—~~

- (a) ~~in the City's database associated with that person;~~
- (b) ~~used by that person to submit a comment; or~~
- (c) ~~provided by that person in the prescribed manner.~~

(8) ~~Subject to subsection (11), the City is not required to notify a person by means other than email at one of the email addresses in subsection (7), regardless of whether the person requests a different or additional method of notification or notification at multiple email addresses.~~

(9) ~~A person to whom notification in terms of this By-law must be given and who has an email address must—~~

- (a) ~~provide the City with a single email address in the prescribed manner; and~~
- (b) ~~inform the City of any change to their email address.~~

(10) ~~A person contemplated in subsection (9) who fails to provide or update their email address is deemed to have consented not to receive a notification.~~

(11) The City may use another means contemplated in subsections (1) or (1A) to notify a person who does not have an email address.

(12) Section 142(10)(a) governs the amendment of this section by the City of Cape Town: Municipal Planning Amendment By-law, 2025.

111A Further notifications

~~...If a person submits an objection, comment or representation to an application advertised in terms of this By-law by email, the City will deem the use of email to be consent to being notified by email at that email address as provided for in section 111(3).~~

[S. 111A inserted by s. 19 of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

112 Costs of notification

The City may, as part of its tariff structure, adopt a tariff for the costs involved in issuing and serving a notification, notice and directive.

Part 8
Integrated decisions
(s 113)

113 Notice in terms of integrated procedure

(1) The City may, on prior written request and written motivation by an applicant determine that—

(a) a public notice procedure carried out in terms of another law in respect of the application constitutes public notice for the purpose of an application made in terms of this By-Law, provided the public notice procedure meets the requirements of this By-Law; or
(b) an application made in terms of this By-Law may be published in accordance with the requirements of notice for a related application made in terms of another law, and which is regulated by a written agreement between the City and the organ of state responsible for administering the other law. The City may decide a written request and motivation by an applicant on whether—

(a) a public notice procedure carried out in terms of another applicable law is effective public notice for the purpose of this By-law; or
(b) the applicant may give public notice of an application in terms of another law that applies to a related application, where the City has a written agreement for that purpose with the organ of state responsible for administering the other law.

(2) Unless the City decides that a procedure in terms of another law, as contemplated in subsection (1)(a), is considered to be notice in terms of this By-Law or that the provisions of subsection (1)(b) apply, If the City refuses a request in terms of subsection (1), must act in accordance with the requirements of section 79 applies within 30 days of having notified the applicant that the application is complete.

(3) The City may enter into a written agreement with other an organs of state responsible for the administration of another law, to avoid duplicating procedures common to applications under this By-law and the other law, for cases where a proposed development must comply with both. to avoid duplication in the submission of information or the execution of a process for cases where a proposed development requires an application to the City and other organs of state.

**CHAPTER 8—
DECISION-MAKERS
(ss 114-122)**

114 Decision-makers

(1) The Municipal Council must prescribe the categories of applications to be decided by—

- (a) the Municipal Planning Tribunal; and
- (b) an authorised official.

(2) An authorised official contemplated in subsection (1)(b) may refer an application to the Municipal Planning Tribunal.

(3) The appeal authority is the Mayor.

(4) If the Mayor is unable to act as appeal authority, the Mayor may appoint an acting appeal authority.

115 Establishment of Municipal Planning Tribunal

(1) The Municipal Council must establish a Municipal Planning Tribunal for its municipal area.

(2) When the Municipal Council establishes the Municipal Planning Tribunal contemplated in subsection (1) it must, subject to section 36 of SPLUMA—

- (a) determine the number of members of the Municipal Planning Tribunal;
- (b) determine the number of authorised officials and number of other persons contemplated in section 36 of SPLUMA;
- (c) designate authorised officials, who are in the full-time employment of the municipality, and who have knowledge and experience in any of the disciplines of spatial planning, land use management, land development or the law related thereto to serve as members of the Municipal Planning Tribunal; and
- (d) appoint persons who are not officials, and who have knowledge and experience in any of the disciplines of spatial planning, land use management, land development or the law related thereto to serve as members of the Municipal Planning Tribunal.

(3) The City must invite applications or nominations for persons contemplated in subsection (2)(d) to be appointed to the Municipal Planning Tribunal in a format determined prescribed by the City and by placing a notice in the media in accordance with the requirements of section 21 of the Municipal Systems Act and SPLUMA.

(4) The notice contemplated in subsection (3) must require the applications or nominations to be submitted on a form determined prescribed by the City containing the information set out in subsection (5) within a specified date to a specified person at their chosen a specified address which may be an electronic mail address.

(5) The application or nomination must be accompanied by at least—

- (a) the personal details of the applicant or nominee;
- (b) sufficient information for the City to evaluate the applicant's or nominee's knowledge and experience in matters listed in section 36(1)(b) of SPLUMA, the requirements of this By LawBy-law and any additional criteria that the City has identified;
- (c) in the case of a nomination, a letter of acceptance of nomination by the nominee;
- (d) confirmation by the applicant or nominee that he or she is not disqualified in terms of section 38 of SPLUMA;
- (e) a statement that the nominee will be obliged to commit to and uphold a code of conduct; and
- (f) the agreement of the nominee that the City may investigate and independently verify the information provided by the nominee; and
- (g) other relevant information that the City may prescribe.

(6) An evaluation panel consisting of authorised officials in the employ of the City and appointed by the City to evaluate applications and nominations must—

- (a) evaluate all nominations received by City by the closing date in response to the invitation and call for nominations in terms of the requirements of SPLUMA, this By-LawBy-law and any further criteria identified by the City; and
- (b) make recommendations on the appointment to the Municipal Council.

(7) When evaluating applications or nominations, the Municipal Council must take into consideration—

- (a) the applicant's or nominee's knowledge and experience of the matters referred in subsection (2)(d);
- (b) the need for applying the principles of employment equity;
- (c) the appropriate experience and expertise required for the effective functioning of the Municipal Planning Tribunal;
- (d) any other criteria determined by the City; and
- (e) any other criteria prescribed by SPLUMA.

(8) If no suitable applications or nominations are received ~~as a result of the advertising process~~following advertisement, the City must invite and call for nominations for a second time and follow the process set out in subsections (3) to (7).

(9) If after the second invitation and calling for nominations, no suitable applications or nominations are received, the Executive Authority must designate persons to the Municipal Planning Tribunal who meet the requirements of section 36 of SPLUMA and who comply with the additional criteria determined prescribed by the City.

(10) The City Manager must notify the successful applicants and nominees of their appointment as members and, within 30 days after the appointment of the members of the Municipal Planning Tribunal, publish a notice in the Provincial Gazette ~~Provincial Gazette~~ indicating—

- (a) the name of ~~the~~ every member appointed or designated; and
- (b) the term of office of the member.

(11) The City Manager must within 30 days of the first appointment of the members to a Municipal Planning Tribunal—

- (a) obtain written confirmation from the Municipal Council that it is satisfied that the Municipal Planning Tribunal is in a position to commence operations; and
- (b) after receipt of the confirmation referred to in paragraph (a), publish a notice in the Provincial Gazette ~~Provincial Gazette~~ stating the date that the Municipal Planning Tribunal will commence operation.

(12) The Municipal Planning Tribunal may commence operation only after publication of the notice contemplated in subsection (11)(b).

116 Term of office for members of the Municipal Planning Tribunal

(1) The Municipal Council must stipulate the term of office of an authorised official when designating such authorised official ~~as contemplated in section 37(1) of SPLUMA~~.

(2) An authorised official may only serve as a member of the Municipal Planning Tribunal whilst he or she is in the full-time employment of the City.

(3) The Municipal Council must stipulate the term of office of a member of the Municipal Planning Tribunal who is not an authorised official when appointing such member ~~as contemplated in section 37(1) of SPLUMA~~.

(4) The term of office of a member of the Municipal Planning Tribunal may not exceed five years and is renewable once.

(5) The Municipal Council may reappoint a person as a member of the Municipal Planning Tribunal.

(6) A reappointment that takes effect one month or more after a member's term of office expires is deemed non-continuous with the previous membership.

117 Conditions of service and Code of Conduct of the Municipal Planning Tribunal.

(1) The Municipal Council must determine the terms and conditions of service of and the remuneration to be paid to the members of the Municipal Planning Tribunals who are appointed as contemplated in section 115(2)(d) in accordance with the norms and standards referred to in SPLUMA and other relevant requirements.

(2) The Municipal Council must approve a code of conduct for members of the Municipal Planning Tribunal, that must have regard to minimum requirements set out in SPLUMA and require a member to—at least—

- (a) generally act in accordance with the principles of accountability and transparency;
- (b) make decisions fairly, impartially and promptly;
- (c) treat members of the public and other members of the Tribunal with respect, courtesy, honesty and fairness;
- (d) make public disclosure of all his or her personal or private business interests regarding any decision to be made in the planning process in which he or she serves, or has been requested to serve;
- (e) abstain completely from direct or indirect participation as an advisor or decision maker in any matter in which he or she has a personal or private business interest, and leave any chamber in which such matter is under deliberation, unless the personal or private business interest has been made a matter of public record, or his or her employer, if any, has given written approval, and the public official or structure within the City with jurisdiction to rule on ethical matters has expressly authorised his or her participation;
- (f) not receive, seek or offer a gift or favour any under circumstances in which it might reasonably be inferred that the gift or favour is intended or expected to influence a participant's objectivity as an advisor or decision-maker in the planning process;
- (g) not use the power of any office to seek or obtain special advantage that is not in the public interest nor any special advantage that is not a matter of public knowledge;
- (h) not use confidential information acquired in the course or his or her duties to further a personal or private business interest;
- (i) not disclose confidential information acquired in the course or his or her duties unless required by law to do so or by circumstances to prevent substantial injury to third persons; and
- (j) not commit a deliberately wrongful act which reflects adversely on the Municipal Planning Tribunal, the City, government at large or the planning profession by seeking business by stating or implying that he or she is prepared, willing or able to influence decisions by improper means; and
- (m) conduct themselves in any other manner consistent with the objects of the requirements under SPLUMA.

(3) A member who contravenes the code of conduct is guilty of an offence and upon conviction is liable to the penalties contemplated in sections 133(2) and 133(3).

118 Indemnity and Legal Representation

(1) Whenever a claim is made or legal proceedings are instituted against a member of the Municipal Planning Tribunal or authorised official or the appeal authority arising out of any act or any omission by a member, authorised official or appeal authority in the performance of his or her duties or the exercise of his or her powers, the City must, if it is of the opinion that the member, authorised official or appeal authority acted or omitted to act in good faith and without negligence—

- (a) in the case of a civil claim or civil proceedings, indemnify the member or authorised official or appeal authority in respect of such claim or proceedings; and

(b) provide legal representation for such member or authorised official or appeal authority at the cost of the City or pay taxed party and party costs of legal representation.

(2) If a criminal prosecution is instituted against a member of the Municipal Planning Tribunal, an authorised official or the appeal authority, the City must, if it is of the opinion that the member, authorised official or appeal authority acted or omitted to act in good faith and without negligence or it is in the interests of the City to do so, provide for legal representation for such member at the cost of the City.

| (3) The City must determine by means of a policy or by other means—

| (a) the terms and conditions of such indemnity and legal representation; and

| (b) the circumstances in which such indemnity or legal representation may be withdrawn by the City.

| (4) For the purpose of this section “indemnify” means an undertaking to pay the damages, claim or taxed costs awarded by a court against a member of a Municipal Planning Tribunal, authorised official or the appeal authority or agreed to by the City in terms of a formal settlement process.

119 Vacancy or removal of a member

| (1) The office of a member becomes vacant if—

| (a) the member is absent from two consecutive meetings of the Municipal Planning Tribunal without the leave of the chairperson of the Tribunal;

| (b) the member tenders his or her resignation in writing to the chairperson of the Tribunal;

| (c) the member is removed from the Tribunal under subsection (2); or

| (d) the member dies.

| (2) The Municipal Council may remove a member of the Municipal Planning Tribunal, after giving the member an opportunity to be heard, if—

| (a) sufficient reasons exist for his or her removal; or

| (b) the member contravenes the code of conduct.

| (3) The Municipal Council must remove a member of the Municipal Planning Tribunal, after giving the member an opportunity to be heard, if the member becomes subject to a disqualification as contemplated in section 38(1) of SPLUMA.

| (4) The Municipal Council must fill a vacancy on the Municipal Planning Tribunal in terms of section 116 and section 117 in the case of a member who is not an authorised official.

120 Functioning of Municipal Planning Tribunal

(1) The Municipal Council must designate a member of the Municipal Planning Tribunal as chairperson and another member as deputy chairperson to act as chairperson when the chairperson is absent or unable to perform his or her duties.

(2) If the chairperson and the deputy chairperson fail to attend a meeting of the Municipal Planning Tribunal, the members who are present must elect one of their number to preside at that meeting.

(3) The Municipal Council may determine that the Municipal Planning Tribunal constitute itself to comprise one or more panels to determine applications exercise its powers.

[Sub-s. (3) substituted by s. 20 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

(4) In this section, unless the context indicates otherwise, ‘**the Municipal Planning Tribunal**’ includes a panel of the Municipal Planning Tribunal contemplated in subsection (3)...

(5) The Municipal Planning Tribunal must meet at the time and place determined by the chairperson, provided that it must meet at least once per month if there is an application to consider.

(6) The Municipal Planning Tribunal must designate at least three members of the Municipal Planning Tribunal to determine an application.

(7) A quorum for a meeting of the Municipal Planning Tribunal is the simple majority of its appointed members.

(8) A quorum for a meeting of a panel of the Municipal Planning Tribunal is the simple majority of its designated members.

[Sub-s. (8) substituted by s. 21 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

(9) The person presiding at a meeting of the Municipal Planning Tribunal has a casting vote in the event of an equality of votes.

(10) Subject to subsection (11), ~~No~~ person, other than a municipal councillor, may make oral submissions at a meeting of the Municipal Planning Tribunal without the permission of the person presiding at the meeting.

(11) A person seeking permission contemplated in subsection (10) must submit the request to the Municipal Planning Tribunal in writing in the prescribed manner at least five days before the meeting in question, or closer to the meeting if good cause is shown, and must provide adequate reasons for the request.

[Sub-s. (11) substituted by s. 21 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

(12) A municipal councillor who intends to make oral submissions to the Municipal Planning Tribunal must give the Municipal Planning Tribunal notice in writing of the intention at least five days before the meeting in question, or closer to the meeting if good cause is shown.

(13) The Municipal Planning Tribunal may request any person to make oral submissions on any aspect of an application.

(14) The person presiding at a meeting of the Municipal Planning Tribunal may impose reasonable conditions on oral submissions.

(15) The Municipal Planning Tribunal must provide any party to the proceedings who is adversely affected by an oral submission with an opportunity to respond to the oral submission.

(16) Meetings of the Municipal Planning Tribunal must be open to the public, except in so far as the Municipal Planning Tribunal may in special cases otherwise direct.

(17) The Municipal Council must adopt rules of procedure for the proper functioning of the Municipal Planning Tribunal.

(18) The City must—

- (a) ensure the continued functioning of the Municipal Planning Tribunal in accordance with section 38 of SPLUMA; and
- (b) provide the Municipal Planning Tribunal with an authorised official whose function is to provide administrative secretarial support to the Municipal Planning Tribunal.

121 Advisory panel

(1) The Mayor may appoint an appeal advisory panel, including a chairperson, to consider and advise or make recommendations to the Appeal Authority on an appeal or on categories of applications which are appealed.

(2) Municipal Councillors may be appointed to the appeal advisory panel.

(3) A member of the appeal advisory panel must recuse themselves if they or any of their spouses, partners or family members—

- (a) has an interest in an appeal; or
- (b) was involved in any way in the decision that is being appealed.

(4) The chairperson of the appeal advisory panel must decide when and where the appeal advisory panel must meet.

(5) An appeal advisory panel—

- (a) may determine its own procedures; and
- (b) must apply the criteria contemplated in section 99.

(6) The quorum for a meeting of the appeal advisory panel is a simple majority of its appointed members.

(7) The Mayor may dissolve the appeal advisory panel at any time.

[S. 121 substituted by s. 22 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

122 Technical adviser

The appeal authority may appoint a technical adviser to advise or assist it with regard to a matter forming part of the appeal.

CHAPTER 8A **RECTIFICATION** **(ss 122A-122M)**

122A Definitions in this Chapter

In this Chapter, unless the context otherwise indicates—

'beneficiary' means an owner who has—

- (a) an approval; or
- (b) a building plan approval;

'building plan approval' means approval under the National Building Act and includes a permission, report, certificate or act granted, issued or performed under that Act;

'replacement building plan' means a building plan that supersedes rather than amends a previously approved building plan; and

'rectification' means revocation or amendment of an approval or a building plan approval, approval of a replacement building plan or regularisation of a contravention under this Chapter.

122B Purposes and provisions of this Chapter

(1) The purposes of this Chapter are to promote effective law enforcement, lawful development and efficient administration by empowering the City, without the need for judicial review, to revoke or amend an approval or a building plan approval, to approve a replacement building plan, and to regularise a contravention.

(2) The City's rectification powers in this Chapter—

- (a) are measures to enforce compliance with the law and are governed by the choice of enforcement measure provisions in section 124;
- (b) include the power to rectify irregularities which would otherwise be subject to proceedings for judicial review; and
- (c) apply regardless of whether someone has applied for judicial review of the approval or building plan approval, unless a competent court interdicts the operation of these powers.

(3) The mechanisms in this Chapter are internal remedies for the purpose of section 7 of the Promotion of Administrative Justice Act, 2000.

122C Revocation of approval or building plan approval

(1) The City may revoke an approval or a building plan approval—

- (a) with the beneficiary's written consent for any reason; or
- (b) without the beneficiary's written consent, if the City is of the opinion that a material administrative irregularity occurred, which would move a court to declare the approval invalid—
 - (i) in terms of the Promotion of Administrative Justice Act, 2000; and
 - (ii) if challenged, at the time of the contemplated revocation, by a person with the requisite interest and standing.

(2) Revocation nullifies the rights under that approval or building plan approval.

122D Amendment of an approval

(1) The City may amend an approval—

(a)- with the beneficiary's written consent, if the City is of the opinion that—
(i) the terms of the approval are incorrect, incomplete, ambiguous, vague or do not reflect the City's intention; or
(ii) the amendment meets the requirements for a fresh approval; or

(b) without the beneficiary's written consent, if the City is of the opinion that—
(i) a material administrative irregularity occurred, which would move a court to declare the approval invalid—
(aa) in terms of the Promotion of Administrative Justice Act, 2000; and
(bb) if challenged, at the time of the contemplated amendment, by a person with the requisite interest and standing; and
(ii) the amendment cures the irregularity.

(2) The City may at any time correct an error or omission in the wording of its decision if the correction does not materially change its decision or materially change, suspend or delete a condition of approval.

122E Amendment of a building plan approval

The City may amend a building plan approval in accordance with the National Building Act.

122F Persons who may initiate a revocation or amendment

(1) The City may initiate a revocation or amendment at any time under this Chapter.

(2) The beneficiary of an approval or a building plan approval may apply for a revocation or an amendment at any time under this Chapter in the prescribed way.

(3) A person materially and adversely affected by an approval or a building plan approval may request a revocation or amendment of the approval or the building plan approval under this Chapter only—
(a) in the prescribed manner;
(b) within 21 days of the date on which they were informed of, became aware, or might reasonably be expected to have become aware, of the approval or building plan approval and supporting reasons, as the case may be;
(c) on the ground of a material administrative irregularity; and
(d) by giving clear, specific and enough detail to prove the claim of an irregularity, as if the civil onus applied in court proceedings.

122G Procedure for revocation or amendment

(1) The City must notify the beneficiary and invite and consider their comment on a proposed or requested revocation or amendment of an approval or a building plan approval, if they did not apply for it.

(2) The City may suspend an approval or a building plan approval from the date of the notice contemplated in subsection (1) to the date of its decision.

(3) The City must notify the following and invite and consider their comment on a proposed or requested revocation or amendment of an approval—
(a) a person whose rights or legitimate expectations will be materially and adversely affected by the revocation or amendment; and
(b) the public, if the revocation or amendment will materially and adversely affect the rights of the public.

(4) The City must invite the beneficiary to respond to any comment contemplated in subsection (3).

(5) The City must disregard the state of completion of a building and the activity on the land when deciding whether to revoke or amend an approval or a building plan approval, unless there are exceptional circumstances.

(6) The City must notify the beneficiary and those listed in subsection (3) of its decision whether to revoke or amend.

(7) The City must update the zoning map when it revokes or amends an approval.

122H Application for approval or a building plan approval on setting aside or revocation

(1) A former beneficiary of an approval or a building plan approval that is set aside by a court or revoked under this Chapter may apply to the City for a fresh approval or a building plan approval unless a competent court orders otherwise.

(2) A beneficiary who applies for revocation under section 122C may—

- (a) simultaneously reapply for the approval;
- (b) simultaneously apply for a different approval; and
- (c) make their application for revocation conditional on the success of an application contemplated in paragraph (a) or (b).

122I Replacement building plan

(1) A beneficiary of a building plan approval may apply for approval of a replacement building plan without needing the previously approved building plan to be set aside by a court or revoked under this Chapter.

(2) Approval of a replacement building plan nullifies the rights under the previously approved building plan.

122J Regularisation of contravention

(1) A person in contravention of this By-law may apply for the necessary approval.

(2) An application for an administrative penalty under section 129 must precede or accompany an application under subsection (1).

(3) The City must make an approval contemplated in subsection (1) conditional on payment of any outstanding administrative penalty or another appropriate condition that ensures payment.

(4) An application for, determination of, or payment of an administrative penalty in terms of section 129, or the approval of an application contemplated in this section, does not limit the City's power to take any enforcement measure in this Chapter or Chapter 9 including litigation and instituting criminal prosecution.

(5) The City may prescribe a category of contraventions to which subsections (2) and (3) do not apply.

(6) The City must disregard the state of completion of a building and the activity on the land when deciding a regularisation application under subsection (1), unless there are exceptional circumstances.

122K Decision-makers for rectification

(1) The Mayor has the power under this Chapter to revoke or amend an approval granted by the appeal authority, the Municipal Planning Tribunal or an authorised official contemplated in section 114.

(2) A regularisation application contemplated in section 122J must be decided in terms of this By-law by the decision-maker contemplated in section 114.

(3) The director of the City's development management department has the power under this Chapter to revoke a building plan approval.

(4) The powers contemplated in subsections (1) and (3) may not be delegated.

122L No appeal against rectification

No appeal lies against a decision contemplated in this Chapter, except section 122J.

122M Contravention not rectified

(1) Unless there are exceptional circumstances, the City must follow the process provided in this By-law or the National Building Act for ordering the demolition of a building or part of a building, if—

- (a) the City is of the opinion that the building or part of the building is causing a contravention of this By-law or the National Building Act; and
- (b) the other steps under this Chapter have been exhausted.

(2) The state of completion of a building is not by itself an exceptional circumstance for the purpose of subsection (1).

CHAPTER 9. ENFORCEMENT

(ss 123-135G)

Part 1

Introductory provisions for this Chapter

(ss 123-124A)

123 Definitions in this Chapter

In this Chapter, unless the context indicates otherwise—

‘contravention’ includes a failure to comply with a duty or requirement; and
‘enforcement official’ means—

- (a) any of the following City employees—
 - (i) a member of the Cape Town Metropolitan Police Department, established in terms of section 64A of the South African Police Services Act, 1995 (Act No. 68 of 1995);
 - (ii) a traffic officer, appointed in terms of section 3A of the National Road Traffic Act, 1996 (Act No. 93 of 1996);
 - (iii) a law enforcement officer, declared to be a peace officer in terms of section 334(1)(a) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); or
 - (iv) an authorised official, appointed by the City in writing to act as an enforcement official; or
- (b) for the prevention, combatting and investigation of an offence under this By-law or the National Building Act, a member of the South African Police Service;

‘owner’, in addition to the definition in section 1, is deemed to also include—

- (a) if the registered owner is deceased and if an executor has not been appointed— an heir; and if there is no heir or if the City is unable to determine the identity of the heir – the person who is entitled to the benefit of the use of the land or building or who enjoys such benefit;
- (b) if the registered owner is a close corporation that is deregistered – a member of the close corporation at the time of deregistration;
- (c) if the registered owner is absent from the Republic or their whereabouts are unknown – a person who, as agent or otherwise, undertakes the management, maintenance or collection of rentals or other moneys in respect of the land or building or who is responsible therefor; and
- (d) if the City is unable to determine the identity of a person otherwise defined as owner – a person who is entitled to the benefit of the use of the land or building or who enjoys such benefit; and
- (e) if the owner is a body corporate of a sectional title development, constituted under the Sectional Title Act – any trustee of the body corporate or the managing agent.

124 Choice of enforcement measure

(1) The City may take any one or more of the enforcement measures contemplated in Chapter 8A or this Chapter, and may take them in any order or combination or with one as an alternative to another in the event of a failure to comply, or sequentially.

(2) In exercising its discretion whether to take any enforcement measure contemplated in subsection (1) and its choice of enforcement measure, the City must—

- within its financial and administrative capacity, strive to achieve the objects of this By-law and the objects listed in section 152(1) of the Constitution;
- consider the seriousness and impact of the contravention; and
- consider the use of City resources economically, efficiently and effectively.

124A Service of notices and documentation

Service for purposes of this Chapter may be made by a method in section 111.

Part 2
Complaint
(s 125)

125 Complaint

(1) A person, who is affected by an alleged contravention of this By-LawBy-law, may in writing and using the prescribed form or in a manner determined by a policy, request the City Manager to investigate the alleged contravention and to act in terms of this Chapter.

(2) The City must investigate the complaint within the time and in accordance with the procedure set out in guidelines adopted by the Department.

(3) The City must inform the complainant of the outcome of the investigation within 30 days of the investigation being completed and the steps, if any, to be taken in the event that the City is of the opinion that this By-LawBy-law is being contravened.

Part 3
Civil enforcement
(ss 126-132)

126 Compliance notice

(1) The City may serve a notice on an owner or other person if there are reasonable grounds for believing that the owner or other person is in contravention of this By-LawBy-law.

(2) The notice must—

- describe the land unit;
- describe the conduct constituting a contravention of this By-LawBy-law;
- indicate which provision of this By-LawBy-law, condition of approval or other provision the conduct contravenes;
- if relevant, state that the unlawful conduct constitutes an offence and indicate the penalties;
- instruct the owner or other person to cease the unlawful conduct and to comply with this By-LawBy-law, condition of approval or other provision immediately or within a time-period determined by the City, and where relevant must specify the steps to be taken to comply;
- state that a failure to comply with the notice constitutes an offence and indicate the penalties; and
- state that, in the event of non-compliance with the notice, the City may take one or more of the following measures—

- (i) if relevant, take steps contemplated in section 127 to withdraw an approval for a temporary departure or an approval granted for a limited period of time;
 - (ii) take steps contemplated in section 128 to issue a directive in the terms specified in the notice;
 - (iii) apply in terms of section 129 for the determination of an administrative penalty;
 - (iv) apply to a competent court for appropriate relief including the costs of the application; and
 - (v) institute a criminal prosecution.

(3) If relevant, the notice may advise the owner or other person of their right to apply for ~~rectification~~ ~~regularisation~~ of the contravention as contemplated in section 130~~122~~J, and may state that the City intends to take the measures contemplated in subsection (2)(g) in the event that the owner or other person fails to apply for ~~rectification~~ ~~regularisation~~ of the contravention within a specified time.

(4) The notice may invite the owner or other person within a specified time to inform the City ~~what of the steps~~ ~~they~~ have been taken to comply with the notice.

(5) There is no appeal against a decision to issue or not to issue a compliance notice in terms of this section.

127 Withdrawal of approval

(1) If the City is of the opinion that an owner or other person is not complying with an approval for a temporary departure or an approval granted for a limited period of time, it may serve a notice on the owner or other person—

- (a) setting out the information contemplated in sections 126(2)(a)-126(2)(c); and
- (b) inviting the owner or other person, within a specified time, to make written representations on the notice and to give reasons why the approval should not be withdrawn.

(2) After considering any representations and reasons submitted, and if it is satisfied that this ~~By Law~~~~By-law~~ is being contravened, the City may decide to withdraw the approval contemplated in subsection (1).

(3) If the City decides to withdraw the approval—

- (a) the City must notify the owner or other person as contemplated in section 104(2); and
- (b) the approval is withdrawn from the effective date of decision contemplated in section 105(2).

(4) Once the withdrawal of an approval is effective, the City must—

- (a) notify the owner or other person of the withdrawal and instruct the owner or other person to cease the activity in question and to take any other which the City considers necessary to comply with this ~~By Law~~~~By-law~~ immediately or within a time determined by the City; and
- (b) update the zoning register.

128 Directive

(1) If the City is of the opinion that an owner or other person ~~may be~~ is in contravention of this ~~By Law~~~~By-law~~, it may serve a notice on the ~~them~~ owner or other person—

- (a) setting out the information contemplated in sections 126(2)(a)-126(2)(c); and
- (b) inviting the ~~them~~ owner or other person within a specified time, to make written representations on the notice and give reasons why the City should not direct the ~~them~~ owner or other person within a specified time to—
 - (i) submit documentation for the purpose of assisting the City to assess the nature and extent of the contravention, including a diagram or plan to the City or appoint a professional person selected by the City to conduct an

investigation and to report to the City on the nature and extent of the contravention;

(ii) demolish a building or part thereof which contravenes this ~~By Law~~By-law and restore the building or rehabilitate the land as the case may be to a form and within the time-period specified in the directive; or

(iii) address another impact of the contravention.

(2) After considering any representations and reasons submitted, and if it is satisfied that this ~~By Law~~By-law is being contravened, the City may ~~decide to issue~~ a directive in terms which are the same as, substantially similar to or less onerous than those contemplated in subsection (1)(b).

(3) A directive must—

(a) set out the directions;

(b) include the information contemplated in section 104(2);

(c) state that a failure to comply with a duty imposed by the directive constitutes an offence and indicate the penalties; and

(d) state that instead of, or in addition to, instituting criminal proceedings against prosecuting the owner or other person, without further notice the City may apply to a competent court for enforcement of the directive and other appropriate relief including the costs of the application.

(4) The owner or other person must comply with a directive from the effective date of decision contemplated in section 105(2).

129 Administrative penalty

(1) A person who is in contravention of this ~~By Law~~By-law, and who wishes to rectify the contravention in terms of section ~~430~~122J, may apply to the City for the determination of an administrative penalty, ~~unless if~~ the City has not issued a demolition directive ~~under (in terms of subsection 128)~~ in respect of the subject land or building or part of it ~~thereof concerned~~

(1A) ~~...The Municipal Planning Tribunal may, where any person has contravened this By-law,~~

(a) ~~decide to impose an administrative penalty; and~~

(b) ~~determine the amount of the penalty.~~

[Sub-s. 1A inserted by s. 22 (a) of City of Cape Town: Municipal Planning Amendment ~~By Law~~By-law, 2016]

(1B) ~~The Municipal Council may prescribe standard administrative penalties for contraventions.~~

(1C) ~~The City Manager may propose to a person contemplated in subsection (1) payment of a standard administrative penalty if the City Manager considers that penalty appropriate.~~

(1D) ~~A person who agrees to pay the standard administrative penalty under subsection (1C) becomes liable to pay it, and must do so within thirty days of reaching agreement.~~

(1E) ~~Subject to subsections (7), (7A) and (8), the Municipal Planning Tribunal must decide whether to impose an administrative penalty and the amount, where—~~

(a) ~~a person contemplated in subsection (1) refuses the City Manager's proposal; or~~

(b) ~~the City Manager does not consider the standard administrative penalty appropriate.~~

(2) a person making an application contemplated in subsection (1) must—

(a) ~~submit an application...;~~

(b) ~~pay the prescribed fee;~~

(c) ~~provide the information contemplated in subsections (7) and (8); and~~

(d) ~~comply with the duties of an applicant in section 78.~~

(3) ~~The City Manager may, of own accord—~~

(a) ~~propose to a person who has contravened this By-law payment of a standard administrative penalty, if the City Manager considers that penalty appropriate; or~~

(b) apply to the Municipal Planning Tribunal to decide whether to impose an administrative penalty and the amount for an order that a person who has contravened this By Law must pay an administrative penalty, in an amount determined by the Municipal Planning Tribunal, and must provide the information contemplated in subsections (7) and (8) to the extent that it is known to the City Manager.

(4) If the City Manager makes an application contemplated in subsection (3), the Municipal Planning Tribunal must invite the person concerned within a specified time to make written representations on the application. The City Manager, acting under subsection (3), must—

- must provide the Municipal Planning Tribunal with the information contemplated in subsections (7) and (8), as far as possible; and
- invite the person concerned to make written representations on the application within a specified time.

(5) The Department must provide a written report to the Municipal Planning Tribunal.

(6) The Municipal Planning Tribunal may—

- call for additional information to decide an application in terms of this section; and
- draw an adverse inference against a person who fails or refuses to provide, to the satisfaction of the Municipal Planning Tribunal, information contemplated in paragraph (a) or subsection (2)(c), or paragraph (a).

(7) After considering the Departmental report, the representations by the City Manager and any representations from the person concerned, if the Municipal Planning Tribunal may decides to impose an administrative penalty on a person who has contravened this By LawBy-law,—

(7A) The amount of an administrative penalty it must determine an amount which—

- for building work in contravention of this By LawBy-law, may not be more than 100% of the value of the building, construction and engineering work unlawfully carried out, as determined by the City;
- for land use in contravention of this By LawBy-law, may not be more than 100% of the municipal valuation of the area that is used unlawfully, as determined by the City; and

[Para. (a) substituted by s. 23 (b) of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2016]

(c) for building work and land use in contravention of this By LawBy-law, must comprise the penalties in both paragraphs (a) and (b).

[Para. (b) substituted by s. 23 (b) of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2016]

(8) When determining an appropriate administrative penalty, the Municipal Planning Tribunal must consider at least the following factors—

- the nature, duration, gravity and extent of the contravention;
- the conduct of the person involved in the contravention;
- whether the unlawful conduct was stopped; and
- whether a person involved in the contravention has previously contravened this By LawBy-law or a previous planning law; and
- any matter relevant to redressing the contravention.

(9) The Municipal Planning Tribunal must notify the person who has contravened this By Law of its decision and if it decides to impose an administrative penalty, the notice must—

- set out the administrative penalty;
- include the information contemplated in section 104(2);
- state that the person must pay the administrative penalty to the City within 30 days of the effective date of decision contemplated in section 105(2) or within such further period that the Municipal Planning Tribunal may decide;

—The City Manager must notify the person who has contravened this By-law of the Municipal Planning Tribunal's decision, and if it decides to impose an administrative penalty, the notice must contain the following—

- (a) the amount of the administrative penalty;
- (b) the information contemplated in section 104(2)(a) to (d);
- (c) the due date for payment of the administrative penalty to the City, which can be no later than 30 days from the effective date of decision under section 105(2);
- (d) state that the payment of an administrative penalty in terms of this section does not limit the City's power to investigate an offence or institute a criminal prosecution; and
- (e) state that, without further notice, the City may apply to a competent court for an order confirming the to make the administrative penalty an order of court and other appropriate relief including the costs of the application.

(9A) A person who pays an administrative penalty for a contravention is not required to pay another administrative penalty for the same contravention pending the final determination of their regularisation application under section 122J.

(10) On notice to the person liable to pay an administrative penalty, the City may apply to the High Court to make the administrative penalty an order of court and for other appropriate relief including the costs of the application for an order confirming the order of the Municipal Planning Tribunal to pay an administrative penalty.

(11) An administrative penalty which has been made an order of court may be enforced in the same manner as any judgment or order to the same effect.

130 Rectification of contravention

- (1) A person who is in contravention of this By-Law may apply to the City in terms of this By-Law for the necessary approval.
- (2) Subject to subsection (3), a person contemplated in subsection (1) must submit an application for and pay an administrative penalty determined in terms of section 129 before the City may consider an application contemplated in subsection (1).
- (3) If an application for an administrative penalty contemplated in section 129 has been submitted but not yet determined, or an administrative penalty determined in terms of section 129 has not yet been paid, in exceptional circumstances the City may consider an application contemplated in subsection (1) provided that the City, when granting an approval or making a determination, must impose appropriate conditions to ensure payment of any administrative penalty.
- (4) The submission of an application for, determination of, or payment of an administrative penalty in terms of section 129, or the approval of an application contemplated in this section, does not limit the City's power to investigate an offence or institute a criminal prosecution.
- (5) The City may prescribe a category of contraventions of this By-Law to which the provisions of section 130(2) and (3) do not apply.

[Sub-s. (5) inserted by s. 21 of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

131 Enforcement litigation

(1) Notwithstanding that this Chapter may give the City an alternative remedy, the City may apply to the High Court for appropriate relief. The availability of remedies in this Chapter does not prevent the City from approaching a court of competent jurisdiction for appropriate relief, including orders compelling the owner or other person to—

- (a) demolish, remove or alter any building, structure or work erected in contravention of this By-Law, and rehabilitate the land concerned; and
- (b) cease or modify conduct in contravention of this By-Law, to comply with this By-Law, or to address another impact of the contravention.

(2) The City cannot be compelled to litigate to enforce this By-Law.

132 Urgent matter

If the City believes that urgent action is required to cease or modify conduct in contravention of this By-LawBy-law, to comply with this By-LawBy-law, or to address an impact of the contravention, the City may—

- (a) serve an appropriate compliance notice on the owner or other person by telephone, by email or some other form of electronic communication contemplated in the Electronic Communications and Transactions Act, 2002 (25 of 2002) or by placing the notice on the land unit or by a combination of these methods; or
- (b) apply to the High Court on an urgent basis for appropriate relief, including an interdict.

Part 4 *Criminal enforcement* (ss 133-134)

133 Offences and penalties

- (1) A person is guilty of an offence if the person—
 - (a) contravenes a—
 - (i) ~~decision taken or a condition imposed or deemed to have been taken or imposed in terms of this By-Law~~decision taken or deemed to have been taken in terms of this By-law or a condition of approval;
 - (ii) provision of the development management scheme;
 - (iii) uses land in a manner other than permitted by the development management scheme;
 - (iv) compliance notice issued in terms of section 126; or
 - (v) directive issued in terms of section 128;
 - (b) alters or destroys land to the extent that the property cannot be used for the purpose set out in the development management scheme;
 - (c) threatens, obstructs, hinders or fails to permit entry when called upon to do so or uses abusive language to an authorised official or any person lawfully accompanying such authorised official in the exercise of a power conferred in terms of section 135;
 - (d) when called upon by an authorised official to furnish information, furnishes false or misleading information; or
 - (e) supplies particulars, information or answers in an application or in an appeal knowing it to be false, incorrect or misleading or not believing it to be correct.
- (2) Upon conviction of an offence in this By-LawBy-law a person is liable to a fine or imprisonment not exceeding 20 years or to both a fine and such imprisonment.
- (3) A person convicted of an offence under this By-LawBy-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment for a period not exceeding three months, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.
- (4) An owner—
 - (a) who permits their land to be used, or fails to take reasonable steps to ensure that their land is not used, in a manner which constitutes an offence under this By-LawBy-law is guilty of an offence and upon conviction is liable to the penalties contemplated in section (2);
 - (b) convicted of an offence contemplated in paragraph (a) who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to the penalties contemplated in subsection (3).

134 Prosecution of corporate body and partnership

A person is personally guilty of an offence contemplated in terms of this By-Law if—

- (a) the offence was committed by—
 - (i) a corporate body established in terms of any law; or
 - (ii) a partnership;
- (b) at the time that the offence was committed the person was a partner in the partnership, or a member of the board, executive committee or other managing body of the corporate body; and
- (c) the person knew or reasonably ought to have known that an offence was being committed and failed to take reasonable steps to prevent the offence.

Part 5

Enforcement and investigative powers of an investigator enforcement official

[Heading substituted by s. 11 of City of Cape Town: Municipal Planning Amendment By-Law, 2017]

(s 135)

135 Powers and functions of an investigator enforcement official

- (1) In this section, unless the context indicates otherwise—
 - (a) 'article' includes a structure, object, document, book, record or electronic information or extract, part or sample therefrom;
 - (b) 'investigator' means a law enforcement officer appointed by the City or an official or other person contemplated in subsection (2);...
 - (c) 'place' means any land, building or premises, and includes a private dwelling.
- (2) The City Manager may, in writing, authorise an official to act as an investigator in terms of this section for the purposes of enforcing compliance and investigating any matter in connection with this By-law....
- (3) An enforcement official investigator—
 - (a) must produce proof that he or she is authorised as contemplated in subsection (2) or is a law enforcement officer on the request of a person being affected by the exercise of a power in terms of this section, Part and Part 6;
 - (aA) if applicable, hand to that person a copy of the warrant or, if that person is not present, affix that copy to a prominent position on or at the place; and
 - (b) may not investigate a matter in which he or she has a direct or indirect personal or private interest.
- (4) An enforcement official investigator may enter and inspect a place for the purpose of enforcing or investigating compliance with this By-law without a warrant if—
 - (a) consent is obtained from—
 - (i) the resident or owner of a private dwelling, or
 - (ii) the owner or person in control of the place; or
 - (b) the enforcement official investigator on reasonable grounds believes that—
 - (i) a warrant would be issued if the enforcement official investigator applied for it; and
 - (ii) the delay in obtaining the warrant may defeat the object of the entry and inspection; or
 - (c) so authorised by this By-law or any other law.
- (5) If subsection (4) does not apply, then an enforcement official investigator may enter and inspect a place for the purpose of enforcing or investigating compliance with this By-law only on the authority of a warrant.
- (6) An enforcement official investigator is not required to seek the consent contemplated in subsection (4)(a) before exercising a power contemplated in subsection (5).
- (7) A judge magistrate, if empowered by national legislation, or a judge in chambers may issue a warrant contemplated in subsection (5) *ex parte* on written application by an enforcement official investigator if it appears from information under oath or affirmation that—

- (a) there are reasonable grounds for suspecting that a contravention of this By-law has occurred;
- (b) an inspection of the place is likely to yield information pertaining to the contravention; and
- (c) the inspection is reasonably necessary for the purposes of this By-law.

(8) In enforcing or investigating compliance with this By-law, an enforcement official investigator may—

- (a) be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection;
- (b) inspect any article or any work performed at the place or any condition prevalent at the place which may be relevant to the investigation;
- (c) examine, analyse, measure or make a copy of an article and remove it for examination, analysis, measurement, copying or extraction;
- (d) require a person to produce or to deliver at such time and place as may be determined by the enforcement official investigator, an article for inspection;
- (e) seize an article which in his or her opinion may serve as evidence of a contravention of this By-law, provided that a person who so requests may, if possible, make a copy of such article before such seizure;
- (f) take a photograph or make an audio-visual recording of any person or anything for the purpose of his or her investigation;
- (g) question a person who, in the opinion of the enforcement official investigator, may be able to furnish information on a matter to which this By-law relates; and
- (h) direct a person to appear before him or her at such time and place as may be determined by the enforcement official investigator and question such person either alone or in the presence of any other person on a matter to which this By-Law relates.

(9) When an enforcement official investigator removes or seizes an article, the enforcement official investigator must issue a receipt to the owner or person in control thereof and return the article as soon as practicable after achieving the purpose for which the article was removed or seized.

(10) An enforcement official investigator who enters and inspects any place in terms of this section must conduct such inspection—

- (a) between 08:00 and 18:00, unless the person contemplated in subsection (4) consents to, or the warrant contemplated in subsection (5) in writing authorises, the inspection at another time; and
- (b) with strict regard for each person's right to dignity, freedom, security and privacy.

(11) When an enforcement official investigator enters a place in terms of this section, a person who controls or manages the place must at all times provide such facilities as are reasonably required by the enforcement official investigator and those accompanying him or her to enable them to perform their functions effectively and safely.

[S. 135 substituted by s. 11 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2017]

Part 6
Impoundment
(135A-135G)

135A Definitions in this Part

For purposes of this Part—

‘order’ includes an instruction under section 126, a directive under section 128 or an order under the National Building Act;

‘owner’ means the owner of a land unit;

‘third-party owner’ means a person, other than an owner, who owns moveable property—

- (a) listed in a notice of intention to impound under section 135C; or

(b) impounded under section 135F.

135B Notice of impoundment power

The City must include the following information in an order—

- (a) the City may impound moveable property, which, in the City's opinion, is being used or is likely to be used on the land unit in contravention of this By-law, the National Building Act or the order; and
- (b) the owner's duty under section 135D(3).

135C Notice of intention to impound

- (1) The City may serve a notice under this section when—
 - (a) serving an order; or
 - (b) at any later time.
- (2) A notice of intention to impound must—
 - (a) describe the conduct constituting a contravention of this By-law, the National Building Act or an order;
 - (b) advise that the City believes that moveable property, listed in the notice, is being used or is likely to be used in the contravention;
 - (c) advise that the City is considering impounding the moveable property;
 - (d) invite the owner and a third-party owner to make written representations to the City within a specified time on—
 - (i) the correctness of the City's conclusions contemplated in paragraphs (a) and (b);
 - (ii) relevant considerations for the City to consider when deciding whether to impound;
 - (iii) whether the movable property is unconnected with the contravention;
 - (iv) whether there is another compelling reason why the movable property should not be impounded;
 - (e) state that the City may disregard late representations;
 - (f) state that the City will execute the impoundment without further notice if it decides to impound;
 - (g) advise the owner of their duty under section 135D(3); and
 - (h) advise the owner of their liability to a third-party owner under section 135G(6).
- (3) The City must issue a fresh notice of intention to impound if it does not impound property within 30 days of a decision to impound.

135D Service of notice

- (1) The City may use a method in section 111 to serve a notice on an owner or third-party owner under sections 135B or 135C.
- (2) An owner or third-party owner contemplated in subsection (1) is deemed to have knowledge of the notice from the date contemplated in section 111(6).
- (3) The owner—
 - (a) is responsible to a third-party owner of any movable property listed in the notice of intention to impound for notifying them of a notice under sections 135B or 135C; and
 - (b) must give them a copy as soon as reasonably possible and no later than two days after the service date.
- (4) A third-party owner on whom notice was not served under section 111 is deemed to have knowledge of the notice two days after service on the owner.

135E Decision to impound and warrant

(1) The City may decide to impound movable property contemplated in section 135B(a) after giving notice of its intention to impound and considering all relevant considerations, including timeous representations on matters contemplated in section 135C(2)(d).

(2) The City is not required to give notice of a decision under subsection (1) to impound before executing the impoundment.

(3) The power to impound is discretionary, and the City cannot be compelled to exercise it.

(4) Subject to this Part, and with the necessary changes, section 135 applies to the execution by an enforcement official of an impoundment, including the power to enter a place under section 135(4).

(5) An enforcement official may apply *ex parte* to a judge in chambers or, where national legislation permits, to a magistrate in chambers, for a warrant to enter a place, if the owner or another person obstructs or prevents, or is likely to obstruct or prevent, access to property which is to be impounded.

(6) A judge may issue the warrant, contemplated in subsection (5), if it appears from information under oath or affirmation that there are reasonable grounds to conclude that—

- (a) the City served a notice of intention to impound;
- (b) the City decided to impound;
- (c) the contravention of this By-law, the National Building Act or an order has not ceased; and
- (d) the City faces or is likely to face resistance in executing the impoundment.

135F Execution of impoundment

(1) When executing an impoundment or a warrant, an enforcement official must—

- (a) hand a notice of impoundment contemplated in subsection (2) and any warrant to a person apparently in charge; and
- (b) affix a copy of the notice and any warrant at the street entrance to the place, and where possible, in another reasonably visible location at the place.

(2) The notice of impoundment must state—

- (a) the date of the order and of the notice of intention to impound;
- (b) the date of the City's decision to impound;
- (c) brief reasons for the City's decision to impound;
- (d) the provisions of this By-law that empower the enforcement official to impound property, quoting them in full or annexing a copy of this Part;
- (e) the place for executing the impoundment;
- (f) the identity of the enforcement official and any other person authorised to execute the impoundment;
- (g) the list of property to be impounded and any property excluded from impoundment;
- (h) that the enforcement official will compile an inventory of property impounded—
 - (i) describing the property and its condition; and
 - (ii) where known, recording the identity of the property's owner and their contact details;
- (i) the place where the impounded property will be stored;
- (j) subject to paragraphs (k), (l), (m) and (n), that the impounded property will be released to the payee on payment to the City of—
 - (i) an administrative penalty in terms of section 129; and
 - (ii) the costs of removal and storage incurred by the City, in terms of the City's Credit Control and Debt Collection By-law, 2006;
- (k) that the City may apportion the penalty and costs, contemplated in paragraph (j), for a person who owns certain impounded property and seeks its release;

(l) that a third-party owner may apply for the release of their property without paying a penalty or costs under paragraphs (j) or (k) by satisfying the City—
(i) of their ownership;
(ii) that the property is unconnected with the contravention of this By-law, the National Building Act and the order; and
(iii) that the circumstances justify exempting them from paying the penalty and costs;

(m) that the impounded property may be used as evidence in any criminal proceedings arising out of the contravention of this By-law or the National Building Act;

(n) that the City may apply to court to dispose of impounded property after three months from the date of impoundment;

(o) that if the owner of impounded property reclaims it after the City institutes proceedings contemplated in paragraph (n), the owner is liable for the City's legal costs; and

(p)- any other information that the City prescribes.

(3) The enforcement official must prepare an inventory contemplated in subsection (2)(h) before removal, and the City may supplement the inventory later, if necessary.

(4) The enforcement official must give a copy of the inventory to the owner and third-party owner, if they are present at the place during the impoundment, or the City may do so as soon as reasonably possible after the impoundment, if the City knows their identity and contact details.

(5) The owner is responsible for giving a copy of the notice of impoundment, any warrant and the inventory to a third-party owner and must do so within five days.

(6) Everyone present at the place during the impoundment must cooperate with the enforcement official.

(7) A who obstructs or prevents an impoundment, or attempts to do so, is guilty of an offence and upon conviction is liable to the penalties contemplated in sections 133(2) and 133(3).

135G Return or disposal of impounded property

(1) The City must take reasonable precautions to transport and store the impounded property safely.

(2) A person who owns impounded property may reclaim their property upon payment of the penalty and costs, contemplated in sections 135F(2)(j) and (k).

(3) The City may grant an application contemplated in section 135F(2)(l).

(4) The City may apply to a court, after three months from the date of impoundment, for leave to sell or otherwise dispose of impounded property, and the court may grant such an order if it appears from information under oath or affirmation that the property was—
(a)- impounded under section 135F; and
(b)- not released under subsections (2) or (3).

(5) The proceeds of a sale or disposal contemplated in subsection (4) are forfeited to the City and no claim lies against the City for any loss.

(6) If the owner of impounded property tenders payment of the administrative penalty and costs, contemplated in section 135F(2)(j), after institution of legal proceedings, contemplated in subsection (4), the owner is liable for the City's legal costs.

(7) The owner is solely liable to a third-party owner for any loss suffered due to the impoundment and for any penalty and costs that they pay under subsection (2).

CHAPTER 10-
NAMING AND NUMBERING OF STREETS
(s 136)

136 Naming and numbering of streets

(1) If a street is created as a result of the approval of an application, the City must approve the naming of the street and must allocate a street number for each land unit located in the street.

(2) The proposed name of the street and numbers must be submitted as part of the application for subdivision.

(3) In considering the naming of a street, the City must take into account the relevant policies relating to street naming and numbering.

(4) The applicant must erect signs displaying the street name according to the City's standards.

(5) No person may alter or amend a street name approved as contemplated in subsection (1) without the approval of the City.

(6) No person may display a name of a street unless the name is approved by the City.

(7) The City may, on its own initiative, alter or amend a street name after complying with the provisions set out in Part 2 of Chapter 7.

(8) The City may name any unnamed street that arose from the approval of an application approved in terms of this By-LawBy-law or planning law.

(9) The procedure as set out in Chapter 7 applies.

(10) A person who alters or amends or displays a street name without the City's approval is guilty of an offence and upon conviction is liable to the penalties contemplated in sections 133(2) and 133(3).

[Sub-s. (10) substituted by s. 24 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

CHAPTER 11-
TRANSFER CERTIFICATE
(s 137)

137 Transfer certificate

(1) A transferor intending to effect the first registration of transfer of a land unit or to obtain a certificate of registered title which arises out of an approved subdivision within the geographic area of the City must provide the City Manager with proof to the satisfaction of the City Manager that all the further requirements contemplated in section 54(1) have been met.

[Sub-s. (1) substituted by s. 22 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

(2) A transferor intending to effect the registration of transfer of a land unit within the geographic area of the City that is indicated on the system as being subject to the action referred to in paragraphs (a) and (b), must provide proof to the satisfaction of the City, that—

(a) in cases where a contravention levy was imposed in terms of the Ordinance and or an administrative penalty contemplated in section 129 was imposed—that the levy or penalty has been paid;

(b) in cases where a directive has been issued in terms of section 128—that the directive has been complied with.

(3) If the City Manager is satisfied that the requirements of subsection (1) and (2) have been met, or if the City Manager waives compliance with subsection (2), they City Manager must issue a certificate authorising the transfer and, if the land unit arises out of an approved subdivision, the City Manager must issue a certificate for each land unit and may only issue a certificate for a land unit within a phase approved by the City.

(4) No person may apply to the Registrar of Deeds for, and the Registrar of Deeds may not register, the transfer of a land unit without the certificate contemplated in subsection (3).

| (5) If a certificate contemplated in subsection (3) is issued in error—
| (a) the new owner must still comply with all outstanding requirements
| contemplated in subsection (1), regardless of whether another person also has
| the duty to do so; and
| (b) ~~the City is exempt from liability for any damage which may be caused as a
| result...~~

**CHAPTER 12—
GENERAL ADMINISTRATIVE PROVISIONS
(ss 138–143)**

138 Policies, procedures, prescriptions, standards, requirements and guidelines

| (1) The City may adopt a policy, procedure, standard, requirement or guideline for the
| effective administration of this ~~By Law~~By-law.

| (2) Unless the power to prescribe is entrusted to another person or body, the City
| Manager may prescribe anything which may be prescribed in terms of this ~~By Law~~By-law.

| (3) The City must make available on the City's website any prescription contemplated in
| subsection (2) and may make available on the City's website any policy, procedure,
| standard, requirement or guideline contemplated in subsection (1).

| (4) An applicable policy, procedure, standard, requirement or guideline applies to an
| application in terms of this ~~By Law~~By-law.

139 Delegations

| (1) The City Manager may—
| (a) delegate any function, power or duty conferred on the City Manager in this ~~By
| Law~~By-law to an official; or
| (b) instruct an official to perform any of the City Manager's duties in terms of this
| ~~By Law~~By-law.

| (2) The Mayor may delegate the power to decide an appeal arising from a decision of an
| authorised official or a failure to take a decision (section 103) to a political office holder or an
| authorised official.

140 Exemption

| (1) The City may, ~~on application or on own initiative, provided good reason exists,~~ in
| writing and subject to section 60 of the Land Use Planning Act exempt an application from
| compliance with the provisions of this ~~By Law~~By-law to reduce the financial or administrative
| burden of—
| (a) the provision of housing with the assistance of a state subsidy; or
| (b) the incremental upgrading of an existing settlement.

| (2) Subject to section 60(1) of the Land Use Planning Act, the City may, ~~on application
| or on own initiative, provided good reason exists,~~ in writing exempt a person, group of
| persons or an area of land within the area of jurisdiction of the City from the application of a
| provision or the whole of this ~~By Law~~By-law for a specified period and the exemption may be
| subject to a condition stated in the exemption, and the City may withdraw or amend the
| exemption at any time.

| (3) The City must publish an exemption on its website.

[Sub-s. (2) and (3) inserted by s. 23 of City of Cape Town: Municipal Planning Amendment ~~By Law~~By-law, 2019]

141 Liability of the City

The City is not liable for any loss sustained by or damage caused to any person as a result
of any act or omission ~~in good faith~~ relating to the performance of any duty ~~or the exercise of
any power~~ under this ~~By Law~~By-law, ~~unless gross negligence is proved, unless fraud or
corruption is proven.~~

142 Savings and transitional provisions

(1) Any approval, decision, designation, determination, consent, right, authorisation, confirmation or instruction issued, granted or in force in terms of a law repealed by the Land Use Planning Act, and in existence immediately before the commencement of the Land Use Planning Act, remains in force and where applicable is regarded deemed to have been issued, granted or occurred in accordance with this By-LawBy-law subject to the conditions under which it was issued and is valid for the period for which it was granted under the repealed law.

(2) Despite the repeal of the Ordinance, any action taken or application made before the commencement of this By-LawBy-law in terms of a law repealed by the Land Use Planning Act, including a previous zoning scheme, which has not been finalised immediately before the commencement of this By-LawBy-law, must be finalised as if the Land Use Planning Act and this By-LawBy-law are not in force and as if the previous zoning scheme was not repealed.

(3) Conduct in contravention of a law repealed by the Land Use Planning Act is regarded as a contravention of this By-LawBy-law and the penalties in this By-LawBy-law apply where the conduct would constitute an offence under this By-LawBy-law.

(4) When an approval is acted on, a land unit is regarded as having been allocated a corresponding zoning in the development management scheme as determined by the City if—

- (a) a rezoning application or substitution scheme was approved, but not yet acted on, before the commencement of this By-LawBy-law; or
- (b) a rezoning application or substitution scheme is approved after the commencement of this By-LawBy-law in accordance with the provisions of a previous zoning scheme (as contemplated in subsection (2)).

(5) ...A building plan application that was formally submitted and accepted

- (a) before 1 March 2013 and which is still being processed; or
- (b) on or after 1 March 2013 with the purpose to act on an approval in terms of a previous planning law, must be assessed in accordance with that approval, provided that the building plan application is approved by 31 August 2017.

(6)(a) An owner whose land on 1 March 2013 was zoned as General Business: Subzone GB3 to GB7 or Mixed Use Subzone MU2 and MU3 may, until 28 February 2023, elect to be regulated by the zoning provisions of either the development management scheme or the zoning scheme in operation on 28 February 2013.

(6)(b) An application for a permanent departure from the provisions of the zoning scheme in operation on 28 February 2013 is not permitted.

[Sub-s. (6) substituted by s. 25 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

(7) Where an owner contemplated in subsection (6)(a) elects to be regulated by the zoning provisions of a zoning scheme in operation on 28 February 2013, all the provisions applicable to that zoning apply and no departure from that zoning may be granted.

(8) Any reference to the approval in the area of the jurisdiction of the City by the Administrator or Townships Board in a restrictive condition, excluding a condition in terms of which the Provincial Government acquires private law rights, is regarded as a reference to the approval by the City.

(9) Notwithstanding any amendment to this By-Law which may come into effect, an application that has already been accepted by the City in terms of section 74(a) before the date that the amendments become effective, will be processed and considered in terms of the legislation as it existed at the time of acceptance. An application accepted under section 74(a) before the date of any amendment to this By-law, must be processed and considered in terms of the legislation applicable at the time of acceptance.

[Sub-s. (9) inserted by s. 24 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

(10)- Despite subsection (9), an amendment to this By-law—

- (a) which is expressly governed by this paragraph, applies to the further processing and consideration of an application regardless of its date of acceptance under section 74(a);
- (b) which is expressly governed by this paragraph, is deemed to have come into operation on 15 July 2015; and
- (c) does not create an offence for an act or omission that was not an offence at the time it was committed or omitted.

143 Short title and commencement

- (1) This By-Law is called the City of Cape Town Municipal Planning By-Law, 2015 and comes into operation on a date fixed by the Mayor by proclamation in the Provincial Gazette.
- (2) The Mayor may set different dates for different provisions of this By-Law to come into operation.

SCHEDULE 1

~~STRUCTURE PLANS DEEMED TO BE A DISTRICT SPATIAL DEVELOPMENT~~

~~FRAMEWORK~~

~~(s 20(1))~~

	Name of structure plan
1.	Blaauwberg District Plan: Technical Report
2.	Cape Flats District Plan: Technical Report
3.	Helderberg District Plan: Technical Report
4.	Khayelitsha Mitchells Plain Greater Blue Downs District Plan: Technical Report
5.	Northern District Plan: Technical Report
6.	Southern District Plan: Technical Report
7.	Table Bay District Plan: Technical Report
8.	Tygerberg District Plan: Technical Report

SCHEDULE 2

~~STRUCTURE PLANS DEEMED TO BE A LOCAL SPATIAL DEVELOPMENT~~

~~FRAMEWORK~~

~~(s 20(2))~~

	Name of structure plan
1.	Constantia Triangle Local Structure Plan
2.	Development Framework for Elsieskraal River Valley
3.	Management Plan for Victoria Avenue, Hout Bay: Oxford Street to Princess Street
4.	Scarborough and Misty Cliffs Structure Plan
5.	Simon's Town Structure Plan
6.	Sunnydale Local Area Structure Plan
7.	Urban Design Framework for Durbanville CBD

SCHEDULE 3
CITY OF CAPE TOWN DEVELOPMENT MANAGEMENT SCHEME
(s 25(1)(a))

DIVISION I: INTERPRETATION AND PROCEDURES
(items 1-7)

CHAPTER 1: DEFINITIONS AND INTERPRETATION
(items 1-6)

1 Definitions in this development management scheme

(1) Sub-item (2) must be read with section 1 of this ~~By Law~~By-law.

(24) In this development management scheme, unless the context indicates otherwise—

‘**abattoir**’ means a place where animals are slaughtered and prepared for distribution to butchery shops, supermarkets and food markets;

‘**additional dwelling unit**’ means a dwelling unit that may be erected with the approval of the City in an Agricultural zoning, in addition to a second dwelling, dwelling or residential accommodation for bona fide agricultural workers;

‘**additional use right**’ means a land use specified in this development management scheme as an activity or use that is permitted in a zoning, provided that any conditions or further provisions specified for such activity or use are complied with;

‘**adult entertainment**’ means property used for adult film theatres or strip clubs where sexually explicit, live or recorded shows are displayed, but ~~does not include~~excludes adult services or an adult shop;

‘**adult services**’ means property used for massage parlours or escort agencies where sexually orientated personal services are provided, unless such services form part of a medical or therapeutic service provided by a registered medical practitioner or similar registered professional person; but ~~does not include~~excludes adult entertainment or an adult shop;

‘**adult shop**’ means property used for the retail sale of pornographic, sexually explicit or erotic material, whether or not such material is displayed for sale, unless such material forms part of a medical or therapeutic service provided by a registered medical practitioner or similar registered professional person; but ~~does not include~~excludes adult entertainment or adult services;

‘**advertisement**’, when used in the context of outdoor advertising, has the same meaning as assigned to it in terms of the City’s Outdoor Advertising & Signage ~~By Law~~By-law;

‘**affordable**’, in relation to affordable rental flat or affordable rental unit, is determined with reference to a policy adopted by the City;

‘**affordable rental flat**’ means a building containing two or more affordable rental units, that may not be sectionalised, with such outbuildings as are ordinarily associated therewith, but ~~excludes a dwelling house, second dwelling, third dwelling or flat~~;

‘**affordable rental unit**’ means a self-contained inter-leading group of rooms or a single room, including sanitary and cooking facilities, that is for rental only and used for living accommodation;

‘**agricultural industry**’ means an enterprise for the processing of agricultural products on or close to the land unit where these agricultural products are grown, and where processing in such proximity is necessary due to the nature, perishability and fragility of such agricultural products; and includes a winery and distillery, but ~~does not include~~excludes a service trade or abattoir;

‘**agriculture**’ means the cultivation of land for crops and plants, the keeping and breeding of animals, beekeeping, or the operation of a game farm, and includes such activities and buildings as are reasonably connected with the main farming activities, such as dwelling units for the farmer, farm manager and farm labourers, the packing of agricultural produce

grown on the property for delivery to the market, and a plant nursery; but excludes intensive horticulture, intensive animal farming, a farm shop, harvesting of natural resources, and agricultural industry;

‘**airport**’ means a complex comprising aircraft runways and associated buildings for the take-off and landing of civilian aircraft, as well as facilities for the handling and storage of air freight;

‘**air, and underground and other rights**’ means the development of a defined space above, on or below a public street, open space, railway line, elevated freeway, bridge or another transport usage, and the allocation of use rights for such purpose which may include any use with the approval of the City;

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

‘**animal care centre**’ means a place for the care of pets and animals, operated on either a commercial or a welfare basis, and includes boarding kennels for animals and pet training centres;

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

‘**aqua-culture**’ means the breeding, for commercial purposes, of water flora or fauna in artificially constructed dams or holding tanks, or suspended from floating supports in natural water bodies;

‘**atrium**’ means a covered courtyard comprising a void within a building that extends for one or more floors in height, but does not contain floors that penetrate into the void. An atrium contains a floor and a roof or ceiling;

‘**auction house**’ means an establishment where a broker or auctioneer sells the property of others during scheduled sale periods or events, but excludes ‘**livestock auction house**’;

‘**authority use**’ means a use which is practised by or on behalf of an organ of state, the characteristics of which are such that it cannot be classified or defined under other uses in this development management scheme, and includes a use practised by—:

- (a) the national government, such as a military base and installation, police station or prison;
- (b) the provincial government, such as a road station or road camp;
- (c) the City, such as fire services or a municipal depot with related uses, including limited accommodation for staff who are required to be on standby for emergencies;
- (d) a foreign government, such as excluding a chancery an embassy or consulate, but does not include a dwelling house where the dominant use is for living accommodation of foreign diplomatic personnel.;

‘**...**’
[Definition for ‘average ground level’ deleted by s. 25 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

‘**backpackers lodge**’ has the same meaning as ‘**boarding house**’ except that lodging is provided per bed and not per bedroom;

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

‘**...**’
[Definition for ‘base level’ substituted by s. 26 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]
[Definition for ‘base level’ deleted by s. 25 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

‘**basement**’ means that space in a building between a floor and ceiling, including such floor or ceiling, which protrudes not more than 1,5m above any point on the existing ground level;

[Definition substituted by s. 26 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

‘**bed and breakfast establishment**’ means a dwelling house, second dwelling or third dwelling in which the occupant of the dwelling supplies lodging and meals for compensation to transient guests who have permanent residence elsewhere; provided that:—

- (a) the dominant use of the dwelling unit concerned remain for the living accommodation of a single family; and
- (b) the property complies with the requirements contained in this development management scheme for a bed and breakfast establishment;

[Definition substituted by s. 25 (c) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'boarding house' means a building where lodging is provided, and may incorporate cooking, dining and communal facilities for the use of lodgers, together with such outbuildings as are normally used therewith; and includes a building in which rooms are rented for residential purposes, youth hostel, backpackers' lodge, ~~guest house~~, home for the aged, handicapped or orphaned, ~~commune~~ and residential club; but ~~does not include~~excludes a hotel, dwelling house, second dwelling, third dwelling, ~~guest house~~ or group house;

[Definition substituted by s. 25 (d) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

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

'boundary wall' means any wall or fence erected on or immediately next to a cadastral line with any other structure affixed to the top of a boundary wall, which ~~is intended to create~~ serves as a division between adjoining properties, but ~~does not include~~excludes a any wall as part of a building or shelter; means any wall or fence erected on or immediately next to a cadastral line with any other structure affixed to the top of a boundary wall, (excluding any decorative features or lights), which ~~is intended to create a division between adjoining properties or a public street, but excludes a wall of a building or shelter;~~

[Definition substituted by s. 25 (e) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'braai room' means a room which is part of a dwelling unit or outbuilding and is used primarily for entertainment purposes and where food and drinks may be prepared, but excludes a kitchen;

[Definition substituted by s. 25 (f) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

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

- (a) any roofed structure;
- (b) any external stairs, steps or landings of a building and any gallery, canopy, balcony, stoep, verandah, porch or similar feature of a building;
- (c) any walls or railings enclosing any feature referred to in paragraph (b)-above; and
- (d) any other portion of a building;

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

'builder's yard' means a property used for the storage of material and equipment which:

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

'business premises' means a property from which business is conducted and includes a shop, supermarket, restaurant, ~~bakery~~, auction house, data centre, a place where the sale of alcoholic beverages ~~occurs~~, a place where the sale of LP gas or similar fuel occurs, plant nursery, office, service trade, funeral parlour, financial institution and building for similar uses, but ~~does not include~~excludes a place of assembly, place of entertainment, institution, motor repair garage, industry, ~~warehouse~~, noxious trade, risk activity, adult entertainment business, adult services or adult shop;

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

'camping site' means a property in which tents or caravans are used for accommodation for visitors, and includes ablution, cooking and other facilities for the use of such visitors;

'canopy' means a cantilevered or suspended roof, slab or covering (not being the floor of a balcony) projecting from the wall of a building;

'caravan' means a vehicle which has been equipped or converted for living and sleeping purposes and which can be readily moved;

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

'carriageway crossing', in relation to a motor vehicle carriageway crossing, means an entrance or exit way, or a combined entrance and exit way, from a land unit to an abutting road and is measured along the cadastral line;

'cemetery' means a place for the burial of human or domestic animal remains, and may include ancillary buildings such as an office and chapel, but ~~does not include~~ excludes a crematorium;

'chancery' means a building used by the diplomatic mission of a foreign government or a specialised agency or international organisation recognised under section 5 of the Diplomatic Immunities and Privileges Act 37 of 2001, but excludes a dwelling house or unit where the dominant use is for accommodation of foreign diplomatic personnel;

'City of Cape Town Ground Level Map...' means a map approved in terms of the development management scheme, indicating the existing ground level based on floating point raster's and a contour dataset from LiDAR information available to the City;

[Definition inserted by s. 25 (g) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'clinic' means a place for the diagnosis and treatment of human illness or the improvement of human health, which has limited facilities and an emphasis on outpatients, provided that a clinic may contain live-in facilities for no more than twenty persons, including patients and staff; and a clinic may include medical consulting rooms, operating theatre, an outpatients centre and a wellness centre with ancillary uses;

'commercial' combined with a use, such as '**'commercial entertainment'**', '**'commercial conference facility'**' etc., means an enterprise that is run with the express purpose of making a profit and where there are no or limited social or charitable objectives;

'common boundary' in relation to a land unit means a boundary that is common with an adjoining land unit other than a street boundary;

'commune' means an entire dwelling house, second dwelling or third dwelling used for accommodation of a group of people—

- (a) living together and sharing facilities and responsibilities; and
- (b) not more than five unrelated persons without dependants;

'conference facility' means a place of commercial nature where information is presented and ideas or information exchanged among groups of people or delegates whose normal place of work is elsewhere, and may include overnight accommodation and the supply of meals to delegates;

'container site' means property used for the storage of shipping or transport containers;

'contextual framework' means a plan or written strategy approved by the City as envisaged in item 136(4)(a);

'coverage' means the total area of a land unit that may be covered by buildings, expressed as a percentage of the area of such land unit, and shall include all roofed areas; provided that the following portions of buildings shall be disregarded in the calculation of coverage:—

- (a) stoeps, entrance steps and landings;
- (b) open balconies and retractable awnings;
- (c) cornices, chimney breasts, pergolas, flower boxes, water pipes, drain pipes and minor decorative features not projecting more than 500 mm from the wall of the building;
- (d) eaves not projecting more than 1 m from the wall of the building;

(e) ~~a any portion of a basement, provided that the finished level of the top of the basement roof slab which does not project protrude above the existing ground level;~~

'crematorium' means a place for incinerating corpses in a furnace, and includes ancillary facilities such as a chapel and offices;

'cultural and social ceremonies' means the practice of cultural and social ceremonies by any person belonging to a cultural, religious or linguistic community, provided that such ceremonies are lawful;

'data centre' means a building or dedicated space within a building or a group of buildings used to store computer systems and associated components, such as telecommunication and storage systems;

'development framework' means a development framework as contemplated in item 136(4)(b);

'display' in relation to a sign, without in any way limiting its ordinary meaning, includes the erection of any structure for the support of such sign;

'domestic staff quarters...' means an outbuilding which has a floor space of not more than 50 m², including sanitary and cooking facilities, and used for the accommodation of domestic staff employed at the dwelling unit concerned; provided that:

(a) ~~no more than one domestic staff quarters is allowed on a land unit without the approval of the City; and~~

(b) ~~the domestic staff quarters may only have its own individual section within a sectional title scheme if it is legally tied to the dwelling unit concerned;~~

[Definition substituted by s. 25 (h) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

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

'dwelling house' means a building containing only one dwelling unit, together with such outbuildings as are ordinarily used with a dwelling house, ~~including domestic staff quarters~~;

'dwelling unit' means a self-contained, interleading group of rooms, with not more than one kitchen, used for the living accommodation and housing of one family or a maximum of 5 transient guests, together with such outbuildings as are ordinarily used therewith, but ~~does not include excludes~~ domestic staff quarters, or tourist accommodation or accommodation used as part of a hotel;

[Definition substituted by s. 25 (i) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

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

'eaves' means a portion of a roof projecting beyond the face of a building, including any gutters;

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

'electric vehicle charging station' means a parking bay or dedicated space for vehicles with electric vehicle supply and ancillary equipment, other than a space which is ancillary to the property, that may or may not be located within a parking bay or dedicated space, that supplies electric energy for the charging of electric or plug-in hybrid vehicles for which a fee may or may not be charged;

'electronic or mechanical playing devices' means any electronic or mechanical or similar devices which are designed or used for the purpose of playing of any game or for recreational or amusement purposes or where the operator or player is entitled to a limited payout as determined by law and the operation involves the payment of any valuable consideration either by insertion of a coin, token coin, disc or another manner;

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

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

'environmental conservation use' means the use or maintenance of land in a substantially natural state with the object of preserving the biophysical and heritage characteristics of that land, as well as flora and fauna living on the land, and includes associated infrastructure required for such use;

'environmental facilities' means facilities for the management, study, interpretation, education, and public appreciation of a predominantly natural area or heritage site; and includes accommodation for staff, support services and associated infrastructure, but ~~does not include~~excludes tourist facilities or tourist accommodation;

'environmental site- or activity management plan' means a plan that documents the management of site preparation, construction and/or operations affecting an environmental resource or an environmentally significant place, its environmental values and management requirements, or both;

'equipment room' means a building or a part thereof to accommodate communication equipment associated with telecommunication infrastructure. This can be a separate building used exclusively for the equipment, or it can be a container or a room within a building;

'erection' in relation to a building or structure includes:

- (a) the construction of a new building or structure;
- (b) the alteration or conversion of, or addition to, a building or structure; and
- (c) the re-construction of a building or structure which has completely or partially been demolished;

and ~~'erect'~~ has a corresponding meaning;

'erf' has the same meaning as **'land unit'**;

'event' has the same meaning as in the City of Cape Town Events By-law;

'existing ground level' means the land surface level depicted on the Ground Level Map, except if this development management scheme provides a different level.

'existing ground level...' means the level of the land surface on a land unit as depicted on the City of Cape Town Ground Level Map. If this map has not been approved or is not applicable to a specific land unit(s), as determined by the City, then the following will apply to determine the level of the land surface on a land unit:

- (a) in its unmodified state, before any building had been erected or alterations in levels had been made thereon; or
- (b) established from a plan indicating the contours of the land lodged with and accepted by an official agency such as the municipality or a government department, which depicts the existing level of the ground at or before the commencement date; or
- (c) in a state which has been graded, with the City's approval, for the purpose of development; or
- (d) as determined by the City, if in its opinion it is not possible to ascertain the existing level of the ground due to irregularities or disturbances of the land; and the City may require the owner or applicant to commission a registered surveyor to measure levels of the ground or interpolate levels, which shall be tied to the National Control Network, or where this is not possible, to provide at least two durable reference marks suitably located, in order to provide the City with sufficient information so that it can determine the most appropriate existing ground level for the purpose of administrating this development management scheme;

[Definition substituted by s. 25 (j) of City of Cape Town: Municipal Planning Amendment ~~By Law~~By-law, 2019]

'expo centre' means a place for large exhibitions, particularly of a commercial nature where products are displayed to promote trade, or a place for large conventions; and includes a conference facility;

'face of a building' means the outer face of the exterior walls or similar supports of such building;

'factory' means property containing an industrial manufacturing plant used for the manufacture of goods;

'factory shop' means property used for the retail sale of goods to the public, in which the goods concerned have been completely or predominantly manufactured in a factory on the property concerned;

'family' means:

- (a) one person maintaining an independent household; or
- (b) ~~two-one or more parents and their dependants living together and persons related by blood, marriage or civil union maintaining a common household; or~~
- (c) not more than five unrelated persons without dependants maintaining a common household; but does not exclude up to six foster children, or dependants under legal guardianship as part of a household;

'farm shop' means a building, located on a farm, where the farmer sells produce grown on the farm and other goods to the general public;

'filming' has the same meaning as in the City of Cape Town Filming By-law ~~means the preparation of a property for the recording of sound and images as well as the recording of sound and images, moving or still, whether on film or by video tape, electronically or by any other means, but excludes the recording of a private wedding ceremony or other private celebration or event for the purpose of making a recording thereof for its participants for private purposes, or the recording of current affairs or news for immediate release;~~

[Definition of inserted by s. 26 (c) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

'flats' means a building containing ~~three-four~~ or more dwelling units ~~and includes apartments~~, together with such outbuildings as are ordinarily associated therewith but excludes a dwelling house, second dwelling, ~~and third dwelling and affordable rentals flat;~~

[Definition substituted by s. 25 (k) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'flood' means a general and temporary condition of partial or complete inundation of land from the overflow of a body of water;

'flood-prone area' means any land area susceptible to being inundated by water from any source;

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

'floor factor' means the factor (expressed as a proportion of 1) which is prescribed for the calculation of maximum floor space of a building or buildings permissible on a land unit. If the floor factor is known, the maximum permissible floor space can be calculated by multiplying the floor factor by the area of the land unit;

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

- (a) ~~any basement or part of a basement not intended as habitable space shall be excluded;~~
- (aA) ~~any area which is reserved solely for parking or loading of vehicles shall be excluded;~~
- (b) ~~external entrance steps and landings, any canopy, any stoep and any area required for external fire escapes shall be excluded;~~
- (bA) ~~portions of passages, access ways and fire escapes up to 1,5m in width in a building on a land unit with a zoning other than Single Residential Zoning 1 and 2, Community Zoning 1 and 2, Agricultural Zoning and Rural Zoning, provided that they connect directly from the fire escape, vertical circulation to the entrance doors or both, shall be excluded;~~
- (c) ~~a projection including a projection of eaves, and a projection which acts as a sunscreen or an architectural feature, which projection does not exceed 1 m beyond the exterior wall or similar support, shall be excluded;~~
- (d) ~~any uncovered internal courtyard, lightwell or other uncovered shaft which has an area in excess of 10 m² shall be excluded;~~
- (e) ~~any covered paved area outside and immediately adjoining a building at or below the ground floor level, where such paved area is part of a forecourt, yard, external courtyard, pedestrian walkway, parking area or vehicular~~

~~access, and which is permanently open to the elements on at least the front or long side, shall be excluded;~~

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

~~(g) subject to paragraph (h) below, any stairs, stairwells and atriums that are covered by a roof shall be included;~~

~~(h) in the case of multi level buildings, any stairwells, liftwells, lightwells or other wells, and any atrium, shall only be counted once;~~

~~and provided further that floor space shall be measured from the outer face of the exterior walls or similar supports of such building, and where the building consists of more than one level, the total floor space shall be the sum of the floor space of all the levels, including that of basements; 'floor space' in relation to any building means the area of a floor which is covered by a slab, roof or projection, but—~~

(a) excludes—

(i) a basement or part of a basement not intended as habitable space;

(ii) an area which is reserved solely for parking or loading of vehicles and vehicular access to such areas;

(iii) external entrance steps and landings, a canopy, a stoep and an area required for external fire escapes;

(iv) portions of passages, access ways and fire escapes up to 1,5m in width in a building on a land unit with a zoning other than Residential Zoning 1 and 2, Community Zoning 1 and 2, Agricultural Zoning and Rural Zoning, unless they connect directly from the fire escape, vertical circulation to the entrance doors or both and for the sole purpose to connect parts of the building to fire escapes;

(v) a projection including a projection of eaves, and a projection which acts as a sunscreen or an architectural feature, which projection does not exceed 1 m beyond the face of the building;

(vi) an uncovered internal courtyard, lightwell or other uncovered shaft which has an area in excess of 10 m²;

(vii) a covered paved area outside and immediately adjoining a building at or below the ground floor level, where such paved area is part of a forecourt, yard, external courtyard, pedestrian walkway, parking area or vehicular access, and which is permanently open to the elements on at least the front or long side; and

(viii) a portion of covered balcony, verandah or terrace up to 2,5m in width which, apart from protective railings, is permanently open to the elements on at least the front or long side;

(b) includes, subject to paragraph (c) below, any stairs, stairwells and atriums that are covered by a roof;

(c) in the case of multi-level buildings, any stairwells, liftwells, lightwells or other wells, and any atrium, shall only be counted once; and

(d) that floor space must be measured from the face of the building, and where the building consists of more than one level, the total floor space shall be the sum of the floor space of all the levels, including that of basements;

[Definition substituted by s. 26 (d) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

[Definition substituted by s. 25 (l) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'freestanding base telecommunication station' means a freestanding support structure on land or anchored to land and used to accommodate telecommunication infrastructure for the transmitting or receiving of electronic communication signals, and may include an access road to such facility;

'funeral parlour' means property where the dead are prepared for burial or cremation and includes facilities for ancillary administrative and religious functions but does not include~~excludes~~ a crematorium;

'garage' means a building for the storage of one or more motor vehicles, and includes a carport but ~~does not include~~excludes a motor repair garage or service station;

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

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

$$\text{Gross dwelling density} = \frac{\text{Total number of dwelling units in a specified area}}{\text{Extent of specified area in hectares}}$$

'gross leasable area or GLA' means the area of a building designed for, or capable of, occupancy and/or control by tenants, measured from the centre line of joint partitions to the inside finished surface of the outside walls, and shall exclude the following:—

- (a) all exclusions from the definition of floor space ~~(except exclusion (a)(vii) in that definition)~~;
- (b) toilets;
- (c) lift shafts, service ducts, vertical penetrations of floors;
- (d) lift motor rooms and rooms for other mechanical equipment required for the proper functioning of the building;
- (e) areas reasonably used in connection with the cleaning, maintenance and care of the ~~building~~ property, excluding dwelling units for caretakers, supervisors, cleaners or maintenance staff; and
- (f) interior parking and loading bays;

'ground floor' means the lowest floor of a building that is not a basement;

[Definition substituted by s. 26 (e) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

'ground level': see 'existing ground level';

[Definition substituted by s. 25 (m) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'Ground Level Map' means a map approved in terms of this development management scheme, indicating the existing ground level based on floating point raster's and a contour dataset from LiDAR information available to the City;

'ground-mounted energy system' means any ground-mounted apparatus or similar device, or grouping thereof, designed to generate, store, and convert energy mainly for ancillary use and includes any test facility or structure which may lead to the generation and export of energy, but excludes micro wind turbine or small-scale wind turbine;

'group house' means a dwelling unit which forms part of a group housing scheme;

'group housing' and **'group housing scheme'** means a group of separate and/or linked dwelling units which may be subdivided but are planned, designed and built as a harmonious architectural entity and integrated with open space in an ordered way;

'group housing site' means one or more land units on which a group housing scheme may be erected;

'guest house' means a dwelling house, second dwelling or third dwelling which is used for the purpose of supplying lodging and meals to transient guests for compensation, in an establishment which exceeds the allowable number of rooms of a bed and breakfast establishment, and may include business meetings or training sessions by and for guests on the property, ~~but excludes~~does not include a boarding house;

[Definition substituted by s. 25 (n) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'habitable space' means space used, designed, adapted or intended to be used by persons for sleeping in, living in, preparation or consumption of food or drink, transaction of business, rendering of any services, manufacturing, processing or sale of goods, performance of work, gathering together of persons or for recreational purposes;

'halfway house' means a facility that provides temporary accommodation for residents who have completed a formal treatment programme for substance abuse, but excludes inpatient treatment or similar facilities;

'harvesting of natural resources' means the gathering of flora and/or fauna within a conservation-worthy area for sale or use by a person or agency other than a recognised environmental agency; provided that such harvesting:—

- (a) is sustainable;
- (b) does not deplete the resources below acceptable levels; and
- (c) is not detrimental to the ecosystem;

'hazardous substance' or **'hazardous substances'** has the same meaning as the definition of 'grouped hazardous substance' in the Hazardous Substances Act, 1973 (Act 15 of 1973); **'height'** of a building or boundary wall means a vertical dimension from a specified level to another specified level, as set out in the development rules of a zoning, measured in metres; provided that the following shall not be counted for the purpose of height control:—

- (a) chimneys (maximum horizontal dimension of 1,5m),
- (b) flues (maximum horizontal dimension of 1m),
- (c) lift shafts (maximum horizontal dimension of 36m and maximum vertical dimension of 23m per lift shaft),
- (d) masts, and
- (e) antennas, and;

(f) screening (maximum vertical dimension of 2m), as contemplated in item 125;

[Definition substituted by s. 26 (f) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

[Definition substituted by s. 25 (o) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'helicopter landing pad' means any portion of land, building, structure or part thereof which has been demarcated for the purposes of landing or take-off of helicopters or vertical lift-off aircraft;

'heritage area' has the same meaning as described in section 31 of the National Heritage Resources Act;

'heritage management plan' means a plan that documents a heritage resource, its heritage values and management requirements. Such a heritage management plan must be subject to public consultation and approved by the City before it may be implemented;

'heritage place' means a property, site, area, region, structure, group of structures, open space, public square, street, park, field or natural feature that is worthy of conservation due to its heritage value;

'heritage register' has the same meaning as defined in the National Heritage Resources Act;

'heritage resource' has the same meaning as defined in the National Heritage Resources Act;

'high intensity residential land unit' means a land unit, with a base zoning of either Single Residential Zoning 1 or Single-Residential Zoning 2, where more intensive land uses than those provided for in the base zoning are promoted, as demarcated on a scheduled public transport accessibility map approved by the City from time to time;

[Definition inserted by s. 25 (p) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'home child carechildcare means the use of portion of a dwelling unit or outbuilding by the occupant to provide day care, after school care or instruction for a limited number of infants or children;

[Definition substituted by s. 25 (q) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'home occupation' means the practising of any occupation or the conducting of an enterprise from a land unit, dwelling house, second dwelling, third dwelling, dwelling unit or outbuilding by one or more occupants who reside on the property and includes the sale of alcoholic beverages via internet or any other electronic means provided no alcoholic beverage is stored, received or despatched from the property;

[Definition substituted by s. 26 (g) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

[Definition substituted by s. 25 (r) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'horticulture': see 'intensive horticulture',

'hospital' means a place for the diagnosis and treatment of human illness, with integrated facilities such as operating theatres and live-in accommodation for patients; and includes a clinic and medical consulting rooms;

'hotel' means a property used as a temporary residence for transient guests, ~~where lodgings and meals are provided, and may include:~~

- (a) a restaurant or restaurants;
- (b) conference, wedding, and entertainment facilities or similar functions that are subservient and ancillary to the dominant use of the property as a hotel; and
- (c) premises which are licensed to sell alcoholic beverages for consumption on the property;

~~but does not include~~excludes an off-sales facility, ~~or~~ dwelling house ~~or~~ dwelling unit;

'house shop' means the conducting of a retail trade from ~~either a~~ land unit, dwelling house, second dwelling, third dwelling or outbuilding by one or more occupants who shall reside on the property;

[Definition substituted by s. 25 (s) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'industry' means a property used as a factory or for such purposes and in or on which an article or part of such article is made, manufactured, produced, baked or food otherwise cooked or prepared, built, assembled, compiled, printed, ornamented, processed, treated, adapted, repaired, renovated, rebuilt, altered, painted (including spray painting), polished, finished, cleaned, dyed, washed, broken up, disassembled, sorted, packed, chilled, frozen or stored in cold storage; including offices, caretaker's quarters or other uses which are subservient and ancillary to the use of the property as a factory; and includes a warehouse and the sale of LP gas and similar fuel, but ~~does not include~~excludes a noxious trade or risk activity;

'informal trading' means the legal selling of products in areas demarcated by the City specifically for these purposes, such as markets and other demarcated areas;

'institution' means a property used as a ~~welfare~~ facility such as a home for the aged, retired, indigent or handicapped; or a social facility such as a counselling centre, orphanages or reformatory; and includes ancillary administrative, health care and support services for these facilities; ~~but does not include~~excludes a hospital, clinic or prison;

'intensive animal farming' means the breeding, feeding and keeping of animals or poultry on an intensive basis, where the animal in question is kept in a confined space so as to accomplish intensive feeding or maximum control of or maximum food conversion in the animal, but excludes the breeding, feeding and keeping of wildlife;

'intensive horticulture' means the culture of plants on an intensive scale, including the culture of plants under a roof or in greenhouses, as well as the sale of self-produced plants on a property;

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

'kitchenette' means a small cooking area which is not the primary kitchen in the dwelling unit concerned, which usually has a refrigerator and a microwave, but may have other appliances and a sink;

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

'livestock auction house' means an establishment where livestock of others are sold by a broker or auctioneer on the property during scheduled sale periods or events;

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

'lodging' means bedroom (or bed, in the case of a backpackers' lodge) accommodation which is made available for payment, and the services ordinarily related to such accommodation, and **'lodger'** has a corresponding meaning;

'low intensity residential land unit' means a land unit, other than a high intensity residential land unit, with a base zoning of either ~~Single~~ Residential Zoning 1 or ~~Single~~ Residential Zoning 2, where more intensive land uses than those provided for in the base zoning are promoted, as demarcated on a scheduled public transport accessibility map approved by the City from time to time;

[Definition inserted by s. 25 (t) of City of Cape Town: Municipal Planning Amendment ~~By Law~~^{By-law}, 2019]

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

'medical consulting rooms' means an office or offices and ancillary rooms used by a registered medical professional for human medical or medical-related consultation, where such office is not attached to a hospital or clinic;

'metropolitan road' means any public street or ~~public~~ road declared by the City as a road of metropolitan significance in terms of a schedule of such roads published and shown on a plan, as may be amended by the City from time to time;

'micro wind turbine' means '**wind turbine infrastructure**' which has the following restrictions—

- (a) maximum blade diameter of 700mm;
- (b) maximum height of blades above existing ground level of 2.5m if freestanding;
- (c) maximum height of blades above the top of building of 1.5m when attached to the building and a minimum distance from any boundary wall of 2.5m;

'mine' has the same meaning as stipulated in the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002) and include prospecting or prospecting related activities;

'minor freestanding base telecommunication station' means a freestanding support structure on land or anchored to land and used to accommodate telecommunication infrastructure and may be attached to street lamps, traffic lights, road directional signage, camera poles and flag poles or similar support structure; provided that—

(a) it may not exceed 12m in height measured from existing ground level or road surface or pavement as the case may be or a diameter of 300mm for the post or support structure to which the antenna is to be attached;

(b) a screened container for antennas which must be part of the post or support structure may not exceed a vertical dimension of 2m, or diameter of 500mm; and

(c) an equipment container may not exceed 1m x 1m x 1m cube above existing ground level

- (a) is not taller than 12m, measured from existing ground level or road surface or pavement as the case may be; and
- (b) does not have a post or support structure for attaching the antenna exceeding 300mm in diameter;

[Definition inserted by s. 25 (u) of City of Cape Town: Municipal Planning Amendment ~~By Law~~^{By-law}, 2019]

'minor rooftop base telecommunication station' means a concealed support structure integrated with the roof, side or any other part of a building and used to accommodate telecommunication infrastructure, which does not exceed a vertical dimension of 1,5m above the top of the ~~roof~~ building or a lateral dimension of 1,5m when affixed to the side or any other part of a building;

[Definition inserted by s. 25 (v) of City of Cape Town: Municipal Planning Amendment ~~By Law~~^{By-law}, 2019]

'mobile home' means a transportable structure with the necessary service connections, which is designed so that it can be used as a permanent dwelling;

'motor repair garage' means a commercial enterprise where motor vehicles are provided with fuel and/or major services such as engine overhauling, ~~mechanical workshop~~, spray-

painting, panel beating, black-smithery, exhaust fitment, shock absorber fitment or body work, and includes a service station;

'motor vehicle' means a wheeled vehicle designed or used for propulsion by means of an internal combustion or electrical engine, and includes a motor cycle, trailer or caravan, but does not include~~es~~ a vehicle moving exclusively on rails;

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

'National Environmental Management Act' means the National Environmental Management Act, 1998 (Act 107 of 1998);

'National Heritage Resources Act' means the National Heritage Resources Act, 1999 (Act 25 of 1999);

'National Ports Authority' means an authority that could either be a business unit or division within Transnet or a public company or enterprise created ~~through the provisions of~~ under the National Ports Act, 2005 (Act 12 of 2005);

'natural ground level': see '**existing ground level**';

[Definition substituted by s. 25 (w) of City of Cape Town: Municipal Planning Amendment By-Law~~By-law~~, 2019]

'noise level' means a reading on an integrated impulse sound level meter taken in accordance with accepted scientific principles, as described in Noise Control Regulations promulgated in terms section 25 of the Environment Conservation Act, 1989 (Act 73 of 1989) and published in PN 200/2013 in ~~Provincial Gazette~~Provincial Gazette 7141 of 20 June 2013, or any such subsequent superseding regulations or legislation;

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

'occupant' means any person who physically inhabits a property;

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

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

'open space' means land, not designated as public open space or not deemed to be an ancillary use, which is used primarily as a site for outdoor sports, play, rest or recreation, or as a park or nature area; and includes ancillary buildings, infrastructure and uses, but excludes shops, restaurants and gymnasiums;

'outbuilding' means a structure, whether attached or separate from another structure on a land unit, ordinarily used in connection with the lawfully permitted uses on a land unit;

[Definition substituted by s. 25 (x) of City of Cape Town: Municipal Planning Amendment By-Law~~By-law~~, 2019]

'outdoor advertising' means the act or process of notifying, warning, informing, making known or any other act of transferring information in a visible manner and which takes place outdoors;

'outdoor restaurant dining area' means a defined number of tables, chairs and/or similar moveable infrastructure on a spatially defined area, adjacent to a land unit on which a restaurant is located;

'package of plans' means the hierarchy of plans specified in terms of the provisions in item 136 of this development management scheme, and applies to areas generally referred to as Special planning areas;

'parapet' means a low projection, wall or moulding which finishes the uppermost edge of a building with a flat or low pitched roof;

'parking bay' means an area measuring not less than 5 m by 2,5 m for perpendicular or angled parking and 6 m by 2,5 m for parallel parking, which is clearly identified, demarcated and accessible for the parking of one motor vehicle and may—

~~be provided in the form of a garage or carport~~
(a) be in the form of a garage or carport; and
(b) include an electric vehicle charging station;

[Definition substituted by s. 25 (y) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'pergola' means any unroofed horizontal or approximately horizontal grille or latticed framework and associated vertical support structure, to provide shade or structure to support vegetation growth;

[Definition substituted by s. 25 (z) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'place of assembly' means a place which has a civic function to serve the social and community needs of an area, which may attract people in relatively large numbers and which is not predominantly a commercial enterprise, including a civic hall, concert hall, indoor sports centre, gymnasium, sport stadium and club house, but ~~does not include~~excludes a place of entertainment or conference facility;

'place of entertainment' means a place used predominantly for commercial entertainment which may attract relatively large numbers of people, operate outside normal business hours or generate noise from music or revelry on a regular basis; including a cinema, theatre, amusement park, dance hall, ball room, gymnasium, facility for betting, electronic or mechanical playing devices, gambling hall and nightclub;

'place of instruction' means a place for education or training at pre-school, school or post-school levels, including a crèche, nursery school, primary school, secondary school, college, university or research institute, and ancillary uses such as boarding hostels; or a civic facility for the promotion of knowledge to the community such as a public library, public art gallery or museum; or a place of instruction in sport where the main objective is instruction as opposed to participation by the public as either competitors or spectators; but excludes a reformatory, commercial conference facility, gymnasium and in-house business training centre;

'place of worship' means a church, synagogue, mosque, temple, chapel or other place for practising a faith or religion, and includes ancillary uses such as a religious leader's dwelling, office or place for religious instruction; but ~~does not include~~excludes a funeral parlour, cemetery or crematorium, provided that a dwelling where the occupants engage in worship does not constitute a place of worship;

'plant nursery' means a property which is used for the cultivation and sale of plants, gardening products and gardening equipment as a commercial enterprise;

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

'policy plan' means a policy adopted by the City, or structure plan, spatial development framework or other plan as approved in terms of this By-LawBy-law;

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

'port' has the same meaning as in the National Ports Act, 2005 (Act 12 of 2005);

'Port development framework plan' means a plan prepared and approved by the National Ports Authority, in consultation with the affected municipality, that reflects the policy for the port development and the land use and development rules within such port;

'precinct plan' means a plan, approved by the City, as envisaged in item 136(4)(c) of this development management scheme;

'premises' means any shop or restaurant within a building that is not linked in any manner or way with another shop or restaurant in the same building;

'primary use' in relation to property means any land use specified in this development management scheme as a primary use, being a use that is permitted without the need to obtain the City's approval first;

'private road' means privately owned land which provides vehicle access to a separate cadastral property or properties and which is designated as private road, which; it may include ancillary access control infrastructure such as a gatehouse, guardhouse, refuse room and utility room, but a driveway on a property and a servitude right of way over a property do not constitute private roads for the purpose of this development management scheme;

'private open space': see '**open space**';

'property' has the same meaning as '**land**';

'protected area' has the same meaning as assigned to it in terms of the National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003);

'public nuisance' means any act, omission or condition which, in the City's opinion, is offensive, injurious or dangerous to health, materially interferes with the ordinary comfort, convenience, peace or quiet of the public, or which adversely affects the safety of the public, having regard to—:

(a) the reasonableness of the activities in question in the area concerned, and the impacts which result from these activities; and

(b) the ambient noise level of the area concerned;

'public open space' means land which is designated as public open space, under the ownership of the City or other organ of state, with or without access control, and which is set aside for the public as an open space for recreation or outdoor sport, including a park, playground, public or urban square, picnic area, public garden, nature area; and includes ancillary buildings, infrastructure and uses;

'public road' means any highway, thoroughfare, lane, footpath, sidewalk, alley, passage, bridge or any other place of a similar nature or any portion thereof, other than a toll road, serving as a public right of way, whether for vehicles or pedestrians, established or proclaimed in terms of the former Municipal Ordinance, 1974 (Ordinance 20 of 1974) or any equivalent current municipal by-law and/or national legislation and includes a public street;

[Definition substituted by s. 25 (aa) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'public street' means any land indicated on an approved general plan, diagram or map, other than a toll road, as having been set aside as a public right of way, whether for vehicles or pedestrians or public or urban squares, ~~of which the ownership~~ of which is registered in favour of or vests in the municipality in terms of this By-LawBy-law or any other law;

[Definition substituted by s. 25 (bb) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'recreational vehicles and watercraft' means any mobile vehicle, such as a caravan, mobile home, trailer and any water-borne vehicle, such as a ship, boat and yacht;

[Definition inserted by s. 25 (cc) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'recycling centre' means a property which is used for the temporary storing, sorting, depositing or collection of paper, plastics, glass, cans, textiles or similar solid waste materials for recycling purposes and includes a composting facility, but ~~does not include a scrapyard~~;

[Definition inserted by s. 26 (h) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

'registered surveyor' means someone who is registered in terms of the Professional and Technical Surveyors' Act, 1984 (Act 40 of 1984) as either a professional land surveyor, a professional surveyor or a surveyor;

'renewable energy structure...' means any apparatus or similar device, or grouping thereof, designed to capture and convert solar radiation into energy for commercial gain, irrespective of whether it feeds into an electricity grid or not, and includes any test facility or structure which may lead to the generation of energy on a commercial basis, but does not include wind turbine infrastructure;

[Definition inserted by s. 26 (i) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

'restaurant' means a commercial establishment where meals and liquid refreshments are prepared and/or served to paying customers primarily for consumption on the property, and may include licensed provision of alcoholic beverages for consumption on the property; but

does not exclude the option for some customers to purchase food for consumption off the property;

'retaining structure' means a wall or structure constructed so as to hold back earth or loose rock;

'riding stables' means a commercial enterprise for the stabling of horses and includes riding instruction and the care and hiring of such horses;

'risk activity' means an undertaking where the material handled or the process carried out is liable to cause combustion with extreme rapidity, give rise to poisonous fumes, or cause explosion, and includes major hazardous installations and activities involving dangerous and hazardous substances that are controlled in terms of national legislation;

'risk management and prevention plan' means a plan, programme or strategy, developed in accordance with guidelines approved by the City, to prevent or minimise danger to the environment or humans from a particular activity or series of activities, and to deal with the consequences should any dangerous event occur;

'roof' means the uppermost part of a building which covers the top of a building and without which the building would be open to the elements, and—

- (a) generally comprises a system of structural members or materials designed to support the roof structure; and
- (b) may include a trafficable area on which structures, devices and equipment may be placed or may be attached to a roof;

'rooftop base telecommunication station' means a support structure attached to the roof, side or any other part of a building and used to accommodate telecommunication infrastructure for the transmitting or receiving of electronic communication signals;

'sale of alcoholic beverages' means the physical sale or physical offering for sale to the public of drinks capable of producing intoxication in a consumer and which may be kept, displayed or consumed on the premises;

[Definition substituted by s. 26 (j) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

'satellite dish antenna' means apparatus fixed to a structure or mounted permanently on the ground, that is capable of receiving or transmitting communication signals from a satellite;

'scenic drive' means a public street which is designated as a scenic drive by the City in recognition of the high visual amenity alongside that public street, including background vistas of mountain, open country, coastline or city;

'scheduled public transport accessibility map' means a map identifying high intensity and low intensity residential land units;

[Definition inserted by s. 25 (dd) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'scrapyard' means a property which is utilised for one or more of the following purposes:—

- (a) storing, depositing or collecting of junk or scrap material or articles the value of which depend mainly or entirely on the material used in the manufacture thereof;
- (b) the dismantling of second-hand vehicles or machines to recover components or material; and
- (c) the storing or sale of second-hand parts, poles, steel, wire, lumber yards, tyres, bricks, containers or other articles which are suitable to be left in the open;

'second dwelling' means another dwelling unit which may, in terms of this development management scheme, be erected on a land unit where a dwelling house is also permitted; and such second dwelling may be a separate structure or attached to an outbuilding or may be contained in the same structure as the dwelling house;

[Definition substituted by s. 25 (ee) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'service bay' means an area where vehicles are worked on; and includes pits, hydraulic hoist areas, wash bays and similar areas but excludes a parking bay;

[Definition inserted by s. 25 (ff) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'service station' means property for the retail supply of fuel, and includes trading in motor vehicles, oil, tyres or motor spares, general repairs to and servicing of motor vehicles,

exhaust fitment, shock absorber fitment, washing of vehicles, the sale of LP gas or similar fuel and an ancillary shop; but ~~does not include~~excludes spray-painting, panel beating or body work;

'service trade' means an enterprise which:

- (a) is primarily involved in the rendering of a service for the local community, such as the repair of household and electrical appliances or the supply of household services;
- (b) is not likely to be a source of disturbance to surrounding properties;
- (c) employs at most 10 people;
- (d) is not likely, in the event of fire, to cause excessive combustion, give rise to poisonous fumes or cause explosions; and

may include a builder's yard and allied trades, fitment centre for tyres, shock absorbers or exhausts, and similar types of uses; but ~~does not include~~excludes an abattoir, brick-making site, sewage works, service station or motor repair garage;

'shelter' means a structure intended for human occupation, as provided for in the Single Residential Zoning 2 that does not comply with the National Building Act;

[Definition substituted by s. 25 (gg) of City of Cape Town: Municipal Planning Amendment By-Law~~By-law~~, 2019]

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

'shop' or **'shops'** means property used for the retail sale of goods and services to the public, and includes a retail concern where goods which are sold in such a concern are manufactured or repaired; provided that the floor space relating to such manufacture or repair shall not comprise more than 40% of the floor space of the shop; ~~but~~ **'shop'** ~~does not include~~excludes an industry, supermarket, service trade, motor repair garage, service station ~~(except the sale of LP gas or similar fuel)~~, restaurant, adult entertainment business, adult services, adult shop or sale of alcoholic beverages;

'sign' means any sign, sign-writing, mural, graphic design, signboard, screen, blind, boarding or other device by means of which an advertisement or notice is physically displayed, and includes any advertisement or object, structure or device which is in itself an advertisement or which is used to display an advertisement;

'site development plan' means a scaled and dimensioned plan which shows development details such as (but not limited to) site layout, positioning of buildings and structures, property access, building designs and landscaping of the proposed development;

'small-scale animal care centre' means a place for the temporary care of a maximum of 6 pets or animals, operated on a commercial basis;

'small-scale wind turbine' means '**wind turbine infrastructure**' where the rotor axis is horizontal or vertical, and the overall rotor diameter does not exceed 3m, but excludes a '**micro wind turbine**';

'stairs' means a series of steps that lead from one level to a different level in a building or structure;

[Definition inserted by s. 25 (hh) of City of Cape Town: Municipal Planning Amendment By-Law~~By-law~~, 2019]

'stoep' means an uncovered paved area, wooden or other deck, or projecting floor outside and immediately adjoining a building, at or below the level of the ground floor thereof, and includes any low walls or railings enclosing such paved areas, wooden deck or floors;

'storey' means that portion of a building included between the surface of any floor and the surface of the next floor above; or if there is no floor above, then up to the ceiling; provided that:

- (a) a basement does not constitute a storey;
- (b) a roof, or dome which forms part of a roof, shall not constitute a separate storey unless the space within the roof or dome is designed for or used for human occupation, in which case it is counted as a storey;
- (c) any storey which is greater than 4,8 m but equal to or less than 7,2 m in height shall, for the purposes of the height measurement, be counted as two storeys,

and every additional 4,8 m in height or portion thereof, shall be counted as an additional storey; and

(d) in counting the number of storeys of a building, the ground floor is the first storey and the next floor above is the second storey;

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

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

'street': see '**public street**';

'street boundary' means the boundary between a land unit and an abutting public street, public road or private road; provided that the boundary of a pedestrian way or service lane that cannot or will never be used by motor vehicles, shall be deemed to be a common boundary for the purpose of determining building lines, street centreline setback and site access requirements;

'street centreline setback' means the line delimiting the area measured from the centre line of a particular public street, within which no building or other structure, including a boundary fence, may be erected;

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

'structure-mounted energy system' means any apparatus or similar device, or grouping thereof, designed to generate, store, and convert energy mainly for ancillary use, and is mounted on a new or existing structure, such as a roof or carport and may include any test facility or structure which may lead to the generation and export of energy, but excludes micro wind turbine or small-scale wind turbine;

'supermarket' means a shop having a total floor space in excess of 400 m², in which a range of goods, including foodstuff and household goods, is offered for sale on a predominantly self-service basis;

'supplementary dwelling unit' means a self-contained, interleading group of rooms, with not more than one kitchen, used for the accommodation of staff employed at the land unit concerned, and may be used for the living accommodation and housing of the family at the dwelling unit concerned;

'telecommunication infrastructure' means any part of the infrastructure of a telecommunication network for radio/wireless communication, including voice, data and video telecommunications, which may include antennas; and any support structure, equipment room, radio equipment or optical communications equipment (laser or infra-red) provided by cellular network operators and any other telecommunication provider; as well as all ancillary structures needed for the operation of telecommunication infrastructure. Fibre optic installations and point-to-point copper (cable) installations are excluded from this definition;

'terrace' means an area to which occupants or users of a building have access, created on a flat roof over a portion of the building, resulting from the setting back of part of the building above such portion; **'terrace'** means an area to which occupants or users of a building have access, created on a roof, resulting from the setting back of part of the building that has a habitable function, and may contain further structures;

'third dwelling' means another dwelling unit which may, in terms of this development management scheme, be erected on a land unit where a dwelling house and a second dwelling have already been approved, or lawfully erected or where they are proposed at the same time;

[Definition inserted by s. 26 (k) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

'toll road' means a highway, or portion thereof, whether with or without any bridge or tunnel thereon, upon which the driving or use of at least some vehicles by some users of the highway is conditional on the payment of a toll and includes ancillary structures;

[Definition inserted by s. 25 (ii) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'top of building', for the purpose of height control, means the uppermost part or surface of a—

- (a) building; or
- (b) structure, object or material on top of a building;

'top of the roof...', for the purpose of height control, means the top of the roof ridge in the case of a pitched roof, or the top of the parapet where a parapet extends above the roof;

'total floor space' of a building means the sum of the floor space of all the levels therein, including basements;

'tourist accommodation' means a harmoniously designed and built development, used for holiday or recreational purposes, whether in private or public ownership, which—

- (a) consists of a single enterprise in which overnight accommodation is supplied by means of short-term rental or time sharing only; and
- (b) may include the provision of a camping site or mobile home park; but does not include~~excludes~~ a hotel;

'tourist facilities' means amenities for tourists or visitors such as lecture rooms, restaurants, gift shops, restrooms and recreational facilities, but does not include~~excludes~~ a hotel or tourist accommodation;

'transient guest' means a person who is provided temporary accommodation on a land unit that is not their permanent place of residence, for a continuous period not exceeding 30 consecutive days at a time;

[Definition inserted by s. 25 (jj) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'transport impact statement' or **'transport impact study'** means a study of the transport impact generated by a proposed development on the existing and planned road system, and recommendation of mitigating measures required as a result of the impact;

'transport management plan' means a document or plan specifying how the transport requirements will be accommodated in terms of all modes of transport, such as (but not limited to) public transport, private transport, cycling and walking, and how the parking requirements will be accommodated both on and off a site, including what services associated with parking will be required;

'transport use' means the use of land, a building or structure for the operation of a public service for the transportation of goods (including liquids and gases) or passengers by means of rail, road, sea or pipeline, including the use of such land, building or structure for the purpose of a harbour, railway station, bus depot or taxi interchange, a transport undertaking based on the provision of a transport service; and includes a public private undertaking such as a railway station, bus depot, taxi rank, public transport interchange, harbour and ancillary purposes, but does not include~~excludes~~ an airport or helicopter landing pad;

'urban agriculture' means the cultivation of crops, on relatively small areas within the urban area or edge, for own consumption or sale in neighbouring markets; provided that cultivation of a garden at a dwelling by an occupant shall not be regarded as urban agriculture for the purpose of this development management scheme;

'used', in addition to its ordinary meaning, includes 'designated for use or is intended to be used';

'utility-scale energy structure' means any apparatus or similar device, or grouping thereof, designed to generate, store, and convert energy, where this energy is exported from the site, and includes any test facility or structure which may lead to the generation and export of energy, but excludes micro wind turbine or small-scale wind turbine;

'utility service' means a use or infrastructure that is required to provide engineering and associated services for the proper functioning of urban development, other than a use or infrastructure which is for private use on a property and includes a water reservoir and purification works, electricity substation, and transmission lines, distribution lines, electricity

reticulation lines, stormwater retention facilities, and a waste-water pump station and treatment works, recycling facility centre, dumpsites and minor freestanding and rooftop base telecommunication station, but does not include excludes road, micro wind turbine, small-scale wind turbine infrastructure or transport use;

[Definition substituted by s. 25 (kk) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

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

...

[Definition for 'vertical division' substituted by s. 26 (l) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

[Definition for 'vertical division' deleted by s. 25 (ll) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'veterinary practice' means a building or part of a building used by a registered veterinary surgeon for medical examinations or surgical procedures on animals, and may include the sale of animal food and related accessories;

[Definition inserted by s. 26 (m) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

'visually permeable' means the extent to which visibility through a boundary wall is possible and consists of voids, fencing, painted steel palisade, wire, cast iron work, steel railings or similar materials;

[Definition inserted by s. 25 (mm) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

'wallplate ...' means the lowest point of a longitudinal member, truss, bracket, pillar, post, structure or any other similar device as determined by the City, supporting a roof;

'warehouse' means a building used primarily for the storage of goods, except those that are offensive or dangerous, and includes property used for a data centre or a business of a predominantly retail or wholesale nature, but does not include property used for business of a predominantly retail nature;

'watercourse' means:

- (a) a river, stream, channel or canal in which water flows regularly or intermittently;
- (b) a vlei, wetland, dam, or lake into which or from which water flows; and includes the bed and banks of a watercourse;

'window' means an opening in a wall or roof with glass or similar material in fixed, sliding or hinged frames, to admit light or air but not for admitting access;

'winery' means a place where wine is made, and may include a selling point to the general public and wine-tasting area; and

'wind turbine infrastructure' means a device that converts energy from the wind to electricity that may or may not be linked to an electricity provider's grid or network and comprises a rotor (propeller), a generator, a tower and any infrastructure in support thereof.

(2) Words derived from the word or terms defined have corresponding meanings, unless the context indicates otherwise.

2 Interpretation

The following provisions govern the interpretation of the development management scheme:

- (a) Whenever reference is made to the use of a building, land unit or property, it includes the erection of a building, the use of part of a building and the use of a land unit, whether a building is erected on the land unit or not.
- (b) A sentence in italics is for guidance and should be regarded as not forming part of this development management scheme.

3 Methods of measuring distances, or heights and levels or and the requirement to round up or down

[Heading substituted by s. 27 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

The following provisions apply with regard to measuring distances, levels or height or the requirement to round up or down:

[Wording amended by s. 27 (a) of City of Cape Town: Municipal Planning Amendment By Law, 2016]

- (a) If required by the City, the owner or applicant shall appoint a registered surveyor to supply or verify information necessary for the City to make a decision about compliance with distances or levels required in terms of this development management scheme.
- (b) Where reference is made or implied to the distance between boundaries or between a building and a boundary, this distance shall be measured in the following manner:
 - (i) The boundary or boundaries and all points of the building shall be projected onto a horizontal plane, and all measurements shall be made on such a plane; and
 - (ii) The distance between a point on a building and a boundary shall be measured at the shortest distance between the point and the boundary.
- (c) Where reference is made to a portion of a boundary 'opposite a building', such portion shall be defined by drawing lines in the manner described in paragraph (b) from points on such building, at right angles to such boundary.
- (d) Any post-construction deviation from a height restriction that does not exceed 300 mm or a building line restriction that does not exceed 100 mm will not be considered a contravention of the provisions of this development management scheme, provided that this deviation provision does not apply for the purposes of making an application.
- (e) If there is doubt about the height of a building or structure, the City may require the owner to appoint a registered surveyor to:
 - (i) certify the actual height of the building or structure in accordance with the provisions of this development management scheme;
 - (ii) certify if a building or structure is in contravention of the provisions of this development management scheme; and
 - (iii) certify that all structures on the property comply with the height restrictions applicable to the property.
- (f) Where reference is made to a distance, ground level, height of a point on a building or other measurement, then such distance, level or height shall be calculated in accordance with recognised geometric principles, and for the purposes of determining contours, from any data set held by the City at or before the commencement date or any data set so determined by the City. In any case where the distance, level or height involved is so irregular that calculation in accordance with these principles is impractical or leads to a result which is clearly not in accordance with the intent of the development management scheme, the City shall determine the distance, level or height concerned for the purpose of administering this development management scheme.
- (g) If it is necessary to determine the number of parking bays, or any other development rule for a land use that can only be complied with in terms of a whole number, it may be necessary to either round up or down the calculation. In such case a measure of 0.5 and above will be rounded up to the next whole number and if less than 0.5 will be rounded down to the next whole number, with the exception that a minimum unit requirement will be 1 (one), except if otherwise stated.

[Para. (g) inserted by s. 27 (b) of City of Cape Town: Municipal Planning Amendment By Law, 2016]

3A Approval of a ground level map...

~~The City must approve and may amend from time to time a ground-level map after following a public participation process. A notice of its decision must be published on the City's website and in the Provincial Gazette.~~

[Item 3A inserted by s. 26 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

3B Existing ground level

(1) The City may in its sole discretion, decide whether to determine an existing ground level which differs from the level depicted on the Ground Level Map and may do so if the City believes that—

- (a) a land unit's land surface level differs substantially from the level depicted on the Ground Level Map; and
- (b) the different level is the most appropriate existing ground level for administering this development management scheme.

(2) The City may require the owner or applicant to commission a registered surveyor to measure or interpolate land surface level on a land unit.

(3) The surveyor must tie the measured level to the National Control Network, or if not possible, provide at least two durable reference marks suitably located, and provide the City with sufficient information for it to make a decision and determination contemplated in subitem (1).

(4) A determination by the City contemplated in subitem (1) is—

- (a) valid only if it is in writing; and
- (b) deemed to be the existing ground level.

(5) The level of the land surface depicted in an approval or in a building plan approval is not the existing ground level under this By-law to the extent that it is inconsistent with the level depicted in—

- (a) the Ground Level Map; or
- (b) an express determination of the existing ground level made in writing by the City under this By-law.

(6) The City may amend the Ground Level Map after a public participation process and must publish the amendment on the City's website and in the *Provincial Gazette*.

4 Interpretation of boundaries

Where uncertainty exists as to the boundaries of zones, the following rules apply, in the order listed:

- (a) Boundaries shown as following or approximately following any public street or ~~public~~ road shall be construed as following the street or road cadastral boundary.
- (b) Boundaries shown as following or approximately following any land unit boundary shall be construed as following such boundary.
- (c) Boundaries shown as following or approximately following natural features shall be construed as following such features.
- (d) In the event of further uncertainty as to the boundaries of a zone, the City shall make a determination.

5 Interpretation of category of use and zoning

In the event that there is—:

- (a) uncertainty or dispute about zoning categories;
- (b) conflict between the provisions of a zoning map, the development management scheme and the register; or
- (c) uncertainty or dispute about the zoning of property,

the City, after giving due consideration to any relevant representations, shall determine the category of use or zoning, and its decision shall be final.

6 Evasion of intent of the development management scheme

The City may refuse any application in terms of this By-LawBy-law if it considers such application to constitute or facilitate an evasion of the intent of this development management scheme or any of its provisions.

CHAPTER 2.: APPLICATION AND APPROVAL PROCEDURES (item 7)

7 Development rules applicable to an approved consent use

[Heading substituted by s. 28 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

(1) A consent use is subject to the development rules in the base zoning unless other development rules are imposed as conditions of approval.

[Sub-item (1) substituted by s. 28 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

[Sub-item (1) substituted by s. 27 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

(2) Notwithstanding sub-item (1), the City may impose further conditions including—:

(a) limiting a consent use for a specified period of time; and

(b) requiring that a consent use does not adversely affect the potential use of that property for its primary uses in terms of this development management scheme;

DIVISION II: ZONING CATEGORIES, BASE ZONINGS AND DEVELOPMENT RULES (items 8-120)

This division describes the various zoning categories, base zonings and their respective provisions. It sets out the development rules that apply to each zoning, including primary and consent uses. Zoning categories are grouped into chapters according to similarity of use rights and intensity of development. In turn, the chapters are divided into parts, with each zoning being dealt with as a part. As many of the applicable development rules as possible are contained in the section concerned, but general rules and definitions that apply to all zonings and the development management scheme in general are contained in Division III.

CHAPTER 3.: ZONING AND USE OF PROPERTY

Part 1: Zonings (items 8-9)

8 Zonings

(1) All properties that were zoned in terms of a former zoning scheme are deemed to be zoned in terms of this development management scheme.

(2) The City Manager shall ensure that the zoning of all properties within the municipal area are determined and depicted on the zoning map, and where appropriate, recorded in the register.

(3) Property situated within a particular zoning is subject to the provisions specified for that zoning under Division II of this development management scheme.

(4) In addition to the provisions of Division II the general provisions of Division III shall apply in all zonings, and the provisions of any applicable overlay zoning in terms of Division IV shall apply to the land units concerned.

(5) If legal steps are taken as contemplated in section 50(1) of this By-law, the development rules applicable to the zoning of each land unit remains applicable.

[Sub-item (5) inserted by s. 3 of City of Cape Town: Municipal Planning Second Amendment By-law, 2016]

9 Subzonings

(1) Certain zonings have been divided into subzonings that distinguish between different building forms through different development rules. In order to change or relax the development rules applicable to property regulated by a base or subzoning, either:

- (a) an application for departure from the development rule(s); or
- (b) an application for rezoning to another zoning or subzoning

must be submitted and approved.

(2) A rezoning application must be submitted if the change contemplated in sub-item (1) is equivalent to or greater than the permitted floor space or height of the next most intensive subzoning. This provision is not applicable in the case of an owner applying for a height or floor space departure that does not exceed 10% of the maximum height or floor space of the ~~existing~~ applicable subzoning.

[Sub-item (2) substituted by s. 28 of City of Cape Town: Municipal Planning Amendment ~~By-Law~~ By-law, 2019]

Part 2: Uses permitted as of right (items 10-12)

10 Primary uses

The use of property for any purpose specified as a primary use in the zoning of that property is permitted without the approval of the City.

11 Additional use rights

An activity or use described as an additional use right in a particular zoning is permitted in that zoning without the approval of the City, provided that any condition or further provisions specified for such activity or use are adhered to.

12 Ancillary uses

An ancillary use is permitted where a primary use, approved consent use or other lawful use is exercised.

Part 3: Uses permitted only with the City's approval (items 13-15)

13 Consent uses

A consent use as listed under a base zoning in this development management scheme is permitted only if the City grants its approval for such consent use.

14 Occasional uses

(1) The occasional use of a property for temporary events (including craft markets, circuses, public meetings, religious gatherings, ~~film sheets~~ or other events) may be permitted with the City's approval, even though these events are not in accordance with the use rights of the property concerned, provided that:

- (a) the occasional use will not have a significant negative impact on surrounding areas, or on the natural and cultural environment;
- (aA) ~~the occasional use may be granted for any period specified~~;
- (b) the occasional use is genuinely of a temporary and ~~short-term~~ nature, and may not occur for more than 5 days per month or more days ~~per month~~ as may be allowed by the City; and
- (c) the occasional use conforms with the City's policies.

(2) Approval in terms of sub-item (1) ~~above~~ may be granted subject to, but not limited to, the following conditions:

- (a) the amount of parking and the number of ablution facilities required;

(b) the maximum duration or occurrence of the occasional use.

(3) The City may issue a notice calling for compliance with conditions or for the ceasing of the occasional use by a specific date, where:

- (a) conditions of approval are not met; or
- (b) where a public nuisance is caused.

(4) Events where a permit has been issued in terms of the City's by-law on events do not require approval in terms of this item.

15 Special use

(1) A special use is a use not defined or provided for in this development management scheme, and may be so classified and permitted in any zoning with the approval of the City.

(2) A special use which has been classified and permitted in a zoning with the approval of the City, must be published in the Provincial Gazette.

[Sub-item (2) substituted by s. 29 of City of Cape Town: Municipal Planning Amendment By-Law, 2016]

Part 4: Deemed zoning or determined zoning (items 16-19)

[Heading substituted by s. 30 of City of Cape Town: Municipal Planning Amendment By-Law, 2016]

16 Public open space and public streets

(1) Any portion of land designated on the zoning map or specified on a General Plan of a registered township as public open space shall be deemed to be zoned as Open Space Zoning 2: Public Open Space.

(2) All public roads and public streets referred to in this development management scheme are roads proclaimed in terms of the Roads Ordinance, 1976 (Ordinance 19 of 1976) or roads or streets established in terms of the former Municipal Ordinance, 1974 (Ordinance 20 of 1974) or any equivalent current municipal by-law and/or national legislation, unless they are specifically excluded.

(3) Any public road and public street and any portion of land proclaimed or reserved under any law as public road or public street or the widening or improvement of any such existing public road or street or specified on a General Plan of a registered township, diagram or map as public road or public street, shall be deemed to be zoned as Transport Zoning 2: Public Street and Public Parking.

[Sub-item (3) substituted by s. 4 of City of Cape Town: Municipal Planning Second Amendment By-law, 2016]

(4) Where a proclamation or reservation in terms of sub-item (3) or part thereof is withdrawn or cancelled, the City shall determine a zoning and/or subzoning for a land unit which was subject to such proclamation or reservation, whereafter the land unit concerned shall be deemed to be zoned in accordance with such determination, provided that:

- (a) the City Manager shall notify the affected land owner; and
- (b) the City shall consider any representations received in terms of paragraph (a) above prior to making such determination.

(5) Notwithstanding the provisions in sub-item (4), where only a part of a land unit was deemed Transport Zoning 2: Public Street and Public Parking, such part which was subject to a proclamation or reservation shall be deemed to fall into the same zoning and/or subzoning as that of the rest of the land unit.

(6) Where a proclamation or reservation is withdrawn or cancelled as contemplated in sub-items (4) and (5), such withdrawal or cancellation, including deeming, shall only apply to the land referred to in the relevant resolution, or notice of withdrawal or cancellation.

(7) Any portion of land which was previously part of a public street but has become the property of an abutting owner through prescription shall be deemed to be zoned as Transport Zoning 2: Public Street and Public Parking; provided that where the City specifically resolves that such portion of land is no longer required for public street purposes,

such land shall be deemed to fall into the same zoning and subzoning as that of the abutting land belonging to such owner.

(8) Where any portion of land (other than land referred to in sub-item (7)) which was previously a public street or public open space vested in or owned by the City, is closed and transferred to an abutting owner, such portion of land shall be deemed to fall into the same zoning and subzoning, including any conditions of approval, if any, as that of the abutting land belonging to such owner provided that____:

[Wording substituted by s. 3 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2016]

- (a) where the intended owner of the public street or public open space does not own the abutting property,¹⁷ or
- (b) where the intended owner owns abutting properties falling into more than one zoning¹⁷ or
- (c) in any other case not provided for herein,

-the City shall determine which zone shall apply to the property concerned.

(9) Where the zoning and/or subzoning of a land unit or part thereof is deemed under Part 4: Deemed zoning of this development management scheme, the City shall record such deemed zoning and/or subzoning on the zoning map.

17 Land subject to the provisions of section 13 of the Legal Succession of the South African Transport Services Act, 1989 (Act 9 of 1989)

(1) All land subject to section 13 of the Legal Succession of the South African Transport Services Act, 1989 (Act 9 of 1989) is deemed to be zoned Transport Zoning 1: Transport Use (TR1).

(2) Where an agreement has been entered into between the City and the South African Transport Services or any of its divisions or its successors in title in terms of the Legal Succession of the South African Transport Services Act, 1989 (Act 9 of 1989) or preceding legislation, the provisions and conditions contained within such agreement shall prevail over the provisions of the TR1 zoning.

(3) The conditions contained in an agreement referred to in sub-item (2) are deemed to be development rules.

(4) If these development rules are to be altered, this must be done by means of a departure in terms of this By LawBy-law.

(5) Where additional land use rights are applied for, this must be done by means of rezoning in terms of this By LawBy-law.

(6) Where land that is owned by the former South African Transport Services or any of its divisions or successors in title has been lawfully zoned to any zoning other than Transport Zoning 1: Transport Use (TR1), such land will be deemed to retain its zoning and be allocated with a corresponding zoning in terms of this development management scheme on the City's zoning map.

18 ...

[Item 18 deleted by s. 29 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]

19 Special provisions

The provisions in the following table are deemed to constitute development rules in terms of this development management scheme.

Former zoning scheme in terms of which special zone, special area or special provision was established	Name of former special zone, special area or special provision	Reference number (if applicable)
Municipality of the City of Cape Town Zoning Scheme	Rondebosch Shopping precinct Schedule 8: Special provisions applicable to certain properties	
Pinelands Zoning Scheme	Special Zone A: Howard Place Special Zone B: Mutual Park	

CHAPTER 4.: SUMMARY OF ZONINGS (item 20)

20 Zoning summary table

(1) Table 1A contains a summary of the base zonings and development rules as set out in this development management scheme.

(1A) The zonings in Table 1 are subnumbered sequentially as Table 1(a) to Table 1(w), and together they constitute 'Table 1' for the purposes of this By-law.

(2) Table A does not supersede the detailed provisions contained in Division II. If there is a conflict between Table 1 and a detailed provision in Division II, the provision in Division II prevails over Table 1.

Table 1A: Summary of the zonings and development rules

[Table A substituted by s. 32 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]
 [Table A substituted by s. 30 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

Table 1(a) Summary of land uses and development rules for Residential Zoning 1: Conventional Housing (R1)

LAND USES	LAND UNIT AREA (m ²)	FLOOR FACTOR	MAXIMUM FLOOR SPACE	COVERAGE	MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING	BUILDING LINES		STREET CENTRELINE SETBACK	OTHER PROVISIONS
						Street boundary	Common boundaries		
PRIMARY USES Dwelling house, private road, micro wind turbine, structure-mounted energy system and additional use rights	> 2 000	N/a	1 500 m ²	N/a	10,0 m	6,0 m	6,0 m	N/a	Window and door placement, Garages, carports and outbuildings, Parking and access
ADDITIONAL USE RIGHTS Second dwelling; third dwelling; Home occupation or bed and breakfast establishment or home childcare, filming (items 21(b)(iii) and (vi) does not apply), affordable rental flat, supplementary dwelling unit, small-scale wind turbine (only for land unit areas of equal or greater than 650 m ²), place of instruction (with not more than 34 children)	>1 000 up to 2 000	N/a	1 500 m ²	N/a	10,0 m	4,5 m	3,0 m		Additional use rights: home occupation, bed and breakfast establishment, second dwelling, third dwelling, supplementary dwelling unit, affordable rental flat, small-scale wind turbine, place of instruction and home childcare
CONSENT USES Utility services, place of instruction, place of worship, house shop, institution, guest house, minor rooftop base telecommunication station, rooftop base telecommunication station, wind turbine infrastructure, open space, urban agriculture, halfway house, electric vehicle charging station, small-scale animal care centre, chancery, boarding house, ground-mounted energy system, commune, clinic, small-scale wind turbine (only for land unit areas less than 650 m ²), informal trading and veterinary practice	>200 up to 350	1,0	N/a	75%	9,0 m	3,5 m	0,0 m (12,0 m from street and 60%) and 1,5 m rest		
	≤200	1,0	N/a	80%	9,0 m	1,5 m	0,0 m		
		Refer to item 22(a)	Refer to item 22(b)	Refer to item 22(h)	Refer to item 22(c)	Refer to item 22(d), 22(e) & 22(eA)	Refer to item 22(d), 22(e) & 22(eA)		

Table 1(b) Summary of development rules for Residential Zoning 2: Incremental Housing (R2)

LAND USES	FLOOR FACTOR	MAXIMUM FLOOR SPACE	COVERAGE	MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING	BUILDING LINES		STREET CENTRELINE SETBACK	OTHER PROVISIONS
					Street boundary	Common boundaries		
PRIMARY USES <u>Dwelling house, second dwelling, utility service, private road, urban agriculture, open space, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and additional use rights</u>	2.0	N/a		9.0 m dwelling units;	Formal township: 0 m	Formal township: 0.0 m	N/a	<u>Parking and access</u> <u>House shop</u> <u>Shelter</u> <u>Informal trading</u> <u>Third dwelling</u> <u>Land constructed as or identified for roads</u> <u>Land used as or identified for firebreaks</u> <u>Approval of building plans</u>
ADDITIONAL USE RIGHTS <u>Shelter, house shop, home occupation, bed and breakfast establishment, home childcare, informal trading, third dwelling, filming, supplementary dwelling unit, affordable rental flat, small-scale wind turbine and any educational, religious, occupational or business purpose subject to conditions</u>	Refer to item 27(a)			10.0 m other buildings	No formal township: 0 m	No formal township: 0 m		
CONSENT USES <u>Group housing, boarding house, place of worship, institution, clinic, place of assembly, office, restaurant, guest house, place of entertainment, service trade, authority use, minor rooftop base telecommunication station, rooftop base telecommunication station, wind turbine infrastructure, halfway house, informal trading, chancery, small-scale animal care centre, flat, ground-mounted energy system and veterinary practice</u>				Refer to item 27(b)	Refer to items 27(c) & 27(d)	Refer to items 27(c) & 27(d)		

Table 1(c) Summary of land uses and development rules for General Residential Subzoning 1: Group Housing (GR1)

LAND USES	DENSITY	COVERAGE	MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING	BUILDING LINES		STREET CENTRELINE SETBACK	OTHER PROVISIONS
				Street boundary	Common boundaries		
PRIMARY USES Dwelling house, group housing, private road, open space, filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and additional use rights	35 du/ha	N/a	9.0 m	5.0 m public street 0.0 m internal road Garages 5.0 m from kerb	3.0 m external boundaries 0.0 m internal boundaries	N/a	<u>Design principles</u> <u>Open space</u> <u>Parking and access</u> <u>Site development plan</u>
ADDITIONAL USE RIGHTS Flats, small-scale wind turbine, supplementary dwelling unit and home occupation, subject to restriction							<u>Flats and home occupation as additional use right</u> <u>Dwelling house outside group scheme</u>
CONSENT USES Utility services, home childcare, chancery, guest house, ground-mounted energy system, community, informal trading, minor rooftop base telecommunication station and rooftop base telecommunication station	Refer to item 35(b)		Refer to item 35(c)	Refer to items 35(e) & 35(f)	Refer to items 35(e) & 35(f)		

Table 1(d) Summary of land uses and development rules for General Residential Subzonings GR2, GR3, GR4, GR5 & GR6

LAND USES	SUB-ZONING	FLOOR FACTOR	COVERAGE	MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING	BUILDING LINES		STREET CENTRELINE SETBACK	OTHER PROVISIONS
					Street boundary	Common boundaries		
PRIMARY USES Dwelling house, second dwelling, third dwelling, group housing, boarding house, guest house, flats, private road, filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and open space	GR2	1.0	60%	15.0 m	4.5 m	4.5 m or 0.6 H (0.0 m up to 15.0 m height for 18.0 m from street)	N/a	<u>Parking and access</u> <u>Screening Wind mitigation</u>
ADDITIONAL USE RIGHT Home occupation, supplementary dwelling unit and small-scale wind turbine	GR3	1.25	60%	20.0 m	4.5 m	4.5 m or 0.6 H (0.0 m up to 15.0 m height for 18.0 m from street)		<u>Dwelling house and second dwelling</u> <u>Group housing</u>
CONSENT USES Utility service, place of instruction, place of worship, institution, hospital, place of assembly, home occupation, shop, hotel, conference facility, minor rooftop telecommunication station, rooftop base telecommunication station, chancery, ground-mounted energy system, restaurant, informal trading and veterinary practice	GR4	1.5	60%	24.0 m	4.5 m	4.5 m or 0.6 H (0.0 m up to 15.0 m height for 18.0 m from street)		<u>Institution, place of instruction and place of assembly</u> <u>Shops and restaurants</u>
	GR5	2.5	60%	35.0 m	4.5 m; 9 m above 25 m height	4.5 m or 0.6 H (0.0 m up to 15.0 m height for 18.0 m from street); 15.0 m above 25.0 m height		
	GR6	5.0	60%	50.0 m	4.5 m; 9 m above 25 m height	4.5 m or 0.6 H (0.0 m up to 15.0 m height for 18.0 m from street); 15.0 m above 25.0 m height		
		Refer to item 41(b)	Refer to item 41(a)	Refer to item 41(c)	Refer to item 41(e)	Refer to item 41(e)		

Table 1(e) Summary of land uses and development rules for Community Zoning 1: Local (CO1)

<u>LAND USES</u>	<u>FLOOR FACTOR</u>	<u>COVERAGE</u>	<u>MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING</u>	<u>BUILDING LINES</u>		<u>STREET CENTRELINE SETBACK</u>	<u>OTHER PROVISIONS</u>
				<u>Street boundary</u>	<u>Common boundaries</u>		
PRIMARY USES Place of instruction, place of worship, clinic, rooftop base telecommunication station, open space, minor freestanding base telecommunication station, minor rooftop base telecommunication station, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and filming	0.8	80%	12.0 m	3.0 m	3.0 m	N/a	Parking and access Loading Screening Noise mitigation Informal trading

Table 1(f) Summary of land uses and development rules for Community Zoning 2: Regional (CO2)

<u>LAND USES</u>	<u>FLOOR FACTOR</u>	<u>COVERAGE</u>	<u>MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING</u>	<u>BUILDING LINES</u>		<u>STREET CENTRELINE SETBACK</u>	<u>OTHER PROVISIONS</u>
				<u>Street boundary</u>	<u>Common boundaries</u>		
PRIMARY USES Institution, hospital, place of instruction, place of worship, place of assembly, rooftop base telecommunication station, minor freestanding base telecommunication station, minor rooftop base telecommunication station, open space, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and filming	2.0	80%	18.0 m	3.0 m	3.0 m	N/a	Parking and access Loading Screening Noise mitigation Informal trading

Table 1(g) Summary of land uses and development rules for Local Business Zoning 1: Intermediate Business (LB1)

LAND USES	LAND UNIT AREA (m ²)	FLOOR FACTOR	COVERAGE	MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING	BUILDING LINES		STREET CENTRELINE SETBACK	OTHER PROVISIONS
					Street boundary	Common boundaries		
PRIMARY USES Office, dwelling house, boarding house, utility services, flats, filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and additional use rights	>1 000	1.0	N/a	10.0 m	3.5 m	3.0 m	N/a	Garages and carports Parking and access Loading Screening
	>650 up to 1 000	1.0		10.0 m	3.5 m	3.0 m		Home occupation, bed & breakfast establishment and home childcare
ADDITIONAL USE RIGHTS Second dwelling and home occupation or house shop or bed and breakfast establishment or affordable rental flat supplementary dwelling unit or small-scale wind turbine (only for land unit areas less than 650m ²) or home childcare	>350 up to 650	1.0		9.0 m	3.5 m	0.0 m (12.0 m from street and 60%) and 3.0 m rest		Second dwelling House shop Informal trading
CONSENT USES Place of instruction, place of worship, institution, clinic, place of assembly, guest house, shop, informal trading, service trade, rooftop base telecommunication station, wind turbine infrastructure, halfway house, chancery, restaurant, ground-mounted energy system, small-scale wind turbine (only for land unit areas less than 650m ²), small-scale animal care centre and veterinary practice	>200 up to 350	1.0		9.0 m	3.5 m	0.0 m (12.0 m from street and 60%) and 3.0 m rest		
	≤200	1.0		9.0 m	1.0 m	0.0 m (12.0 m from street and 60%) and 3.0 m rest		
		Refer to item 51(a)		Refer to item 51(b)	Refer to item 51(c)	Refer to item 51(c)		

Table 1(h) Summary of land uses and development rules for Local Business Zoning 2: Local Business (LB2)

<u>LAND USES</u>	<u>FLOOR FACTOR</u>	<u>COVERAGE</u>	<u>MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING</u>	<u>BUILDING LINES</u>	<u>STREET CENTRELINE SETBACK</u>	<u>OTHER PROVISIONS</u>
<p>PRIMARY USES <u>Shop, office, dwelling house, second dwelling, bed and breakfast establishment, boarding house, flats, place of instruction, place of worship, institution, clinic, guest house, service trade, utility service, rooftop base telecommunication station, private road, open space, filling, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and veterinary practice</u></p> <p>ADDITIONAL USE RIGHTS <u>Small-scale windturbine, supplementary dwelling unit</u></p> <p>CONSENT USES <u>Place of assembly, informal trading, restaurant, sale of alcoholic beverages, funeral parlour, place of entertainment, adult shop, business premises, supermarket, plant nursery, hotel, conference facility, motor repair garage, service station, authority use, freestanding base telecommunication station, wind turbine infrastructure, transport use, funeral parlour, chancery, ground-mounted energy system, small-scale animal care centre, recycling centre and multiple parking garage</u></p>	1.0	75%	12.0 m	0.0 m	8.0 m	<u>Canopy projection</u> <u>Street corners</u> <u>Parking and access</u> <u>Loading</u> <u>Screening</u> <u>Service station and motor repair garage</u> <u>Informal trading</u>

Table 1(i) Summary of land uses and development rules for General Business Subzonings (GB1, GB2, GB3, GB4, GB5, GB6 & GB7)

LAND USES	SUB-ZONING	FLOOR FACTOR	COVERAGE	MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING	BUILDING LINES		STREET CENTRELINE SETBACK	OTHER PROVISIONS
					Street boundary	Common boundaries		
PRIMARY USES Business premises, dwelling house, second dwelling, boarding house, flats, place of instruction, place of worship, institution, hospital, place of assembly, place of entertainment, hotel, conference facility, service trade, authority use, utility service, rooftop base telecommunication station, multiple parking garage, private road, open space, veterinary practice, chancery, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and filming	GB1 GB2 GB3 GB4 GB5	1.5 2.0 2.5 3.0 4.0	100% 100% 100% 100% 100%	12,5 m 15,0 m 25,0 m 25,0 m 30,0 m	0,0 m up to 10,0 m height: 4,5 m above 10,0 m 0,0 m up to 10,0 m height: 4,5 m above 10,0 m 0,0 m up to 10,0 m height: 4,5 m above 10,0 m 0,0 m up to 10,0 m height: 4,5 m above 10,0 m 0,0 m	0,0 m 0,0 m 0,0 m 0,0 m 0,0 m	8,0 m 8,0 m 8,0 m 8,0 m 8,0 m	Residential incentive in respect of GB7 Hotel floor space concession Canopy or balcony projection Public pedestrian footway along street boundary Street corners Parking and access Loading Screening Wind mitigation Service station and motor repair garage Informal trading
ADDITIONAL USE RIGHTS Small-scale windturbine, supplementary dwelling unit	GB6	6,0	100%	45,0 m	0,0 m up to 30,0 m height: $\frac{1}{2}$ (H-25 m) above 30,0 m	0,0 m	8,0 m	
CONSENT USES Adult shop, adult entertainment business, adult services, informal trading, expo-centre, motor repair garage, warehouse, freestanding base telecommunication station, wind turbine infrastructure, transport use, helicopter landing pad, ground-mounted energy system, utility-scale energy structure, small-scale animal care centre and service station	GB7	12,0 Refer to item 60(c)	100% Refer to item 60(a)	60,0 m Refer to item 60(d)	0,0 m up to 38,0 m height: $\frac{1}{2}$ (H-38 m) above 38,0 m Refer to item 60(e)	0,0 m Refer to item 60(e)	8,0 m Refer to item 60(b)	

Table 1(j) Summary of land uses and development rules for Mixed Use Subzonings (MU1, MU2 & MU3)

LAND USES	SUB-ZONING	FLOOR FACTOR	COVERAGE	MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING	BUILDING LINES	STREET CENTRELINE SETBACK	OTHER PROVISIONS
PRIMARY USES Business premises, industry, dwelling house, second dwelling, boarding house, flats, place of instruction, place of worship, institution, hospital, place of assembly, place of entertainment, hotel, conference facility, authority use, utility service, rooftop base telecommunication station, transport use, multiple parking garage, private road, open space, chancery, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and filming	MU1	1.5	75%	15.0 m	0.0 m up to 10.0 m height; 4.5 m above 10.0 m	8.0 m	Canopy or balcony projection Parking and access Loading Screening Service station and motor repair garage Informal trading
	MU2	4.0	100%	30.0 m	0.0 m up to 10.0 m height; 4.5 m above 10.0 m	8.0 m	
	MU3	6.0	100%	38.0 m	0.0 m up to 25.0 m height; ½ (H-25 m) above 30.0 m	8.0 m	
ADDITIONAL USE RIGHTS Small-scale windturbine, supplementary dwelling unit		Refer to item 64(a)	Refer to item 64(a)	Refer to item 64(a)	Refer to item 64(c)	Refer to item 64(b)	
CONSENT USES Adult shop, adult entertainment business, adult services, informal trading, expo centre, scrap yard, freestanding base telecommunication station, wind turbine infrastructure, helicopter landing pad, service station, motor repair garage, veterinary practice, ground-mounted energy system, utility-scale energy structure, small-scale animal care centre and recycling centre							

Table 1(k) Summary of land uses and development rules for General Industry Subzonings (GI1 & GI2)

Table 1(l) Summary of land uses and development rules for Risk Industry Zoning (RI)

<u>LAND USES</u>	<u>FLOOR FACTOR</u>	<u>COVERAGE</u>	<u>MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING</u>	<u>BUILDING LINES</u>		<u>STREET CENTRELINE SETBACK</u>	<u>OTHER PROVISIONS</u>
				<u>Street boundary</u>	<u>Common boundaries</u>		
PRIMARY USE Noxious trade, risk activity, crematorium, rooftop base telecommunication station, freestanding base telecommunication station, private road, open space, electric vehicle charging stations, micro wind turbine, structure-mounted energy system, ground-mounted energy system, additional use rights and filming	2.0	75%	18.0 m, but no restriction in respect of noxious trade, risk activity or manufacturing buildings	5.0 m	5.0 m	N/a	Parking and access Loading Screening Boundary walls Hazardous substances Service station and motor repair garage Factory shop Informal trading
ADDITIONAL USE RIGHTS Factory shop and small-scale windturbine	Refer to item 75(a)	Refer to item 75(b)	Refer to item 75(c)	Refer to item 75(d)	Refer to item 75(d)		
CONSENT USE Shop, restaurant, informal trading, service station, motor repair garage, industry, scrap yard, abattoir, authority use, utility service, helicopter landing pad, wind turbine infrastructure, container site, transport use, multiple parking garage, utility-scale energy structure and recycling centre							

Table 1(m) Summary of land uses and development rules for Utility Zoning (UT)

<u>LAND USES</u>	<u>FLOOR FACTOR</u>	<u>COVERAGE</u>	<u>MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING</u>	<u>BUILDING LINES</u>		<u>STREET CENTRELINE SETBACK</u>	<u>OTHER PROVISIONS</u>
				<u>Street boundary</u>	<u>Common boundaries</u>		
PRIMARY USES Utility service, authority use, filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system, ground-mounted energy system, rooftop base telecommunication station, freestanding base telecommunication station, minor freestanding base telecommunication station and minor rooftop base telecommunication station			As determined by a site development plan (Refer to item 81)				Informal trading
ADDITIONAL USE RIGHTS Small-scale windturbine							
CONSENT USES Cemetery, informal trading, funeral parlour, crematorium, urban agriculture, airport, wind turbine infrastructure, urban agriculture, utility-scale energy structure and helicopter landing pad							

Table 1(n) Summary of land uses and development rules for Transport Zoning 1: Transport Use (TR1)

<u>LAND USES</u>	<u>FLOOR FACTOR</u>	<u>COVERAGE</u>	<u>MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING</u>	<u>BUILDING LINES</u>		<u>STREET CENTRELINE SETBACK</u>	<u>OTHER PROVISIONS</u>
				<u>Street boundary</u>	<u>Common boundaries</u>		
PRIMARY USES Transport use, multiple parking garage, utility service, shop, restaurant, office, warehouse, filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system, rooftop base telecommunication station, minor freestanding base telecommunication station, minor rooftop base telecommunication station and container site	2.0	75%	<u>15.0 m for stacked shipping containers</u> <u>18.0 m for any other building</u>	0.0 m	3.0 m	N/a	<u>Parking and access</u> <u>Service station and motor repair garage</u> <u>Informal trading</u> <u>Air and underground rights</u>
ADDITIONAL USE RIGHTS Small-scale windturbine							
CONSENT USES Business premises, flats, place of assembly, place of entertainment, hotel, conference facility, service station, motor repair garage, freestanding base telecommunication station, wind turbine infrastructure, airport, helicopter landing pad, informal trading, industry, ground-mounted energy system, utility-scale energy structure and air, underground and other rights	Refer to item 83(a)	Refer to item 83(b)	Refer to item 83(c)	Refer to item 83(d)	Refer to item 83(d)		

Table 1(o) Summary of land uses and development rules for Transport Zoning 2: Public road and public parking (TR2)

<u>LAND USES</u>	<u>FLOOR FACTOR</u>	<u>COVERAGE</u>	<u>MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING</u>	<u>BUILDING LINES</u>		<u>STREET CENTRELINE SETBACK</u>	<u>OTHER PROVISIONS</u>
				<u>Street boundary</u>	<u>Common boundaries</u>		
PRIMARY USES Public street, public road, minor freestanding base telecommunication station, minor rooftop base telecommunication station, filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and utility service							<u>Deemed zoning</u> <u>Construction and deposit of materials</u> <u>Air and underground rights</u> <u>Proposed public street, street widening and street closure</u> <u>Informal trading</u>
ADDITIONAL USE RIGHTS Small-scale windturbine							
CONSENT USES Any use defined in this development management scheme							

Table 1(p) Summary of land uses and development rules for Transport Zoning 3: Toll Road (TR3)

<u>LAND USES</u>	<u>FLOOR FACTOR</u>	<u>COVERAGE</u>	<u>MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING</u>	<u>BUILDING LINES</u>		<u>STREET CENTRELINE SETBACK</u>	<u>OTHER PROVISIONS</u>
				<u>Street boundary</u>	<u>Common boundaries</u>		
PRIMARY USES Toll road, public street, public road, minor freestanding base telecommunication station, minor rooftop base telecommunication station, filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and utility service			As determined by a site development plan (Refer to item 92B)				
ADDITIONAL USE RIGHTS Small-scale windturbine							
CONSENT USES Wind turbine infrastructure, ground-mounted energy system, utility-scale energy structure and air, underground and other rights							

Table 1(q) Summary of land uses and development rules for National Port Zoning (NP)

<u>LAND USES</u>	<u>FLOOR FACTOR</u>	<u>COVERAGE</u>	<u>MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING</u>	<u>BUILDING LINES</u>		<u>STREET CENTRELINE SETBACK</u>	<u>OTHER PROVISIONS</u>
				<u>Street boundary</u>	<u>Common boundaries</u>		
PRIMARY USES Land uses as set out in an approved Port development framework plan			As determined by an approved Port development framework plan (Refer to item 95)				<u>Deemed zoning</u>
CONSENT USES None							<u>Deemed zoning of land transferred to National Ports Authority</u>

Table 1(r) Summary of land uses and development rules for Open Space Zoning 1: Environmental conservation (OS1)

<u>LAND USES</u>	<u>FLOOR FACTOR</u>	<u>COVERAGE</u>	<u>MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING</u>	<u>BUILDING LINES</u>		<u>STREET CENTRELINE SETBACK</u>	<u>OTHER PROVISIONS</u>
				<u>Street boundary</u>	<u>Common boundaries</u>		
PRIMARY USES Environmental conservation use, filming, structure-mounted energy system, minor freestanding base telecommunication station and minor rooftop base telecommunication station			As determined by a site development plan (Refer to item 98)				<u>Informal trading</u>
CONSENT USES Harvesting of natural resources, environmental facilities, tourist accommodation, tourist facilities, utility service, rooftop base telecommunication station, freestanding base telecommunication station, wind turbine infrastructure, ground-mounted energy system, utility-scale energy structure, small-scale wind turbine, informal trading, electric vehicle charging station, micro wind turbine and cultural and social ceremonies							

Table 1(s) Summary of land uses and development rules for Open Space Zoning 2: Public open space (OS2)

<u>LAND USES</u>	<u>FLOOR FACTOR</u>	<u>COVERAGE</u>	<u>MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING</u>	<u>BUILDING LINES</u>		<u>STREET CENTRELINE SETBACK</u>	<u>OTHER PROVISIONS</u>
				<u>Street boundary</u>	<u>Common boundaries</u>		
PRIMARY USES Public open space, environmental conservation use, filming, structure-mounted energy system, minor freestanding base telecommunication station and minor rooftop base telecommunication station							<u>Deemed zoning</u> <u>Construction and deposit of material</u> <u>Air and underground rights</u> <u>Informal trading</u>
CONSENT USES Environmental facilities, tourist facilities, utility service, cemetery, rooftop base telecommunication station, freestanding base telecommunication station, wind turbine infrastructure, cultural and social ceremonies, urban agriculture, informal trading, harvesting of natural resources, electric vehicle charging station, micro wind turbine, ground-mounted energy system, utility-scale energy structure, environmental conservation use, small-scale wind turbine and air, underground and other rights							

Table 1(t) Summary of land uses and development rules for Open Space Zoning 3: Special open space (OS3)

<u>LAND USES</u>	<u>FLOOR FACTOR</u>	<u>COVERAGE</u>	<u>MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING</u>	<u>BUILDING LINES</u>		<u>STREET CENTRELINE SETBACK</u>	<u>OTHER PROVISIONS</u>
				<u>Street boundary</u>	<u>Common boundaries</u>		
PRIMARY USES Open space, private road, environmental conservation use, filming, structure-mounted energy system, minor freestanding base telecommunication station and minor rooftop base telecommunication station							<u>Approval of consent uses</u> <u>Informal trading</u>
CONSENT USES Environmental facilities, tourist facilities, place of instruction, place of assembly, place of entertainment, plant nursery, utility service, cemetery, rooftop base telecommunication station, freestanding base telecommunication station, wind turbine infrastructure, cultural and social ceremonies, urban agriculture, informal trading, electric vehicle charging stations, micro wind turbine, ground-mounted energy system, utility-scale energy structure, environmental conservation use, small-scale wind turbine and harvesting of natural resources							

Table 1(u) Summary of land uses and development rules for Agricultural Zoning (AG)

<u>LAND USES</u>	<u>MAXIMUM FLOOR SPACE</u>	<u>COVERAGE</u>	<u>MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING</u>	<u>BUILDING LINES</u>		<u>STREET CENTRELINE SETBACK</u>	<u>OTHER PROVISIONS</u>
				<u>Street boundary</u>	<u>Common boundaries</u>		
PRIMARY USES Agriculture, intensive horticulture, dwelling house, riding stables, environmental conservation use, environmental facilities, rooftop base telecommunication station, minor freestanding base telecommunication station, minor rooftop base telecommunication station, filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and additional use rights	1 500 m ² for all dwelling units 100 m ² for farm shop	N/a	<u>10.0 m for dwelling house</u> <u>12.0 m for agricultural buildings other than dwelling house</u>	<u>> 20 ha : 30.0 m</u> <u>>10 ha up to 20 ha : 15 m</u>	<u>> 20 ha : 30.0 m</u> <u>>10 ha up to 20 ha : 15 m</u>	N/a	Parking Minimum subdivision size Agricultural industry Second dwelling and additional dwelling units Informal trading
ADDITIONAL USE RIGHTS Second dwelling, third dwelling, supplementary dwelling unit, small-scale windturbine and home occupation or bed and breakfast establishment or home childcare				<u>>2 ha up to 10 ha : 6.0 m</u>	<u>>2 ha up to 10 ha : 6.0 m</u>		
CONSENT USES Additional dwelling units, guest house, hotel, tourist accommodation, tourist facilities, intensive animal farming, harvesting of natural resources, mine, utility service, freestanding base telecommunication station, wind turbine infrastructure, aqua-culture, animal care centre, farm shop, agriculture industry, veterinary practice, ground-mounted energy system, utility-scale energy structure, veterinary practice, chancery, cemetery, place of instruction, informal trading, abattoir, auction house, livestock auction house		Refer to item 109(a)		<u>≤2 ha : As per applicable category</u> Refer to item 109(d)	<u>≤2 ha : As per applicable category</u> Refer to item 109(b)	Refer to item 109(b)	

Table 1(v) Summary of land uses and development rules for Rural Zoning (RU)

<u>LAND USES</u>	<u>MAXIMUM FLOOR SPACE</u>	<u>COVERAGE</u>	<u>MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING</u>	<u>BUILDING LINES</u>		<u>STREET CENTRELINE SETBACK</u>	<u>OTHER PROVISIONS</u>
				<u>Street boundary</u>	<u>Common boundaries</u>		
PRIMARY USES Dwelling house, agriculture, filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and additional use rights	1 500 m ² for all buildings 100 m ² for farm shop	40%	<u>10.0 m</u>	<u>10.0 m</u>	<u>5.0 m</u>	N/a	Parking Minimum subdivision size Agricultural industry
ADDITIONAL USE RIGHTS Second dwelling and home occupation, small-scale windturbine or third dwelling or supplementary dwelling unit or bed and breakfast establishment or home childcare		Refer to item 113(a)	Refer to item 113(e)	Refer to item 113(c)	Refer to item 113(c)		Second dwelling Informal trading
CONSENT USES Guest house, tourist accommodation, tourist facilities, harvesting of natural resources, mine, rooftop base telecommunication station, freestanding base telecommunication station, wind turbine infrastructure, aquaculture, intensive animal farming, intensive horticulture, riding stables, animal care centre, farm shop, agriculture industry, ground-mounted energy system, utility-scale energy structure, chancery, place of instruction, informal trading, auction house, livestock auction house, recycling centre and veterinary practice							

Table 1(w) Summary of land uses and development rules for Limited Use Zoning (LU)

<u>LAND USES</u>	<u>MAXIMUM FLOOR SPACE</u>	<u>COVERAGE</u>	<u>MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL TO TOP OF BUILDING</u>	<u>BUILDING LINES</u>		<u>STREET CENTRELINE SETBACK</u>	<u>OTHER PROVISIONS</u>
				<u>Street boundary</u>	<u>Common boundaries</u>		
<u>PRIMARY USES</u> Only existing lawful uses		Refer to item 118					<u>No rezoning</u>
<u>CONSENT USES</u> None							<u>Reconstruction of destroyed property</u>

SINGLE RESIDENTIAL ZONINGS	LAND UNIT AREA (m ²)	FLOOR FACTOR	MAXIMUM FLOOR SPACE	COVERAGE	MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL	BUILDING LINES		STREET CENTRELINE SETBACK	OTHER PROVISIONS
						To wallplate	To top of roof		
SINGLE RESIDENTIAL ZONING 1: CONVENTIONAL HOUSING (SR1)	>2 000 ≥1 000 up to 2 000	N/a N/a	1 500 m ² 1 500 m ²	N/a N/a	9,0 m 9,0 m	11,0 m 11,0 m	6,0 m 4,5 m	6,0 m 3,0 m	N/a
PRIMARY USES Dwelling house, private road and additional use rights	>650 up to 1 000	N/a	1 500 m ²	N/a	9,0 m	11,0 m	3,5 m	3,0 m	
ADDITIONAL USE RIGHTS Second dwelling; third dwelling; Home occupation or bed and breakfast establishment or home child care	>350 up to 650	1,0	N/a	N/a	8,0 m	10,0 m	3,5 m	0,0 m (12,0 m from street and 60%) and 3,0 m rest	
CONSENT USES Utility services, place of instruction, place of worship, house shop, institution, guest house, minor rooftop base telecommunication station, rooftop base telecommunication station, wind turbine infrastructure, open space, urban agriculture, halfway house and veterinary practice	>200 up to 350 ≤200	1,0	N/a	75% 75%	8,0 m 8,0 m	10,0 m 10,0 m	4,5 m 1,0 m	0,0 m 0,0 m	
		Refer to item 22(a)	Refer to item 22(b)	Refer to item 22(h)	Refer to item 22(c)	Refer to item 22(c)	Refer to item 22(d) & 22(e)	Refer to item 22(d) & 22(e)	
SINGLE RESIDENTIAL ZONING 2: INCREMENTAL HOUSING (SR2)	1,0	N/a			6,0 m dwelling units; 8,0 m other buildings	8,0 m dwelling units; 10,0 m other buildings	Formal township: 4,0 m No formal township: 1,0 m	Formal township: 0,0 m for 60% and 1,0 m for remainder; 2,5 m between shelters and other buildings No formal township: 3,0 m on perimeter; 2,5 m between shelters and other buildings	N/a
PRIMARY USES Dwelling house, second dwelling, utility service, private road, urban agriculture, open space and additional use rights									
ADDITIONAL USE RIGHTS Shelter, house shop, home occupation, bed-and-breakfast establishment, home child care, informal trading, third dwelling and any educational, religious, occupational or business purpose subject to conditions									
CONSENT USES Group housing, boarding house, place of worship, institution, clinic, place of assembly, place of instruction, office, restaurant, guest house, place of entertainment, service trade, authority use, minor rooftop base telecommunication station, rooftop base telecommunication station, wind turbine infrastructure, halfway house and veterinary practice		Refer to item 27(a)			Refer to item 27(b)	Refer to item 27(b)	Refer to item 27(c) & 27(d)	Refer to item 27(c) & 27(d)	

GENERAL RESIDENTIAL ZONING	SUB-ZONING	DENSITY	COVERAGE	MAXIMUM HEIGHT ABOVE EXISTING GROUND-LEVEL	BUILDING LINES		STREET CENTRELINE SETBACK	OTHER PROVISIONS	
					Street boundary	Common boundaries			
GENERAL RESIDENTIAL SUBZONING 1: GROUP HOUSING (GR1)	-GR1	35 du/ha	N/a	To wallplate 8,0 m	To top of roof 10,0 m	5,0 m external public street 0,0 m internal road Garages 5,0 m from kerb	3,0 m external boundaries 0,0 m internal boundaries	N/a	Design principles Open-space Parking and access Site development plan Flats and home occupation as additional-use right Dwelling house-outside group scheme
PRIMARY USES Dwelling house, group housing, private road, open space and additional-use rights									
ADDITIONAL USE RIGHTS Flats and home occupation, subject to restriction									
CONSENT USES Utility services, home child care, minor rooftop base telecommunication station and rooftop base telecommunication station			Refer to item 35(b)	Refer to item 35(c)	Refer to item 35(e)	Refer to item 35(e) & 35(f)	Refer to item 35(e) & 35(f)		
GENERAL RESIDENTIAL SUBZONINGS (GR2-GR6)	FLOOR FACTOR -1,0 -1,25 -1,5 -2,5 5,0 Refer to item 41(b)	-60% -60% -60% 60% 60%	Refer to item 41(a)	To top of roof -15,0 m	4,5 m	4,5 m or 0,6 H (0,0 m up to 15,0 m height for 18,0 m from street)	N/a	Parking and access Screening Wind mitigation Dwelling house and second dwelling Group housing Institution, place of instruction and place of assembly Shop	
PRIMARY USES Dwelling house, second dwelling, group housing, boarding house, guest house, flats, private road and open space				20,0 m	4,5 m	4,5 m or 0,6 H (0,0 m up to 15,0 m height for 18,0 m from street)			
CONSENT USES Utility service, place of instruction, place of worship, institution, hospital, place of assembly, home occupation, shop, hotel, conference facility, minor rooftop telecommunication station, rooftop base telecommunication station and veterinary practice				24,0 m	4,5 m	4,5 m or 0,6 H (0,0 m up to 15,0 m height for 18,0 m from street)			
				35,0 m	4,5 m; 9 m above 25 m height	4,5 m or 0,6 H (0,0 m up to 15,0 m height for 18,0 m from street); 15,0 m above 25,0 m height			
				50,0 m	4,5 m; 9 m above 25 m height	4,5 m or 0,6 H (0,0 m up to 15,0 m height for 18,0 m from street); 15,0 m above 25,0 m height			
				Refer to item 41(e)	Refer to item 41(e)	Refer to item 41(e)			

COMMUNITY ZONINGS	FLOOR FACTOR	COVERAGE	MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL	BUILDING LINES		STREET CENTRELINE SETBACK	OTHER PROVISIONS
				To top of roof	Street boundary		
COMMUNITY ZONING 1: LOCAL (C01) PRIMARY USES Place of instruction, place of worship, clinic, rooftop base telecommunication station, open space, minor freestanding base telecommunication station, minor rooftop base telecommunication station and filming CONSENT USES Institution, hospital, place of assembly, cemetery, freestanding base telecommunication station, urban agriculture and veterinary practice	0,8 Refer to item 47(a)	60% Refer to item 47(b)	12,0 m Refer to item 47(c)	5,0 m Refer to item 47(d)	5,0 m Refer to item 47(e)	N/a	Parking and access Loading Screening Noise mitigation

COMMUNITY ZONING 2: REGIONAL (CO2) PRIMARY USES Institution, hospital, place of instruction, place of worship, place of assembly, rooftop base telecommunication station, minor freestanding base telecommunication station, minor rooftop base telecommunication station, open space and filming CONSENT USES Boarding house, conference facility, cemetery, crematorium, funeral parlour, freestanding base telecommunication station, wind turbine infrastructure, urban agriculture and veterinary practice	2,0 Refer to item 49(a)	60% Refer to item 49(b)	18,0 m Refer to item 49(c)	5,0 m Refer to item 49(d)	5,0 m Refer to item 49(e)	N/a	Parking and access Leading Screening Noise mitigation
--	----------------------------	----------------------------	-------------------------------	------------------------------	------------------------------	-----	--

LOCAL BUSINESS ZONING	LAND UNIT AREA (m ²)	FLOOR FACTOR	COVERAGE	MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL		BUILDING LINES		STREET CENTRELINE SETBACK	OTHER PROVISIONS
LOCAL BUSINESS ZONING 1: INTERMEDIATE BUSINESS (LB1)	>1 000	1,0	N/a	To wallplate	To top of roof	Street boundary	Common boundaries	N/a	Garages and carports Parking and access Leading Screening Home occupation, bed & breakfast establishment and home child-care Second dwelling House shop
PRIMARY USES Office, dwelling house, boarding house, utility services, flats and additional use rights	>650 up to 1 000	1,0		9,0 m	11,0 m	3,5 m	3,0 m		
ADDITIONAL USE RIGHTS Second dwelling and home occupation or house shop or bed and breakfast establishment or home child care	>350 up to 650	1,0		8,0 m	10,0 m	3,5 m	0,0 m (12,0 m from street and 60%) and 3,0 m rest		
CONSENT USES Place of instruction, place of worship, institution, clinic, place of assembly, guest house, shop, informal trading, service trade, rooftop base telecommunication station, wind turbine infrastructure, halfway house and veterinary practice	≤200 up to 350	1,0		8,0 m	10,0 m	3,5 m	0,0 m (12,0 m from street and 60%) and 3,0 m rest		
		Refer to item 51(a)		Refer to item 51(b)	Refer to item 51(b)	Refer to item 51(c)	Refer to item 51(c)		
LOCAL BUSINESS ZONING 2: LOCAL BUSINESS (LB2)		1,0	75%	To top of roof		0,0 m		8,0 m	Canopy projection Street corners Parking and access Leading Screening Service station and motor repair garage Informal trading
PRIMARY USES Shop, office, dwelling house, second dwelling, bed and breakfast establishment, boarding house, flats, place of instruction, place of worship, institution, clinic, guest house, service trade, utility service, rooftop base telecommunication station, private road, open space and veterinary practice		Refer to item 56(a)	Refer to item 56(b)	12,0 m		Refer to item 56(e) & 56(f)		Refer to item 56(d)	
CONSENT USES Place of assembly, informal trading, restaurant, sale of alcoholic beverages, funeral parlour, place of entertainment, adult shop, business premises, supermarket, plant nursery, hotel, conference facility, motor repair garage, service station, authority use, freestanding base telecommunication station, wind turbine infrastructure, transport use and multiple parking garage									

UTILITY, TRANSPORT AND NATIONAL PORT ZONINGS	FLOOR FACTOR	COVERAGE	MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL	BUILDING LINES		STREET CENTRELINE SETBACK	OTHER PROVISIONS
				Street boundary	Common boundaries		
UTILITY ZONING (UT) PRIMARY USES Utility service, authority use, rooftop base telecommunication station, freestanding base telecommunication station, minor freestanding base telecommunication station and minor rooftop base telecommunication station CONSENT USES Cemetery, informal trading, funeral parlour, crematorium, urban agriculture, airport, wind turbine infrastructure and helicopter landing pad							
TRANSPORT ZONING 1: TRANSPORT USE (TR1) PRIMARY USES Transport use, multiple parking garage, utility service, warehouse, rooftop base telecommunication station, minor freestanding base telecommunication station, minor rooftop base telecommunication station and container site CONSENT USES Business premises, flats, place of assembly, place of entertainment, hotel, conference facility, service station, motor repair garage, service trade, freestanding base telecommunication station, wind turbine infrastructure, airport, helicopter landing pad, informal trading, industry and air and underground rights	2,0	75%	15,0 m for stacked shipping containers 18,0 m for any other building	0,0 m Refer to item 83(e)	3,0 m Refer to item 83(d)	N/a Refer to item 83(d)	Parking and access Service station and motor repair garage Informal trading Air and underground rights
TRANSPORT ZONING 2: PUBLIC ROAD AND PUBLIC PARKING (TR2) PRIMARY USES Public street, public road, minor freestanding base telecommunication station, minor rooftop base telecommunication station and utility service CONSENT USES Multiple parking garage, informal trading, wind turbine infrastructure and air and underground rights							Deemed zoning Construction and deposit of materials Air and underground rights Proposed public street, street widening and street closure Informal trading
TRANSPORT ZONING 3: TOLL ROAD (TR3) PRIMARY USES Toll road, public street, public road, minor freestanding base telecommunication station, minor rooftop base telecommunication station and utility service CONSENT USES Wind turbine infrastructure and air and underground rights							
NATIONAL PORT ZONING (NPZ) PRIMARY USES Land uses as set out in an approved Port development framework plan CONSENT USES None							Deemed zoning Deemed zoning of land transferred to National Ports Authority

	OPEN SPACE ZONING	FLOOR FACTOR	COVERAGE	MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL	BUILDING LINES		STREET CENTRELINE SETBACK	OTHER PROVISIONS	
					Street boundary	Common boundaries			
	OPEN SPACE ZONING 1: ENVIRONMENTAL CONSERVATION (OS1) PRIMARY USES Environmental conservation use, minor freestanding base telecommunication station and minor rooftop base telecommunication station CONSENT USES Harvesting of natural resources, environmental facilities, tourist accommodation, tourist facilities, utility service, rooftop base telecommunication station, freestanding base telecommunication station, wind turbine infrastructure and cultural and social ceremonies				As determined by a site development plan (Refer to item 98)				
	OPEN SPACE ZONING 2: PUBLIC OPEN SPACE (OS2) PRIMARY USES Public open space, environmental conservation use, minor freestanding base telecommunication station and minor rooftop base telecommunication station CONSENT USES Environmental facilities, tourist facilities, utility service, cemetery, rooftop base telecommunication station, freestanding base telecommunication station, wind turbine infrastructure, cultural and social ceremonies, urban agriculture, informal trading, harvesting of natural resources and air and underground rights				As determined by a site development plan (Refer to item 100)			Deemed zoning Construction and deposit of material Air and underground rights Informal trading	
	OPEN SPACE ZONING 3: SPECIAL OPEN SPACE (OS3) PRIMARY USES Open space, private road, environmental conservation use, minor freestanding base telecommunication station and minor rooftop base telecommunication station CONSENT USES Environmental facilities, tourist facilities, place of instruction, place of assembly, place of entertainment, plant nursery, utility service, cemetery, rooftop base telecommunication station, freestanding base telecommunication station, wind turbine infrastructure, cultural and social ceremonies, urban agriculture, informal trading and harvesting of natural resources				As determined by a site development plan (Refer to item 105)			Approval of consent uses Informal trading	

AGRICULTURAL, RURAL AND LIMITED USE ZONINGS	MAXIMUM FLOOR SPACE	COVERAGE	MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL		BUILDING LINES		STREET CENTRELINE SETBACK	OTHER PROVISIONS
			To wallplate	To top of roof	Street boundary	Common boundaries		
AGRICULTURAL ZONING (AG) PRIMARY USES Agriculture, intensive horticulture, dwelling house, riding stables, environmental conservation use, environmental facilities, rooftop base telecommunication station, minor freestanding base telecommunication station, minor rooftop base telecommunication station and additional use rights ADDITIONAL USE RIGHTS Second dwelling and home occupation or bed and breakfast establishment or home child care CONSENT USES Additional dwelling units, guest house, hotel, tourist accommodation, tourist facilities, intensive animal farming, harvesting of natural resources, mine, utility service, freestanding base telecommunication station, wind turbine infrastructure, aquaculture, animal care centre, farm shop, agriculture industry, veterinary practice and renewable energy structure	1 500 m ² for all dwelling units 100 m ² for farm shop	N/a	9,0 m for dwelling house Refer to item 109(a)	11,0 m for dwelling house 12,0 m for agricultural buildings other than dwelling house Refer to item 109(d)	>20 ha : 30,0 m ≤20 ha : 15,0 m Refer to item 109(d)	>20 ha : 30,0 m ≤20 ha : 15,0 m Refer to item 109(b)	N/a	Parking Minimum subdivision size Agricultural industry Second dwelling and additional dwelling units
RURAL ZONING (RU) PRIMARY USES Dwelling house, agriculture and additional use rights ADDITIONAL USE RIGHTS Second dwelling and home occupation or bed and breakfast establishment or home child care CONSENT USES Guest house, tourist accommodation, tourist facilities, harvesting of natural resources, mine, rooftop base telecommunication station, freestanding base telecommunication station, wind turbine infrastructure, aquaculture, intensive animal farming, intensive horticulture, riding stables, animal care centre, farm shop, agricultural industry and veterinary practice	1 500 m ² for all buildings 100 m ² for farm shop	40%	9,0 m Refer to item 113(a)	11,0 m Refer to item 113(b)	10,0 m Refer to item 113(e)	5,0 m Refer to item 113(e)	N/a Refer to item 113(c)	Parking Minimum subdivision size Agricultural industry Second dwelling
LIMITED USE ZONING (LU) PRIMARY USES Only existing lawful uses CONSENT USES None	Refer to item 118							No rezoning Reconstruction of destroyed property

CHAPTER 5: RESIDENTIAL ZONINGS

(items 21-33)

The residential zonings are designed to provide locations for predominantly single-family dwelling houses in low- to medium-density neighbourhoods, with a safe and pleasant living environment. There are controlled opportunities for home employment, further dwellings and low intensity mixed-use development on a residential property. In recognition of the different socio-economic circumstances of the city there are two single-residential zonings, one for conventional housing and one for incremental housing (where upgrading of informal settlements is encouraged).

Part 1: Single-Residential Zoning 1: Conventional Housing (SR1)

(items 21-25F)

The SR1-R1 zoning provides for predominantly single-family dwelling houses and additional use rights in low- to medium-density residential neighbourhoods, whether these incorporate small or large erven. Limited employment and additional accommodation opportunities are possible as primary or consent uses, provided that the impacts of such uses do not adversely affect the surrounding residential environment.

21 Use of the property

The following use restrictions apply to properties in this zoning:

- (a) Primary uses are dwelling house, private road, micro wind turbine, structure-mounted energy system and additional use rights as specified in paragraph (b).
- (b) Additional use rights which may be exercised by the occupant of a property are home occupation, bed and breakfast establishment, second dwelling, third dwelling, filming (items 21(b)(iii) and (vi) does not apply), affordable rental flat, supplementary dwelling unit, small-scale wind turbine (only for land unit areas of equal or greater than 650m²), place of instruction (with not more than 34 children) and home child carechildcare, subject to the following conditions:
 - (i) Except for a second dwelling, supplementary dwelling unit and home occupation, only one of the activities listed as additional use rights shall be conducted on any land unit as a primary use; but where more than one such activity is required, the City's approval shall be obtained;
 - (ii) Except for an affordable rental flat, the dominant use of the property shall be a dwelling house, including a second and third dwelling if permissible in terms of this scheme for accommodation of a single family;
 - (iii) Except for an affordable rental flat, the proprietor of the activity concerned shall live on the property;
 - (iv) The conditions stipulated in items 23, 24, 25, 25A, or 25B, 25C, 25D, 25E or 25F (whichever is applicable) shall be adhered to;
 - (v) Any new structure or alteration to the property to accommodate an additional use right shall be compatible with the residential character of the area, particularly with regard to the streetscape, and shall be capable of reverting to use as part of the dwelling house, second dwelling, third dwelling or outbuilding concerned; and
 - (vi) No more than three employees shall be engaged by the occupant in the activity concerned.

[Para. (b) substituted by s. 33 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]
 [Para. (b) substituted by s. 31 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (c) Consent uses are utility service, place of instruction, place of worship, house shop, institution, guest house, minor rooftop base telecommunication station, rooftop base telecommunication station, wind turbine infrastructure, open space, urban agriculture, veterinary practice, electrical vehicle charging station, small-scale animal care centre, chancery, boarding house, ground-mounted

energy system, commune, clinic, small-scale wind turbine (only for land unit areas less than 650m²), informal trading and halfway house.

[Para. (c) substituted by s. 33 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]
[Para. (c) substituted by s. 31 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

22 Development rules

The following development rules apply:

(a) Floor factorFloor factor

The maximum floor factor is determined in accordance with the area of the land unit as shown in the following 'Table 2:ef floor factor, floor space, height and building lines in Single Residential Zoning 1'.

(b) Floor spaceFloor space

The maximum floor space, if applicable, to all buildings on a land unit is determined in accordance with the following 'Table 2:ef floor factor, floor space, height and building lines in Single Residential Zoning 1'.

(c) HeightHeight

(i) The maximum height of a building, measured from the existing ground level to the ~~wallplate~~ and top of ~~building~~the roof, shall be determined in accordance with the area of the land unit as shown in the following 'Table 2:ef floor factor, floor space, height and building lines in Single Residential Zoning 1';

[Sub-para. (i) substituted by s. 32 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

(ii) Where a building is permitted in this zoning within 3 m of a common boundary beyond the first 12 m along a common boundary, measured perpendicular from the street boundary line within 3 m of a common boundary, the height will be limited to 4 m measured from existing ground level to top of ~~roof~~building.

[Sub-para. (ii) substituted by s. 32 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

(iii) ~~Notwithstanding the provisions in sub-paragraph (ii), within the first 12 m along a common boundary measured perpendicular from the street boundary line and where a building is not set back from such common boundary, the height is determined in accordance with the 'Table of floor factor, floor space, height and building lines in Single Residential Zoning 1'; Notwithstanding sub-paragraph (ii), within the first 12 m along a common boundary measured perpendicular from the street boundary line the height is determined in accordance with the 'Table 2: floor factor, floor space, height and building lines in Residential Zoning 1';~~

(iv) Earth banks and retaining structures are subject to item 126.

(d) Building linesBuilding lines

The street and common boundary building lines are determined in accordance with the area of the land unit as shown in the 'Table 2:ef floor factor, floor space, height and building lines in Single Residential Zoning 1, subject to:

(i) the general building line encroachments in item 121;

(ii) where more than four dwelling units are attached to each other, the City may require a common boundary building line of 1 m between a batch of four attached dwelling units and any adjacent dwelling unit; and

(iii) further restrictions stipulated in paragraphs (e), (eA) and (f) as applicable.

Table 2: of floor factor, floor space, coverage, height and building lines in Single Residential Zoning 1

[Heading and Table substituted by s. 32 (c) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

Land unit area (m ²)	Floor factor	Maximum floor space	Coverage	Maximum height above existing ground level		Street boundary building line	Common boundary building line
				To wall-plate	To top of building, eef		
>2 000	N/a	1 500 m ²	N/a	9,0 m	4410,0 m	6,0 m	6,0 m
>1 000 up to 2 000	N/a	1 500 m ²	N/a	9,0 m	4410,0 m	4,5 m	3,0 m
>650 up to 1 000	N/a	1 500 m ²	N/a	9,0 m	4410,0 m	3,5 m	3,0 m
>350 up to 650	1,0	N/a	N/a75%	8,0 m	109,0 m	3,5 m	0,0 m for first 12,0 m measured perpendicular from street boundary and 0,0 m for 60% of total remaining linear distance along all common boundaries around land unit and 1,53,0 m for remainder, subject to paragraph d(iii).
>200 up to 350	1,0	N/a	7580%	8,0 m	109,0 m	1,5 m	0,0 m
≤200	1,0	N/a	7580%	8,0 m	109,0 m	1,0 m	

(dA) From the commencement of this By-law to the commencement City of Cape Town: Municipal Planning Amendment By-law, 2025, the common boundary building line development rule for land units >350 up to 650 m² in the above Table 2 is deemed to have read: '0,0 m for first 12,0 m along every common boundary measured perpendicular from street boundary and 0,0 m for 60% of total remaining linear distance along all common boundaries around land unit and 3,0 m for remainder, subject to paragraph d(iii).'

(e) Window and door placement on any ground floor

Any portion of a building which contains an external window or door facing onto a common boundary shall, on any ground floor:

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

(eA) Window and door placement above any ground floor

Any portion of a building which contains an external window or door facing onto a common boundary shall, above any ground floor, be set back a distance of at least 1,5 m away from such boundary;

(f) Garages, carports and outbuildings

- (i) A garage, carport and outbuildings are permitted within the common boundary building line or on the common property boundary provided that the garage, carport and outbuilding do not:

[Sub-para. (i) substituted by s. 34 (a) of City of Cape Town: Municipal Planning Amendment By-Law, 2016]

- (aa) extend higher than 3,5 m from existing ground level to top of ~~reefbuilding~~; and
- (bb) ~~contain more than a double garage façade; and~~
- (cc) ~~exceed a width horizontal dimension of 6,5 m when viewed from any street boundary.~~

[Sub-para. (i) substituted by s. 32 (d) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

- (iA) For land units of 350 m² and less, a garage or carport is permitted up to the street boundary provided the garage or carport:—
 - (aa) is not higher than 3,5 m from existing ground level to top of ~~reefbuilding~~; and
 - (bb) ~~does not contain more than a double garage façade; and...~~
 - (cc) ~~does not exceed a width horizontal dimension of 6,5 m when viewed from any street boundary.~~

[Sub-para. (iA) inserted by s. 32 (e) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

- (ii) For land units exceeding 350 m² up to 650 m², a garage or carport is permitted up to 1,5 m from the street boundary provided the garage or carport:—
 - (aa) is not higher than 3,5 m from existing ground level to top of ~~reefbuilding~~; and
 - (bb) ~~does not contain more than a double garage façade; and...~~
 - (cc) ~~does not exceed a width horizontal dimension of 6,5 m when 'viewed' from any street boundary.~~

[Sub-para. (ii) substituted by s. 32 (f) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

- (iii) For land units exceeding 650 up to 1000 m², a garage or carport shall not be closer than 3,5 m from the street boundary, notwithstanding the street building line.
 - (iiiA) For land units exceeding 1000 m², a garage or carport shall not be closer than 5 m from the street boundary, notwithstanding the street building line.
- (iv) Notwithstanding paragraphs (ii) and (iii), a garage or carport may be erected within the street boundary building line if, in the opinion of the City, compliance with the street boundary building line will not be practical due to the steepness of the ground between the road and the property concerned. The City will determine the street boundary building line, height, façade and width of the garage and carport in such a case...

[Sub-para. (iv) substituted by s. 34 (b) of City of Cape Town: Municipal Planning Amendment By-Law, 2016]

[Sub-para. (iv) substituted by s. 32 (g) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

- (g) Parking and access
 - (i) Parking and access shall be provided on the land unit in accordance with Chapter 15.
- (h) Coverage
 - (i) The maximum coverage, if applicable, is determined in accordance with the area of land unit as shown in the above Table 2: of floor factor, floor space, coverage, height and building lines in Single Residential Zoning 1.

[Sub-para. (h) inserted by s. 32 (h) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

23 Home occupation

In addition to item 21(b), the following conditions shall apply where a portion of property is used for purposes of home occupation:—

- (a) No home occupation shall include a noxious trade, risk activity, shop, adult entertainment business, adult services, adult shop, sale of alcoholic beverages, motor repair garage, funeral parlour or activities that are likely to generate a

public nuisance, including but not limited to panel beating and spray painting, auto electrician, builders' yard, welding works or joinery;

[Para. (a) substituted by s. 33 of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

- (b) ~~Only goods which have been produced or assembled in the home occupation may be sold from the property;...~~
- (c) ~~No goods for sale shall be publicly displayed and no external evidence of the home occupation shall be visible from a public street, except for an advertising sign in accordance with paragraph (d);~~
- (d) ~~No advertising sign shall be displayed other than a single, un-illuminated sign or notice not projecting over a public street in accordance with the City's Outdoor Advertising and Signage By-Law, and such sign shall not exceed 0,2 m² in area;~~
- (e) ~~No activities shall be carried out which constitute or are likely to constitute a source of public nuisance, or generate waste material which may be harmful to the area or which requires special waste removal processes;~~
- (f) ~~Off-street parking shall be provided at a ratio of 1 parking bay per 25 m² area used for home occupation unless the home occupation is not associated with visitors, visiting clients or visiting patients or if City's approval is obtained to waive this requirement; and t. The City may at any stage require additional on-site parking where parking is not sufficient;~~
- (g) ~~The total area used for all home occupation activity on a land unit, including storage, shall not consist of more than 2550% of the total floor space of the dwelling units on the land unit or 5075 m², whichever is the lesser area;~~
- (h) ~~The storage of all goods and equipment connected with the home occupation shall be inside a building or screened from neighbours and the public street;~~
- (i) ~~Not more than two vehicles may be used in connection with a home occupation, and no one vehicle shall exceed 3 500 kg gross weight;~~
- (j) ~~The hours of operation shall not extend beyond 08:00 to 17:30 on Mondays to Fridays, and from 08:00 to 13:00 on Saturdays, and shall not include public holidays or Sundays; the hours of operation are not applicable to a home occupation which is not associated with physical visitors, visiting clients or visiting patients; and~~
- (k) ~~The City may, at any stage, call for a cessation of the home occupation activity or impose conditions in order to minimise any potential nuisance to surrounding neighbours or the general public.~~

24 Bed and breakfast establishment

In addition to item 21(b), the following conditions shall apply where a portion of property is used as a bed and breakfast establishment, or where rooms are let to lodgers:

- (a) No more than 3 rooms per land unit shall be used for bedroom accommodation for paying guests or lodgers, and no more than 6 paying guests or lodgers shall be supplied with lodging or meals at any time;
- (b) No alcoholic beverages shall be sold except to resident guests for consumption on the premises with meals;
- (c) Guest rooms shall not be converted to, or used as, separate self-catering dwelling units;
- (d) Meals may only be supplied to guests or lodgers who have lodging on the property, employees, and the family residing in the dwelling;
- (e) No advertising sign shall be displayed other than a single un-illuminated sign or notice not projecting over a public street in accordance with the City's Outdoor Advertising and Signage By-Law, and such sign shall not exceed 0,5 m² in area;
- (f) Weddings, receptions, conferences, training or any similar activities are not permitted from a bed and breakfast establishment;

- (g) No activities shall be carried out which constitute, or are likely to constitute, a source of public nuisance; and
- (h) On-site parking shall be provided in accordance with ~~the provisions of~~ Chapter 15, provided that the City may at any stage require additional on-site parking if, in its opinion, the parking is not sufficient.

25 Home child care

In addition to item 21(b), the following conditions shall apply where a portion of property is used for home ~~child care~~childcare:

- (a) No more than 6 children shall be enrolled at the home ~~child care~~childcare facility at any time;
- (b) Services shall be primarily day care or educational and not medical;
- (c) Services shall not operate outside the hours of 07:00 to 18:00 on Mondays to Fridays, and from 08:00 to 13:00 on Saturdays, and shall not include public holidays or Sundays;
- (d) Indoor and outdoor play space shall be provided in accordance with any health requirement or a policy plan as might be approved by the City from time to time, and outdoor play space shall be fenced off from any public street;
- (e) No advertising sign shall be displayed, other than a single un-illuminated sign or notice in accordance with the City's Outdoor Advertising and Signage ~~By Law~~By-law, not projecting over a public street, and such sign shall not exceed 0,5 m² in area; and
- (f) At least one off-street parking bay shall be provided, plus one additional parking bay which is suitable for the use of parents to drop off or collect their children, unless the City's approval is obtained to waive this requirement; ~~and t~~. The City may at any stage require additional on-site parking where parking is not sufficient.

25A Second dwelling

The following conditions shall apply to a second dwelling:

- (a) The total floor space of a second dwelling may not exceed the total floor space of the main dwelling unit without the approval of the City; ~~and t~~. The floor space of ancillary buildings is excluded from this provision;
- (b) ~~...The City may require that a second dwelling be constructed in a style that is similar to the architecture of the main dwelling house;~~
- (c) ~~...A second dwelling that is a separate structure to a main dwelling house shall not exceed a height of 6 m measured from existing ground level to the wall plate and 8 m to the top of the roof;~~
- (d) A second dwelling contained within the same building as a main dwelling house must be designed so that the building appears as a single dwelling house; both units may have a ground floor, or one unit may be on the ground floor and the other unit above;
- (e) The existence of a second dwelling shall not in itself be sufficient reason for the City to grant an application in terms of this ~~By Law~~By-law to subdivide the land unit containing the dwelling units;
- (f) ~~The construction of a second dwelling is subject to the certification by all relevant municipal service department Directors, or their delegates, that capacity is available on the services network in the specific area. The construction of a second dwelling is subject to the clearance by the relevant municipal service department that a development charge has been paid for the second dwelling in accordance with Council's Development Charges Policy;~~
[Item 25A inserted by s. 34 of City of Cape Town: Municipal Planning Amendment ~~By Law~~By-law, 2019]
- (g) An affordable rental flat may not be developed when a second dwelling exists.

25B Third dwelling

The following conditions shall apply to a third dwelling:—

- (a) The total floor space of a third dwelling may not exceed the total floor space of the main dwelling without the approval of the City; ~~but the floor space of ancillary buildings is excluded from this provision;~~
- (b) ~~...The City may require that a third dwelling be constructed in a style that is similar to the architecture of the main dwelling house;~~
- (c) ~~A third dwelling that is a separate structure to a main or second dwelling shall not exceed a height of 6 m measured from existing ground level to the wall plate and 8 m to the top of the roof;...~~
- (d) A third dwelling contained within the same building as a main dwelling or second dwelling must be designed so that the building appears as a single dwelling house; all units may have a ground floor, or one unit may be on the ground floor and the other units above;
- (e) The existence of a third dwelling shall not in itself be sufficient reason for the City to grant an application in terms of this ~~By Law~~By-law to subdivide the land unit containing the dwelling units;
- (f) ~~The construction of a third dwelling is subject to the certification by all relevant municipal service department Directors, or their delegates, that capacity is available on the services network in the specific area; The construction of a third dwelling is subject to the clearance by the relevant municipal service department that a development charge has been paid for the third dwelling in accordance with Council's Development Charges Policy.~~

[Item 25B inserted by s. 34 of City of Cape Town: Municipal Planning Amendment ~~By Law~~By-law, 2019]

- (g) An affordable rental flat may not be developed when a third dwelling exists.

25C Supplementary dwelling unit

The following conditions shall apply to a supplementary dwelling unit:—

- (a) The total floor space of a supplementary dwelling unit may not exceed 50 m²;
- (b) No more than one supplementary dwelling unit is allowed on an erf where a dwelling unit exists;
- (c) A supplementary dwelling unit may only have its own individual section within a sectional title scheme if it is legally tied to the dwelling unit concerned;

25D Affordable rental flat

The following conditions, in addition to the development rules applicable to the base zoning, apply to an affordable rental flat:—

- (a) —An affordable rental flat may only be developed or permitted on a property where a second dwelling, third dwelling or supplementary dwelling unit has not been developed;
- (b) —An affordable rental flat is only permitted as an additional use right on properties within the area of a map approved by the City. The City may approve and shall maintain such a map after following a public participation process. Such map must be available on the City's website and takes effect when a decision is published in the *Provincial Gazette*;
- (c) —The number of affordable rental units on a single property may not exceed 8 units plus a dwelling house, or 12 units if no dwelling house exists on the land, or a floor area of 160m² where a maximum of 8 units will be permitted or 240m² where a maximum of 12 units will be permitted, whichever is the most restrictive;
- (d) —The height of an affordable rental flat may not exceed 8m or two storeys, whichever is the most restrictive; and

(e) —The construction of an affordable rental flat is subject to certification by the relevant municipal services department that the relevant charge has been paid for the affordable rental flat in accordance with Council's Development Charges Policy for GAP/affordable housing, where each affordable rental unit is equal to one GAP/affordable housing unit.

25E Small-scale wind turbine

The following conditions, in addition to the development rules applicable to the base zoning, apply to a small scale wind turbine—

- (a) A small-scale wind turbine shall not exceed 11 m in height above existing ground level, to the highest point that the blades reach when rotating;
- (b) The distance between existing ground level and the lowest part of any wind turbine blade shall not be less than 5m.
- (c) Positioning (buffer area) must be equivalent to the turbine's height when measured from any point away from any property boundary;
- (d) Multiple small-scale wind turbines located on a property will be subject to a consent use application;
- (e) Decommissioning of a small-scale wind turbine is done in accordance with the following requirements:
 - (i) Any small-scale wind turbine which is decommissioned or abandoned must be removed by the owner. A small-scale wind turbine is deemed to be abandoned if, in the opinion of the City, it has ceased to operate continuously for more than two years.
 - (ii) The owner must notify the City of any future date of decommissioning of a small-scale wind turbine or, if it has not been in use for more than six months, of the date when it ceased to operate the small-scale wind turbine.
 - (iii) The owner is responsible for the removal of structure in all its parts, within 150 days after the date of being decommissioned or abandoned.

25F Place of instruction

In addition to item 21(b), the following conditions shall apply where a portion of property is used for a place of instruction—

- (a) The place of instruction may only include an early childhood development centre and no more than 34 learners shall be enrolled at any time;
- (b) Services shall not operate outside the hours of 06:00 to 18:30 on Mondays to Fridays;
- (c) Indoor and outdoor play space shall be provided in accordance with any health requirement or a policy plan as might be approved by the City from time to time, and outdoor play space shall be fenced off from any public street;
- (d) No advertising sign shall be displayed, other than a single un-illuminated sign or notice in accordance with the City's Outdoor Advertising and Signage By-law, not projecting over a public street, and such sign shall not exceed 0,5 m² in area;
- (e) Parking shall be provided at a minimum ratio in accordance with 'Table 13: minimum off-street parking requirements';
- (f) Notices of no objection to be provided for any materially and adversely affected surrounding owners;
- (g) The City may, at any stage, call for a cessation of the place of instruction activity or impose conditions in order to minimise any potential nuisance to surrounding neighbours or the public.

Part 2: Single Residential Zoning 2: Incremental Housing (SR2)
(items 26-33)

The SR2-R2 zoning facilitates upgrading and incremental housing from an informal settlement to a formal settlement. SR2-R2 may apply to individual land units or to blocks containing an informal settlement. In recognition of the realities of poor and marginalised communities, development rules are not very restrictive and local employment generation is encouraged within this zoning. Once upgrading of an area has reached an appropriate stage, as determined by the City, it is contemplated that the area may be rezoned to SR1-R1 or another appropriate zoning. All properties zoned as Informal Residential Zone in former zoning schemes are converted to SR2-R2 in this development management scheme.

26 Use of the property

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

- (a) Primary uses are dwelling house, second dwelling, utility service, private road, urban agriculture, open space, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and additional use rights as specified in paragraph (b).
- (b) Additional use rights which may be exercised by the occupant of any unit of accommodation are shelter, house shop, home occupation, bed and breakfast establishment, home child care~~childcare~~, informal trading, third dwelling, filming, supplementary dwelling unit, affordable rental flat, small-scale wind turbine and any educational, religious, occupational or business purpose excluding the sale of alcoholic beverages, provided that:

[Para. (b) substituted by s. 35 of City of Cape Town: Municipal Planning Amendment By-Law, 2016]

- (i) The dominant use of the unit shall remain residential;
- (ii) No noxious trade, risk activity, adult entertainment business, adult services or adult shop are permitted;
- (iii) No activities shall be carried out which constitute or are likely to constitute a source of nuisance, including the use of equipment that generates excessive noise, or any activity which results in the generation of dust, fumes, smoke, or waste material which could be detrimental to health, or which requires special waste removal processes;
- (iv) The City may, at any stage, call for a cessation of the land use or activity, or impose conditions in order to minimise any potential nuisance to surrounding neighbours or the general public; and
- (v) The development rules stipulated in items 23, 24, 25, 25B except for paragraph (b), 25C, 25D, 25E, 28, 29, and 30, whichever is applicable, shall be adhered to.

[Para. (b) substituted by s. 35 (a) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

- (c) Consent uses are group housing, boarding house, place of worship, institution, clinic, place of assembly, ~~place of instruction~~, office, restaurant, guest house, place of entertainment, service trade, authority use, minor rooftop base telecommunication station, rooftop base telecommunication station, wind turbine infrastructure, veterinary practice, informal trading, chancery, small-scale animal care centre, flat, ground-mounted energy system and halfway house.

[Para. (c) substituted by s. 35 of City of Cape Town: Municipal Planning Amendment By-Law, 2016]

[Para. (c) substituted by s. 35 (b) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

- (d) The uses in sub-item (1) (a-c) are permissible where no formal township exists.

[Para. (d) substituted by s. 35 (c) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

(2) Notwithstanding that primary uses, additional use rights and consent uses in this zoning may be expressed in the singular, more than one such use is permitted where:

- (a) no formal township has been established legally; or

(b) it is not possible to identify individual land units.

27 Development rules

The following development rules apply:

(a) ~~Floor factor~~ Floor factor

The maximum floor factor for all buildings on a property is ~~1,02,0~~.

(b) ~~Height~~ Height

(i) ~~The maximum height of a building, measured from existing ground level to the wallplate, shall be 6 m for dwelling units and 8 m for all other buildings;~~
(ii) ~~The maximum height of a building, measured from existing ground level to the top of building the roof, shall be 89 m for dwelling units and 10 m for all other buildings.~~

(iii) Earth banks and retaining structures are subject to item 126.

[Para. (b) substituted by s. 36 (a) of City of Cape Town: Municipal Planning Amendment ~~By-Law~~By-law, 2019]

(c) ~~Building lines where a formal township exists~~ Building lines where a formal township exists

The following building lines apply to buildings, including shelters, on land units zoned SR2 that have been subdivided in a formal township and where the subdivision has been confirmed in terms of this ~~By-Law~~By-law or other relevant law:

(i) Street boundary building line: ~~40~~ m;

(ii) Common boundary building line: ~~0 m for 60% of the total linear distance along all common boundaries around the land unit and 1 m for the remainder, provided that the City may require a services servitude;~~

(aa) where more than 4 dwelling units are attached to each other, the City may require a common boundary building line of 1 m between a batch of 4 attached dwelling units and any adjacent dwelling unit, and
(bb) no doors or windows shall be erected in a wall that is less than 1 m from a common boundary; and

(iii) ~~No more than 2 shelters shall be attached to each other without a space of at least 2,5 m between such shelters and any other building or shelter on the land unit, or on any adjacent land unit; and~~

(iv) The general building line encroachments in item 121 also apply.

(d) ~~Building lines where no formal township exists~~ Building lines where no formal township exists

The following building lines apply to buildings, including shelters, on a property that has not been subdivided as part of a formal township:

(i) Street boundary building line: ~~Every building or shelter shall be set back at least 1 m from a street, road or the edge of a temporary road or thoroughfare, as determined by the City~~ ~~0 m~~;

(ii) Common boundary building line: ~~3 m on the perimeter of the property as determined by the City~~ ~~0 m~~, provided that the City may require a services servitude; and;

(iii) Where more than 4 dwelling units or shelters are attached to each other the City may require a space of 2,5 m between such dwellings or shelters and any other building or shelter on the property concerned or any adjacent property; and

(iv) The general building line encroachments in item 121 also apply.

(e) ~~Parking and access~~ Parking and access

(i) Parking shall be provided on a property in accordance with the following 'Table 3: of parking requirement in Single Residential Zoning 2':

Table 3: of parking requirement in Single Residential Zoning 2[Table substituted by s. 36 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

Use of property	Parking requirement
Shelter	None
Dwelling house	One bay, if required by the City (None on erven <100 m ²)
Second dwelling, third dwelling, <u>supplementary dwelling unit, affordable rental flat, home occupation</u>	None
Other primary or consent uses	As required by the City

(ii) The provisions of Chapter 15 which relate to parking and access, do not apply in this zoning.

28 House shop

The following conditions apply to a house shop:

- (a) The extent and position of the retail component shall be clearly defined on a plan, and excluding any toilet or change room, shall not exceed 40 m² or 40% of the total floor space of the dwelling, whichever is the lesser area;
- (b) In addition to the house shop, the property shall contain a dwelling which shall be occupied by the proprietor of the house shop;
- (c) Any new structure, or alteration to the existing dwelling house, second dwelling, third dwelling or outbuilding, shall conform to the residential character of the area;

[Para. (c) substituted by s. 37 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (d) No more than three persons in total shall be engaged in retail activities on the property, including the occupant or occupants and any assistants;
- (e) Only one un-illuminated sign is permitted in accordance with the City's Outdoor Advertising and Signage By-LawBy-law, which shall be affixed to the wall of the house shop or boundary wall, and shall not exceed 0,5 m² in area;
- (f) The following are not permitted in a house shop: sale of alcoholic beverages, storage or sale of fireworks, storage of gas for sale, sale of gas containers, vending machines, gaming machines, video games or pool tables;
- (g) The area used for a house shop may not open directly onto a bedroom or toilet, and no goods which will be sold from the house shop may be stored in a bedroom or toilet;
- (h) No animals are permitted in the area used for a house shop;
- (i) The house shop shall be adequately ventilated and illuminated, and if perishable food is sold, the City may require refrigeration to be provided;
- (j) The house shop shall not operate outside the hours of 07:00 to 21:00 on Mondays to Saturdays and 08:00 to 13:00 on public holidays or Sundays; and
- (k) Not more than one vehicle may be used in connection with a house shop and shall not exceed 3 500 kg gross weight, including delivery vehicles.

29 Shelter

The following conditions apply to a shelter:

- (a) If the City's Building Control Officer is of the opinion that the shelter poses a public health, safety, fire or structural risk the City may serve notice on the owner or occupier describing the nature of the risk and calling upon them to submit documentation to the City or appoint a professional person to conduct an investigation and to report to the City on the nature and extent of the risk within a specified period of time and the steps to be taken to remedy such risk.

- (b) After considering the documentation or report submitted and if it is satisfied that there is a risk the City may issue a directive instructing the owner or occupier to take the steps set out in the directive.
- (c) If the owner or occupier fails to comply with sub-items (a) and (b) they are guilty of an offence in terms of this By-law.
- (d) A shelter may not exceed 4m in height measured from existing ground level to top of ~~roof~~building.

[Item 29 substituted by s. 38 of City of Cape Town: Municipal Planning Amendment ~~By-Law~~By-law, 2019]

30 Informal trading

Informal trading is permitted on land which has been set aside as a road reserve or identified by the City as a future road reserve provided that:

- (a) no permanent structures are erected on the land;
- (b) there is no interference with pedestrian or vehicular movement, or with any municipal utility services; and
- (c) there is no threat to public health or safety.

31 Land constructed as or identified for roads

No building or shelter, other than for informal trading under item 30, shall be erected on land which has been constructed as a road or identified by the City as a future road.

32 Land used as or identified for firebreaks

No building or shelter shall be erected on land which has been used, identified or demarcated by the City as a firebreak on a site development plan approved by the City.

33 Approval of building plans

Notwithstanding the fact that individual land units may not have been created or transferred to individuals, the City may approve building plans in terms of the National Building Act for a building relating to a primary use or consent use, except a shelter, provided the City is satisfied that:

- (a) the proposed building is acceptable as a permanent structure in terms of location and use, taking into account any plans to upgrade the area; and
- (b) the applicant has permission from the owner of the land to erect the building.

CHAPTER 6.: GENERAL RESIDENTIAL ZONINGS

(items 34-45A)

The general residential zonings are designed to provide a healthy, safe, and pleasant environment for urban living at higher densities, in order to promote efficient urban development, manage the pressure of urban growth and reduce urban sprawl. Different zonings and subzonings permit different levels of development intensity, particularly relating to height and floor space. Within these zonings there are controlled opportunities for home employment and low-intensity mixed-use development.

Part 1: General Residential Subzoning 1: Group Housing (GR1)

(items 34-39)

The GR1 zoning encourages group housing, which is a medium-density form of residential development, where attention is given to aesthetics, architectural form and the inter-relationship between different components of the development. Opportunities are included for low-rise flats within a group housing project. GR1 also accommodates dwelling houses that are not part of a group housing scheme.

34 Use of the property

The following use restrictions apply to property in this zoning:—

- (a) Primary uses are dwelling house, group housing, private road, open space, filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and additional use rights as specified in paragraph (b).
- (b) Additional use rights are supplementary dwelling unit subject to item 25C, small-scale wind turbine subject to the development rules in item 25E, flats subject to the development rules in item 37 and home occupation subject to the restrictions in item 38.
- (c) Consent uses are utility service, home child care~~childcare~~, chancery, guest house, ground-mounted energy system, commune, informal trading, minor rooftop base telecommunication station and rooftop base telecommunication station.

[Para. (c) substituted by s. 39 of City of Cape Town: Municipal Planning Amendment By-Law~~By-law~~, 2019]

35 Development rules for group housing

The following development rules apply to group housing:—

- (a) Design principles~~Design principles~~
All buildings and structures shall be planned, designed and built as a harmonious architectural entity and special attention shall be given to aesthetics, architectural co-ordination, urban design and landscaping.
- (b) Density~~Density~~
The maximum gross density on a group housing site shall be 35 dwelling units per hectare.
- (c) Height~~Height~~
 - (i) The maximum height of a building, measured from existing ground level to the top of building the wallplate, shall be 89 m, and to the top of the roof shall be 10 m.

[Sub-para. (i) substituted by s. 40 of City of Cape Town: Municipal Planning Amendment By-Law~~By-law~~, 2019]

- (ii) Earth banks and retaining structures are subject to item 126.

- (d) Open space~~Open space~~
Within a group housing site, outdoor space of at least 50 m² per dwelling unit shall be provided, which may include private or communal open space or any functional outdoor space which is inaccessible for motor vehicles, but excludes roads, service yards and parking areas.

- (e) Building lines along the perimeter of a group housing site~~Building lines along the perimeter of a group housing site~~
The following building lines apply along the perimeter of a group housing site:—
 - (i) A street boundary building line of 5 m applies where the group housing site abuts an external public street.
 - (ii) Common boundary building lines of 3 m applies along the perimeter of the group housing site.
 - (iii) The general building line encroachments in item 121 apply.

- (f) Building lines within a group housing site~~Building lines within a group housing site~~
The following building lines apply within a group housing site:—
 - (i) Street boundary building lines on internal roads are 0 m; provided that any garage door facing the road shall be set back at least 5 m from the kerb of such internal road.
 - (ii) Common boundary building lines within the group housing site are 0 m unless the City requires a building line for fire-fighting purposes, in which case the common boundary building lines shall be 3 m.
 - (iii) The general building line encroachments in item 121 apply.

| (g) Parking and access **Parking and access**

- (i) Parking and access shall be provided in accordance with Chapter 15.
- (ii) Parking may be provided at the group houses concerned, or part of the required parking at some of the group houses and the remainder in the form of communal parking, or the entire requirement may be provided in the form of communal parking.

36 Site development plan

A site development plan of the proposed group housing scheme shall be submitted to the City for approval as provided for in item 123, whereafter the development of the group housing site shall be substantially in accordance with the approved site development plan.

37 Flats as an Additional use right in a group housing scheme

| The following conditions apply to flats as an additional use right in this zoning:—

- (a) The flats shall form an integrated part of the group housing site and shall comply with the development rules for group housing;
- (b) The total floor space of flats shall not exceed 40% of the total floor space of all buildings on the group housing site; and
- (c) The open space requirement for dwelling units in a group housing site shall apply.

38 Home occupation as an Additional use right in a group housing scheme

~~The following conditions apply to home occupation as an additional use right in this zoning:~~

- (a) ~~The owner shall obtain the written consent of the relevant Owners' Association or all the owners within such group housing scheme if the Owners' Association is not functioning; and~~
- (b) ~~The provisions of item 23 shall apply. Item 23 applies to home occupation as an additional use right in this zoning~~

39 Development rules for a dwelling house or guest house outside a group housing scheme

(1) A dwelling house that does not form part of a group housing scheme is exempt from the development rules for group housing.

(2) The following conditions apply to a dwelling house that does not form part of a group housing scheme:—

- (a) ~~A second dwelling, third dwelling and supplementary dwelling unit is permitted subject to the relevant provisions for a second dwelling in item 25A, 25B, 25C and 25D;~~

[Para. (a) substituted by s. 41 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (b) Additional use rights and consent uses applicable to a dwelling house in ~~Single Residential Zoning 1~~ shall also apply to a dwelling house in this zoning;
- (c) The development rules ~~in the applicable land unit area category for even greater than 350 m² and not exceeding 650 m² as stipulated in the 'Table 2: of floor factor, floor space, coverage, height and building lines in Single Residential Zoning 1'~~ in item 22 shall apply;

[Para. (c) substituted by s. 41 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (d) Parking and access shall be provided on the land unit in accordance with Chapter 15; and
- (e) The requirements for garages and carports in ~~Single Residential Zoning 1~~ shall apply.

Part 2: General Residential Subzonings (GR2, GR3, GR4, GR5 & GR6) (items 40-45A)

The GR zonings promote higher-density residential development, including blocks of flats. Different development rules apply to different subzonings, particularly with regard to height and floor space, in order to accommodate variations of built form. GR2 accommodates flats of relatively low height and floor space, GR3 and GR4 cater for flats of medium height and floor space, while GR5 and GR6 accommodate high-rise flats. The dominant use is intended to be residential, but limited mixed-use development is possible.

40 Use of the property

The following use restrictions apply to property in these subzonings:

- (a) Primary uses subject to paragraph (c) are dwelling house, second dwelling, third dwelling, group housing, boarding house, guest house, flats, private road, filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and open space.
- (aA) Additional use rights are supplementary dwelling unit subject to item 25C, home occupation subject to item 23 and small-scale wind turbine subject to item 25E.
- (b) Consent uses subject to paragraph (c) are utility service, place of instruction, place of worship, institution, hospital, place of assembly, home occupation, shops, hotel, conference facility, rooftop base telecommunication station, event, chancery, ground-mounted energy system, restaurant, informal trading and veterinary practice.

[Para. (b) substituted by s. 36 of City of Cape Town: Municipal Planning Amendment By-Law, 2016]

- (c) ...

[Para. (c) deleted by s. 42 of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

41 Development rules for flats, boarding houses and hotels

The following development rules apply to flats, boarding houses and hotels:

- (a) Coverage The maximum coverage for all buildings on the land unit in each subzoning is determined in accordance with the following 'Table 4: of coverage, height and floor factor in General Residential Subzonings GR2-GR6'.
- (b) Floor factor The maximum floor factor for all buildings on the land unit in each subzoning shall be determined in accordance with the following 'Table 4: of coverage, height and floor factor in General Residential Subzonings GR2-GR6'.
- (c) Height
 - (i) The maximum height of a building, measured from the existing ground level to the top of building the roof, shall be determined in accordance with the following 'Table 4: of coverage, height and floor factor in General Residential Subzonings GR2-GR6'.
 - (ii) Earth banks and retaining structures are subject to item 126.

[Sub-para. (i) substituted by s. 43 (a) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

Table 4:of coverage, height and floor factor in General Residential Subzonings GR2-GR6

[Table substituted by s. 43 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

Subzoning	Coverage	Floor factor	Maximum height above existing ground level to top of building roof
GR2	60%	1,0	15,0 m
GR3	60%	1,25	20,0 m
GR4	60%	1,5	24,0 m
GR5	60%	2,5	35,0 m
GR6	60%	5,0	50,0 m

(d) ...

[Para. (d) deleted by s. 43 (c) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

(e) Building lines

Building lines

- (i) No building shall be erected so that any point on the building is nearer to a street boundary or a common boundary than the distance specified in the following 'Table 5:of building lines in General Residential Subzonings GR2-GR6', provided that:
 - (aa) the symbol 'H' means the height in metres of the point concerned above the ground floor, and
 - (bb) where two alternative building lines are prescribed, the greater of the two building lines shall apply.

[Sub-para. (i) substituted by s. 43 (d) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (ii) An outbuilding is permitted within the common boundary building line provided the outbuilding is not higher than 3,5 m from the existing ground level of the outbuilding to the top of the roof building.

[Sub-para. (ii) substituted by s. 43 (e) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (iii) The general building line encroachments in item 121 apply.

Table 5: of building lines in General Residential Subzonings GR2-GR6

[Table substituted by s. 43 (f) of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]

Subzoning	Street boundary building line		Common boundary building line	
	Points up to 25,0 m above existing ground level	Points over 25,0 m above existing ground level	Points up to 25,0 m above existing ground level	Points over 25,0 m above existing ground level
GR2	4,5 m	N/a (4,5 m when a height departure permitted in terms of this development management scheme has been approved)	4,5 m or 0,6 H (0,0 m up to 15,0 m in height where intersecting a street boundary, for a distance of 18,0 m measured perpendicular from such street boundary)	N/a (unless 6,5 m when a height departure permitted in terms of this development management scheme has been approved)
GR3				
GR4				
GR5	4,5 m	9,0 m	4,5 m or 0,6 H (0,0 m up to 15,0 m in height where intersecting a street boundary, for a distance of 18,0 m measured perpendicular from such street boundary)	15,0 m
GR6				

(f) Parking and access

Parking and access shall be provided on the land unit in accordance with Chapter 15.

(g) Screening

The City may require screening in accordance with item 125.

(h) Wind mitigation

The City may:

- (i) require an assessment of how wind will affect the proposed building and its surroundings; and
- (ii) impose conditions to mitigate adverse wind effects.

42 Dwelling house, and second dwelling, third dwelling and guest house

The provisions of item 21(b) and 22 apply to a dwelling in this zoning. The provisions of item 21(b), 22 and 25A apply to a second dwelling in this zoning. Items 21(b) and 22 apply to a dwelling house in this zoning. Items 21(b), 22 and 25A apply to a second dwelling in this zoning. Item 25B applies to a third dwelling in this zoning.

[Item. 42 substituted by s. 37 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2016]

[Item. 42 substituted by s. 44 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]

43 Group housing

The additional use rights and development rules for group housing in General Residential Zoning 1 shall apply to group housing in this zoning.

44 Institution, place of instruction and place of assembly

The development rules which apply to an institution, place of instruction and place of assembly in item 47 shall apply to these uses in this zoning; provided that where the institution, place of instruction or place of assembly is situated within a building which is also

used for flats or a boarding house, then the coverage, height and building line requirements for the flats or boarding house shall apply.

45 Shops and restaurants

The City may grant its approval for a shop or restaurant to be provided within the ground floor of a block of flats, provided that:

- (a) a policy plan for the area in which such property is situated makes provision for mixed or commercial uses; and
- (b) the gross leasable area of the all shops or restaurants does not exceed 1 000 m², or 2550% of the floor space of the ground floor in the aggregate, whichever is the lesser.

45A Development rule for all uses in GR2-GR6, except dwelling house and second dwelling

Vehicle access to the property must be from an adjacent road reserve of at least 9m wide.

[Item 45A inserted by s. 45 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]

CHAPTER 7: COMMUNITY ZONINGS

(items 46-49A)

Community zonings are intended for social uses directed at community needs, such as educational, religious, welfare or health services. Community buildings are important social and urban design focal points, and prominent architectural forms should be encouraged. There are two community zonings, with CO1 serving predominantly local community needs, and CO2, which caters for a wider community and potentially a greater intensity of development.

Part 1: Community Zoning 1: Local (CO1)

(items 46-47A)

The CO1 zoning provides for local educational, worship and health needs as primary uses, but allowance is also made for the City to approve other community needs which may have a greater impact.

46 Use of the property

The following use restrictions apply to property in this zoning:

- (a) Primary uses are place of instruction, place of worship, clinic, rooftop base telecommunication station, filming, minor freestanding base telecommunication station, minor rooftop base telecommunication station, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and open space.

[Para. (a) substituted by s. 46 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]

- (aA) Additional use rights are small-scale wind turbine subject to the development rules in item 25E.

- (b) Consent uses are institution, hospital, place of assembly, cemetery, freestanding base telecommunication station, veterinary practice, shop, informal trading, ground-mounted energy system and urban agriculture.

[Item 46 substituted by s. 38 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2016]

47 Development rules

The following development rules apply:

- (a) Floor factorFloor factor
The floor factor on a land unit shall not exceed 0,8.
- (b) CoverageCoverage

The coverage for all buildings on a land unit shall not exceed ~~60%~~^{80%}.

(c) ~~Height~~^{Height}

(i) The maximum height of a building, measured from existing ground level to the top of the roof, is 12 m, provided that there is no height limit for a bell tower, steeple, minaret or similar architectural feature designed to accentuate the significance of a building.

[Sub-para. (i) substituted by s. 47 of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

(ii) Earth banks and retaining structures are subject to item 126.

(d) ~~Street boundary building line~~^{Street boundary building line}

The street boundary building line is ~~53~~ m, subject to the general building line encroachments in item 121.

(e) ~~Common boundary building line~~^{Common boundary building line}

Common boundary building lines are ~~53~~ m, subject to the general building line encroachments in item 121.

(f) ~~Parking and access~~^{Parking and access}

Parking and access shall be provided on the land unit in accordance with Chapter 15.

(g) ~~Loading~~^{Loading}

Loading bays shall be provided on the land unit in accordance with item 144.

(h) ~~Screening~~^{Screening}

The City may require screening in accordance with item 125.

(i) ~~Noise mitigation~~^{Noise mitigation}

The City may require the owner to implement noise mitigation measures if excessive noise is created or likely to be created.

47A Informal trading

Informal trading is permitted only on a site demarcated in terms of the City's by-law on informal trading.

Part 2: Community Zoning 2: Regional (CO2)

(items 48-49A)

The CO2 zoning provides for a full range of institutional and community needs, which can be of a local or regional scale, and includes health and welfare as well as religious and educational services.

48 Use of the property

The following use restrictions apply to property in this zoning:

(a) Primary uses are institution, hospital, place of instruction, place of worship, place of assembly, rooftop base telecommunication station, minor freestanding base telecommunication station, minor rooftop base telecommunication station, filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and open space.

[Para. (a) substituted by s. 48 of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

(aA) Additional use rights are small-scale wind turbine subject to the development rules in item 25E.

(b) Consent uses are boarding house, conference facility, cemetery, crematorium, funeral parlour, freestanding base telecommunication station, wind turbine infrastructure, veterinary practice, business premises, informal trading, ground-mounted energy system, utility-scale energy structure and urban agriculture.

[Item 48 substituted by s. 39 of City of Cape Town: Municipal Planning Amendment By-Law, 2016]

49 Development rules

The following development rules apply:

- (a) Floor factor ~~Floor factor~~
The floor factor on a land unit shall not exceed 2,0.
- (b) Coverage ~~Coverage~~
The coverage for all buildings on a land unit shall not exceed ~~60%~~80%.
- (c) Height ~~Height~~
 - (i) The maximum height of a building, measured from existing ground level to the top of ~~building~~the roof, shall be 18 m, provided that there is no height limit for a bell tower, steeple, minaret or similar architectural feature designed to accentuate the significance of a building.

[Sub-para. (i) substituted by s. 49 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (ii) Earth banks and retaining structures are subject to item 126.
- (d) Street boundary building line ~~Street boundary building line~~
The street boundary building line is ~~53m~~ m, subject to the general building line encroachments in item 121.
- (e) Common boundary building line
~~Common boundary building line~~
Common boundary building lines are ~~53~~ m, subject to the general building line encroachments in item 121.
- (f) Parking and access ~~Parking and access~~
Parking on and access to a property shall be provided in accordance with the provisions of Chapter 15.
- (g) Loading ~~Loading~~
Loading bays shall be provided on a land unit in accordance with item 144.
- (h) Screening ~~Screening~~
The City may require screening in accordance with item 125.
- (i) Noise mitigation ~~Noise mitigation~~
The City may require the owner to implement noise mitigation measures if excessive noise is created or likely to be created.

49A Informal trading

Informal trading is permitted only on a site demarcated in terms of the City's by-law on informal trading.

CHAPTER 8.: LOCAL BUSINESS ZONINGS (items 50-58)

Intermediate Business Zoning creates a suitable interface between business districts and adjacent residential areas, where low-impact offices and associated uses are permitted, but where higher-impact retail uses are controlled. Local Business Zoning 2 is appropriate for local neighbourhood shops, and allows for a range of compatible land uses.

Part 1: Local Business Zoning 1: Intermediate Business (LB1) (items 50-54A)

The LB1 zoning provides an intermediate zoning, which can act as a buffer or interface between general business zonings or other high-intensity non-residential uses, and residential areas. The dominant uses should be for residential, office and associated purposes, but limited retail activities are possible with the City's approval.

50 Use of the property

The following use restrictions apply to property in this zoning:—

- (a) Primary uses are office, dwelling house, boarding house, utility service, flats, filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and additional use rights as specified in paragraph (b).
- (b) Additional use rights which may be exercised by the occupant of a dwelling house are second dwelling, home occupation or house shop or bed and breakfast establishment, supplementary dwelling unit, affordable rental flat, small-scale wind turbine (only for land unit areas of equal or greater than 650m²) or home child care~~childcare~~ subject to the development rules in items 25A, 25C, 25D, 25E and 52-and 54 whichever is applicable.
[Para. (b) substituted by s. 50 of City of Cape Town: Municipal Planning Amendment By-Law, 2019]
- (c) Consent uses are place of instruction, place of worship, institution, clinic, place of assembly, guest house, shop, informal trading, service trade, rooftop base telecommunication station, wind turbine infrastructure, veterinary practice, chancery, restaurant, ground-mounted energy system, small-scale wind turbine (only for land unit areas less than 650m²), small-scale animal care centre and halfway house.
[Para. (c) substituted by s. 40 of City of Cape Town: Municipal Planning Amendment By-Law, 2016]

51 Development rules

The following development rules apply:—

- (a) Floor factor~~Floor factor~~
The maximum floor factor is determined in accordance with the area of the land unit as shown in the following 'Table 6:—of floor factor, height and building lines in Local Business Zoning 1'.
- (b) Height~~Height~~
 - (i) The maximum height of a building, measured from existing ground level to ~~the top of the wallplate and to the top of building~~the roof, shall be determined in accordance with the area of the land unit as shown in the following 'Table 6:—of floor factor, height and building lines in Local Business Zoning 1'.
[Sub-para. (i) substituted by s. 51 (a) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]
 - (ii) Where a building is permitted in this zoning within 3 m of a common boundary, the height will be limited to 4 m measured from existing ground level to ~~the top of building~~the roof.
[Sub-para. (ii) substituted by s. 51 (b) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]
 - (iii) Notwithstanding the provisions in sub-paragraph (ii), within the first 12 m along a common boundary measured perpendicular from the street boundary line and where a building is not set back from such common boundary, the height is determined in accordance with the 'Table 6:—of floor factor, floor space, height, and building lines in Single-Residential Zoning 1'.
 - (iv) Earth banks and retaining structures are subject to item 126.
- (c) Building lines~~Building lines~~
The street and common boundary building lines are determined in accordance with the area of the land unit as shown in the following 'Table 6:—of floor factor, height and building lines in Local Business Zoning 1', subject to:—
 - (i) the general building line encroachments in item 121; and
 - (ii) provisions relating to garages and carports as stipulated in paragraph (d).

Table 6: of floor factor, height and building lines in Local Business Zoning 1

[Table substituted by s. 51 (c) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

Land unit area (m ²)	Floor factor	Maximum height above existing ground level		Street boundary building line	Common boundary building line
		To wallplate	To top of building roof		
>1 000	1,0	9,0 m	11,0 m	3,5 m	3,0 m
>650 up to 1 000	1,0	9,0 m	11,0 m	3,5 m	3,0 m
>350 up to 650	1,0	8,0 m	10,0 m	3,5 m	0,0 m for first 12,0 m <u>along every common boundary</u> measured perpendicular from street boundary and 0,0 m for 60% of total remaining linear distance along all common boundaries around land unit and 3,0 m for remainder, subject to paragraph (d)(iii).
>200 up to 350	1,0	8,0 m	10,0 m	3,5 m	0,0 m for first 12,0 m <u>along every common boundary</u> measured perpendicular from street boundary and 0,0 m for 60% of total remaining linear distance along all common boundaries around land unit and 3,0 m for remainder; subject to paragraphs (d)(ii) and (d)(iii).
≤200	1,0	8,0 m	10,0 m	1,0 m	

(cA) Section 142(10)(b) governs the insertion by the City of Cape Town: Municipal Planning Amendment By-law, 2025 of 'along every common boundary' in the above Table 6.

(d) Garages and carports Garages and carports

(i) A garage or carport is permitted within the common boundary building line provided the garage or carport:

(aa) does not extend higher than 3,5 m from existing ground level to the top of the roof; and

(bb) does not contain more than a double garage facade with a maximum width of 6,5 m.

(i) A garage, carport and outbuilding, which is not physically attached to a use permitted in this zoning, are permitted within the common boundary building line or on the common property boundary provided the garage, carport and outbuilding do not—

(aa) extend higher than 4 m from existing ground level to the top of the building; and

(bb) exceed a horizontal dimension of 6,5 m when viewed from any street boundary.

[Sub-para. (i) substituted by s. 51 (d) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019*]

(ii) For land units of 650 m² and less, a garage or carport is permitted up to 1,5 m from the street boundary provided the garage or carport:

(aa) is not higher than 3,5 m from existing ground level to the top of the roof; and

(bb) does not contain more than a double garage facade with a maximum width of 6,5 m.

(ii) For land units of 650 m² and less, a garage, carport and outbuilding, which is not physically attached to a use permitted in this zoning, are permitted

up to 1,5 m from the street boundary provided the garage, carport and outbuilding do not—

(aa) extend higher than 4 m from existing ground level to the top of building; and

(bb) exceed a horizontal dimension of 6,5 m when viewed from any street boundary.

[Sub-para. (ii) substituted by s. 51 (e) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019*]

(iii) For land units exceeding 650 m², a garage, carport and outbuilding shall not be closer than 5 m from the street boundary, notwithstanding the street building line.

(e) Parking and access

Parking and access

Parking and access shall be provided on a land unit in accordance with Chapter 15.

(f) Loading Loading

Loading bays shall be provided on a land unit in accordance with item 144.

(g) Screening Screening

The City may require screening in accordance with item 125.

52 Home occupation, bed and breakfast establishment—and, home child care~~childcare and house shop~~

The conditions for a home occupation, bed and breakfast establishment—or, home child care~~childcare or house shop~~ in this zoning shall be the same as those of Single Residential Zoning 1.

53 ...

[Para. (g) of Item 53 deleted by s. 41 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]
[Item 53 deleted by s. 52 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

54 House shop

The following conditions apply to a house shop:

(a) The extent and position of the retail component shall be clearly defined on a building plan, and excluding any toilet or change room, shall not exceed 40 m² or 40% of the total floor space of the dwelling, whichever is the lesser area;

(b) In addition to the house shop, the property shall contain a dwelling which shall be occupied by the proprietor of the house shop;

(c) Any new structure, or alteration to the existing dwelling house, second dwelling or outbuilding, shall conform to the residential character of the area;

(d) No more than three persons in total shall be engaged in retail activities on the property, including the occupant or occupants and any assistants;

(e) Only one un-illuminated sign is permitted in accordance with the City's Outdoor Advertising and Signage By-Law, which shall be affixed to the wall of the house shop or boundary wall, and shall not exceed 0,5 m² in area;

(f) The following are not permitted in a house shop unless the approval of the City is obtained: sale of alcoholic beverages, storage or sale of fireworks, storage or sale of gas and gas containers, vending machines, gaming machines, video games or pool tables;

(g) The area used for a house shop may not open directly onto a bedroom or toilet, and no goods which will be sold from the house shop may be stored in a bedroom or toilet;

(h) No animals are permitted in the area used for a house shop;

(i) The house shop shall be adequately ventilated and illuminated, and if perishable food is sold, the City may require refrigeration to be provided;

- (j) The house shop shall not operate outside the hours of 07:00 to 21:00 on Mondays to Saturdays and 08:00 to 13:00 on public holidays or Sundays; and
- (k) No more than one vehicle may be used in connection with a house shop and such vehicle shall not exceed 3 500 kg gross weight, including delivery vehicles.

54A Informal trading

Informal trading is permitted only on a site demarcated in terms of the City's by-law on informal trading.

Part 2: Local Business Zoning 2: Local Business (LB2) (items 55-58)

The LB2 zoning provides for low-intensity commercial and mixed-use development which serves local needs for convenience goods and personal services. Limitations are placed on the scale of such development so that it is capable of integration into the adjacent residential neighbourhood without adversely affecting the amenity of the neighbourhood.

55 Use of the property

The following use restrictions apply to property in this zoning:

- (a) Primary uses are shop, office, dwelling house, second dwelling, boarding house, bed and breakfast establishment, flats, place of instruction, place of worship, institution, clinic, guest house, service trade, utility service, rooftop base telecommunication station, private road, veterinary practice filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and open space.

[Para. (a) substituted by s. 42 of City of Cape Town: Municipal Planning Amendment By-Law, 2016]

- (aA) Additional use rights are supplementary dwelling unit subject to item 25C, small-scale wind turbine subject to the development rules in item 25E.
- (b) Consent uses are place of assembly, informal trading, restaurant, sale of alcoholic beverages, place of entertainment, adult shop, business premises, supermarket, plant nursery, hotel, conference facility, motor repair garage, service station, authority use, freestanding base telecommunication station, wind turbine infrastructure transport use, funeral parlour, chancery, ground-mounted energy system, small-scale animal care centre and multiple parking garage.

56 Development rules

The following development rules apply:

- (a) Floor factor The floor factor on a land unit shall not exceed 1,0.
- (b) Coverage The coverage for all buildings on a land unit shall not exceed 75%.
- (c) Height
 - (i) The maximum height of a building, measured from existing ground level to the top of building the roof, shall be 12 m.
 - (ii) Earth banks and retaining structures are subject to item 126.
- (d) Street centreline setback The City may require a street centreline setback, in which case:
 - (i) all buildings or structures on the land unit shall be set back 8,0 m from the centre line of the abutting public street or streets; and
 - (ii) the provisions of item 122 shall apply.

[Sub-para. (i) substituted by s. 53 of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

- | (e) Street boundary building line~~Street boundary building line~~
The street boundary building line is 0 m, subject to:—
 - (i) the street centreline setback restriction;
 - (ii) minor architectural and sunscreen features may project beyond the street boundary building line provided that such features do not project more than 250 mm beyond the street boundary; and
 - (iii) for service stations the street boundary building line is 5 m subject to the general building line encroachments in item 121.
- | (f) Common boundary building line~~Common boundary building line~~
The common boundary building lines are 0 m.
- | (g) Canopy projection~~Canopy projection~~
The City may approve a canopy projection over the street boundary in accordance with the following conditions:—
 - (i) The canopy shall not project nearer than 500 mm to a vertical plane through the kerb line or proposed kerb line;
 - (ii) No portion of a canopy projection shall be less than 2,8 m above the pavement;
 - (iii) The City may lay down more restrictive requirements relating to the dimensions, design and materials of the canopy; and
 - (iv) The owner shall enter into an encroachment agreement with the City.
- | (h) Street corners~~Street corners~~
The City may require that the owner of a building which is to be situated at a public street corner, and which the City considers to be significant, shall incorporate in the building architectural features which focus visual interest on the corner, and which emphasize the importance of pedestrian movement around the corner; and such features may include building cut-offs, walk-through covered arcades, plazas or other elements.
- | (i) Parking and access~~Parking and access~~
Parking and access shall be provided on the land unit in accordance with Chapter 15.
- | (j) Loading~~Loading~~
Loading bays shall be provided on the land unit in accordance with item 144.
- | (k) Screening~~Screening~~
The City may require screening in accordance with item 125.

57 Service station and motor repair garage

The following additional development rules apply to a service station and motor repair garage:—

- | (a) Any part of the property of a service station or motor repair garage which is used for the repair of motor vehicles, the storage of inoperable motor vehicles or parts of motor vehicles, empty containers such as oil drums and packing cases, or any other scrap, shall be enclosed with a solid screen wall at least 2 m high, or contained in a building;
- | (b) Any service station or motor repair garage that supplies fuel shall comply with the following access requirements:—
 - (i) The width of motor vehicle carriageway crossings over the street boundary, whether one-way or two-way, shall not exceed 8 m;
 - (ii) A wall, at least 100 mm thick and 350 mm high, shall be erected on the street boundary between different motor vehicle carriageway crossings, and the wall shall continue along such boundary unless the property is otherwise enclosed;
 - (iii) The motor vehicle carriageway crossings shall be limited to two per site unless the total length of a street boundary exceeds 30 m, in which case one additional motor vehicle carriageway crossing may be permitted;

- | (iv) At the point where it crosses the street boundary, a motor vehicle carriageway crossing shall not be closer than:—
 - (aa) 30 m to the intersection of a metropolitan road and with any other road of a like status;
 - (bb) 30 m to the nearest point of an intersection where traffic is controlled, or is proposed to be controlled, by a traffic signal or traffic island;
 - (cc) 10 m from the corner of an intersection not referred to above, if such intersection is not splayed, or 5 m from the point where the splay meets the street boundary if such intersection is splayed;
 - (dd) 1,5 m from a side boundary;
- (v) No fuel pump shall be erected so that the base or island on which the pump stands is less than 3,5 m from the nearest street boundary.

58 Informal trading

Informal trading shall only be permitted on sites demarcated for informal trading in terms of the City's by-law on informal trading.

CHAPTER 9: GENERAL BUSINESS AND ~~MIXED-USE~~MIXED-USE ZONINGS (items 59 - 66)

The general business zonings are designed to promote economic development in business districts and development corridors, and include a wide range of land uses such as business, residential and community uses, although industrial development is restricted. By contrast, the ~~mixed-use~~mixed-use zonings are suitable for completely mixed areas in terms of land use, including industrial, business and residential development. Such ~~use~~mixed-use zonings need to be applied with care to ensure that conflict between residential and industrial development is minimised.

Part 1: General Business Subzonings (GB1, GB2, GB3, GB4, GB5, GB6 & GB7) (items 59-62)

The GB zonings provide for general business activity and mixed-use development of a medium to high intensity. Different development rules apply to the different subzonings of GB1-GB7, particularly with regard to permitted height and floor space, in order to accommodate variations of built form within the city. Very few restrictions relate to use because the aim is to encourage a range of uses, but industry is not permitted.

59 Use of the property

| The following use restrictions apply to property in this zoning:—

- | (a) Primary uses are business premises, dwelling house, second dwelling, boarding house, flats, place of instruction, place of worship, institution, hospital, place of assembly, place of entertainment, hotel, conference facility, service trade, authority use, utility service, rooftop base telecommunication station, multiple parking garage, private road, filming, veterinary practice, chancery, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and open space.

[Para. (a) substituted by s. 43 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

- | (aA) Additional use rights are supplementary dwelling unit subject to item 25C, small-scale wind turbine subject to the development rules in item 25E.
- | (b) Consent uses are adult shop, adult entertainment business, adult services, informal trading, expo centre, motor repair garage, warehouse, freestanding base telecommunication station, wind turbine infrastructure, transport use, helicopter landing pad, ground-mounted energy system, utility-scale energy structure, small-scale animal care centre and service station.

60 Development rules

The following development rules apply:—

- (a) Coverage Coverage
The maximum coverage for all buildings on a land unit is 100%.
- (b) Street centreline setback Street centreline setback
The City may require a street centreline setback, in which case:—
 - (i) all buildings or structures on a land unit shall be set back 8 m from the centre line of the abutting public street or streets; and
 - (ii) the provisions of item 122 shall apply.
- (c) Floor factor Floor factor
The maximum floor factor on a land unit shall be determined in accordance with the following 'Table 7:ef height and floor factor in General Business Zonings' subject to paragraphs (f), (g) and (h) which provide concessions in line with specific development initiatives that the City encourages.
- (d) Height Height
 - (i) The maximum height of a building, measured from the existing ground level to the top of ~~building~~the roof, shall be determined in accordance with the following 'Table 7:ef height and floor factor in General Business Zonings'.
 - (ii) Earth banks and retaining structures are subject to item 126.

Table 7:ef height and floor factor in General Business Zonings

[Table substituted by s. 54 (a) of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]

Subzoning	Maximum height above existing ground level to top of building roof	Floor factor
GB1	15,012,5 m	1,5
GB2	15,0 m	2,0
GB3	25,0 m	2,5
GB4	25,0 m	3,0
GB5	25,030,0 m	4,0
GB6	38,045,0 m	6,0
GB7	60,0 m	12,0

- (e) Building lines Building lines

- (i) No building shall be erected so that any point thereon is nearer to a street or common boundary than the distance specified in the following 'Table 8:ef building lines in General Business Zonings', where the symbol 'H' means the height in metres of the point concerned above ground floor.

[Sub-para. (i) substituted by s. 54 (c) of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]

- (ii) Minor architectural and sunscreen features may project beyond the street boundary building line, provided that such features do not project more than 250 mm beyond the street boundary.
- (iii) The general building line encroachments in item 121 shall apply.

Table 8:ef building lines in General Business Zonings

[Table substituted by s. 54 (d) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

Sub-zoning	Street building line and common building line			
	Points on a building above existing ground level			
	up to 10,0 m	over 10,0 m and up to 25,0 m	over 25,0 m and up to 38,0 m	over 38,0 m
GB1	0,0 m	4,5 m (0,0 m for common boundary)	N/a (to be determined when a height departure is submitted)	N/a (unless a departure permitted in terms of this development management scheme has been approved to be determined when a height departure is submitted)
GB2				
GB3				
GB4				
GB5	0,0 m	0,0 m	N/a (to be determined when a height departure is submitted)	N/a (unless a departure permitted in terms of this development management scheme has been approved to be determined when a height departure is submitted)
GB6	0,0 m	0,0 m	(H minus 25,0 m) divided by 2 (0,0 m for common boundary)	N/a (unless a departure permitted in terms of this development management scheme has been approved to be determined when a height departure is submitted)
GB7	0,0 m	0,0 m	0,0 m	(H minus 38,0 m) divided by 2 (0,0 m for common boundary)

(f) Residential incentive in respect of GB7 Residential incentive in respect of GB7 The floor space of buildings on land that is zoned GB7 may be increased by 30% provided that at least 30% of such floor space is developed and remains in use as flats.

(g) Hotel floor space concession Hotel floor space concession Where it is proposed to erect a hotel of at least 30 bedrooms within these subzonings, the following portions of such hotel shall be disregarded when calculating the total floor space of the building:

- (i) Rooms which are used by residents and visitors as dining rooms, banqueting rooms, bars, restaurants, ballrooms, rooms for games and sports, lounges, sitting rooms, reading rooms, writing rooms and conference rooms;
- (ii) Public foyers and areas comprising public or communal stoeps, verandahs, balconies, terraces or sun decks used by hotel residents or visitors;
- (iii) Barber shops, hairdressing salons, florists and similar enterprises within the hotel for the exclusive use of hotel residents;
- (iv) Offices forming part of the hotel premises, used solely for the administration and management of the hotel;
- (v) Kitchens, sculleries, laundries and similar service facilities forming part of the hotel premises;
- (vi) Storerooms appurtenant to the hotel; and
- (vii) Staff quarters appurtenant to the hotel, including corridors, stairs and other means of access within such staff quarters, including all kitchens, dining rooms, recreation rooms, laundries and other such rooms for the exclusive use of staff.

(gA) If, in the opinion of the City, a room is primarily for the use of persons other than hotel residents, staff or visitors, such room shall be included in the floor space calculation of the building notwithstanding that it may be referred to in sub-paragraphs (g)(i) to (vii) above, and any rooms which are not specifically

referred to in sub-paragraphs (g)(i) to (vii) above shall also be included in the floor space calculation of the building.

(h) Canopy or balcony projection ~~Canopy or balcony projection~~
The City may require, and may approve, a canopy or balcony projection over the street boundary in accordance with the following conditions:—

- (i) The canopy or balcony shall not project nearer than 500 mm to a vertical plane through the kerb line or proposed kerb line;
- (ii) No portion of a canopy or balcony projection shall be less than 2,8 m above the pavement;
- (iii) The City may lay down more restrictive requirements relating to the dimensions, design and materials of the canopy or balcony; and
- (iv) The owner shall enter into an encroachment agreement with the City and register a servitude area in the case of a balcony projection.

(i) Public pedestrian footway along street boundary ~~Public pedestrian footway along street boundary~~
If the owner provides a public pedestrian footway of at least 3 m wide on the land unit, next to a building situated alongside the street boundary, with a canopy and pavement that ties in with the street pavement, and which is accessible to the public at all times, then in recognition of the urban design contribution to the street environment, the maximum floor space of the building may be increased by twice the area of the public pedestrian footway.

(j) Street corners ~~Street corners~~
The City may require that the owner of a building which is to be situated at a public street corner, and which the City considers to be significant, shall incorporate in the building architectural features which focus visual interest on the corner, and which emphasize the importance of pedestrian movement around the corner. Such features may include building cut-offs, walkthrough covered arcades, plazas or other elements.

(k) Parking and access ~~Parking and access~~
(i) Parking on and access to a land unit shall be provided in accordance with Chapter 15.
(ii) Except with the approval of the City, no parking bays at ground floor level on a land unit, either outside or within a building, shall be located closer than 10 m to a street boundary, in order to enhance amenity at street level.

(l) Loading ~~Loading~~
Loading bays shall be provided on a land unit in accordance with item 144.

(m) Screening ~~Screening~~
The City may require screening in accordance with item 125.

(n) Wind mitigation ~~Wind mitigation~~
The City may:—
(i) require an assessment of how wind will affect the proposed building and its local surroundings; and
(ii) impose conditions to mitigate adverse wind effects.

61 Service station and motor repair garage

The development rules applicable to a service station and motor repair garage in Local Business Zoning 2 shall also apply to a service station and motor repair garage in this zoning.

62 Informal trading

Informal trading shall only be permitted on sites demarcated for informal trading in terms of the City's by-law on informal trading.

Part 2: Mixed-Use Subzonings (MU1, MU2 & MU3) (items 63-66)

The MU zonings accommodate a mixture of business, appropriate industrial and residential development. These zonings are particularly suitable at the interface between general business and industrial zonings. Certain uses that could have a negative impact on the surrounding area require the approval of the City. Different development rules apply to the different subzonings of MU1, MU2 and MU3, particularly with regard to permitted height and floor space.

63 Use of the property

The following use restrictions apply to property in this zoning:

- (a) Primary uses are business premises, industry, dwelling house, second dwelling, boarding house, flats, place of instruction, place of worship, institution, hospital, place of assembly, place of entertainment, hotel, conference facility, authority use, utility service, rooftop base telecommunication station, transport use, multiple parking garage, private road, filming, chancery, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and open space.
- (aA) Additional use rights are supplementary dwelling unit subject to item 25C, small-scale wind turbine subject to the development rules in item 25E.
- (b) Consent uses are adult shop, adult entertainment business, adult services, informal trading, expo centre, scrap yard, freestanding base telecommunication station, wind turbine infrastructure, helicopter landing pad, service station, recycling centre, veterinary practice, ground-mounted energy system, utility-scale energy structure, small-scale animal care centre and motor repair garage.

[Item 63 substituted by s. 44 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

64 Development rules

The following development rules apply:

- (a) Floor factor, coverage and height Floor factor, coverage and height
 - (i) The maximum floor factor and coverage for all buildings on a land unit shall be determined in accordance with the following 'Table 9: of floor factor, coverage and height in Mixed Use Zonings'.
 - (ii) The maximum height of a building, measured from existing ground level to the top of buildingthe roof, shall be determined in accordance with the following 'Table 9: of floor factor, coverage and height in Mixed Use Zonings'.

[Sub-para. (ii) substituted by s. 55 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (iii) Earth banks and retaining structures are subject to item 126.

Table 9: of floor factor, coverage and height in Mixed Use Zonings

[Table substituted by s. 55 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

Subzoning	Floor factor	Coverage	Maximum height above existing ground level to top of <u>building</u> roof
MU1	1,5	75%	15,0 m
MU2	4,0	100%	25,0-30,0 m
MU3	6,0	100%	38,0 m

- (b) Street centreline setback

Street centreline setback

The City may require a street centreline setback, in which case:

- (i) all buildings or structures on the land unit shall be set back 8 m from the centre line of the abutting public street or streets; and

(ii) the provisions of item 122 shall apply.

(c) Building lines

Building lines

(i) No building shall be erected so that any point on the building is nearer to a street or common boundary than the distance specified in the following 'Table 10: of building lines in Mixed Use Zonings', where the symbol 'H' means the height in metres of a point above ground floor.

[Sub-para. (i) substituted by s. 55 (c) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

(ii) Minor architectural and sunscreen features may project beyond the street boundary building line provided that such features do not project more than 250 mm beyond the street boundary;

Table 10: of building lines in Mixed Use Zonings

[Table substituted by s. 55 (d) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

Subzoning	Street building line and common building line		
	Points on a building above existing ground level		
	up to 10,0m	over 10,0 m and up to 2530,0 m	over 2530,0 m and up to 38,0 m
MU1	0,0 m	4,5 m	N/a
MU2	0,0 m	4,5 m	N/a
MU3	0,0 m	0,0 m	(H minus 25,0 m) divided by 2

(d) Canopy or balcony projection Canopy or balcony projection

The City may require, and may approve, a canopy or balcony projection over the street boundary in accordance with, but not limited to, the following conditions:

- (i) The canopy or balcony shall not project nearer than 500 mm to a vertical plane through the kerb line or proposed kerb line;
- (ii) No portion of a canopy or balcony projection shall be less than 2,8 m above the pavement;
- (iii) The City may lay down more restrictive requirements relating to the dimensions, design and materials of the canopy or balcony; and
- (iv) The owner shall enter into an encroachment agreement with the City and register a servitude area in the case of a balcony projection.

(e) Parking and access Parking and access

(i) Parking on and access to a land unit shall be provided in accordance with Chapter 15.

(ii) In order to enhance the amenity of the street level, no parking bays shall be located closer than 10 m to the street boundary at ground floor level on the land unit either outside or within a building, without the approval of the City.

(f) Loading Loading

Loading bays shall be provided on the land unit in accordance with item 144.

(g) Screening Screening

The City may require screening in accordance with item 125.

(h) Street corners

The City may require that the owner of a building which is to be situated at a public street corner, and which the City considers to be significant, shall incorporate architectural features into the building, which focus visual interest on the corner, and which emphasize the importance of pedestrian movement around the corner; and such features may include building cut-offs, walk-through covered arcades, plazas or other elements.

65 Service station and motor repair garage

The development rules applicable to a service station and motor repair garage in Local Business Zoning 2 shall also apply to a service station and motor repair garage in this zoning.

66 Informal trading

Informal trading shall only be permitted on sites demarcated for informal trading in terms of the City's informal trading by-law.

CHAPTER 10.: INDUSTRIAL ZONINGS

(items 67-79)

The industrial zonings are designed to accommodate manufacturing and related processes, ranging from general industrial uses which may have some impact on surrounding areas, to hazardous or noxious uses which have a potentially high impact and must be carefully managed. Industrial development has particular requirements for road and waste infrastructure, and industrial-zoned land should generally be reserved for industrial purposes to optimise this infrastructure and mitigate potential impacts. In the General Industrial Zoning two different subzonings accommodate variations of built form, and opportunities are provided for consent uses associated with industrial areas, such as factory shops. A specific zoning is provided for noxious and risk industries.

Part 1: General Industry Subzonings (GI1 & GI2)

(items 67-73)

The GI zoning accommodates all forms of industry, except noxious trade and risk activity, in order to promote the manufacturing sector of the economy. Some allowance is made for non-industrial activities, but these should not compromise the general use of the area zoned for industry. It is accepted that the intensive nature of the industrial activity or the scale of the operation could generate some negative impact on adjacent properties.

67 Use of the property

The following use restrictions apply to property in this zoning:

- (a) Primary uses are industry, restaurant, service station, motor repair garage, funeral parlour, scrap yard, authority use, utility service, crematorium, rooftop base telecommunication station, freestanding base telecommunication station, transport use, multiple parking garage, agricultural industry, private road, open space, filming, veterinary practice, electric vehicle charging stations, micro wind turbine, structure-mounted energy system, ground-mounted energy system and additional use rights as listed in paragraph (b).

[Para. (a) substituted by s. 45 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

- (b) Additional use rights are small-scale wind turbine subject to the provisions in items 25E, factory shop and adult shop, subject to the provisions of items 71 and 72, whichever is applicable.
- (c) Consent uses are abattoir, place of worship, institution, clinic, place of assembly, adult entertainment business, adult services, aqua-culture, informal trading, shop, office, sale of alcoholic beverages, place of entertainment, helicopter landing pad, wind turbine infrastructure, utility-scale energy structure, small-scale animal care centre, flats and container site.

68 Development rules

The following development rules apply:

- (a) ~~Floor factor and coverage~~Floor factor and coverage

Floor factor and coverage shall be determined in accordance with the following 'Table 11:-of floor factor and coverage in General Industrial Zonings'.

Table 11:-of floor factor and coverage in General Industrial Zonings

Subzoning	Floor factor	Coverage
GI1	1,5	75%
GI2	4,0	75%

(b) HeightHeight

- (i) The maximum height of a building in General Industry Subzoning GI1 shall be 208 m measured from existing ground level to the top of buildingthe roof;
- (ii) No height restriction applies to buildings used for manufacturing purposes in General Industry Subzoning GI2;
- (iii) Any building in General Industry Subzoning GI2 that is not used for manufacturing purposes shall not exceed a height of 208 m measured from the existing ground level to the top of the roofbuilding;

[Sub-para. (iii) substituted by s. 56 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (iv) Earth banks and retaining structures are subject to item 126; and
- (v) Shipping or transport containers, when stored or stacked outside a building, may not extend higher than 15 m above existing ground level.

[Sub-para. (v) substituted by s. 56 (c) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

(c) Street boundary building lineStreet boundary building line

The street boundary building line is 5 m, subject to the general building line encroachments in item 121.

(d) Common boundary building lineCommon boundary building line

The common boundary building line is 30 m, subject to the general building line encroachments in item 121.

(e) Boundary wallsBoundary walls

Where a land unit has a common boundary with another land unit that is not zoned General Industry or Risk Industry, the City may require a 1,8 m high wall to be erected, to its satisfaction, along the common boundary.

(f) Parking and accessParking and access

Parking and access shall be provided on the land unit in accordance with Chapter 15.

(g) LoadingLoading

Loading bays shall be provided on the land unit in accordance with item 144.

(h) ScreeningScreening

The City may require screening in accordance with item 125.

69 Hazardous substances

...
 Notwithstanding the fact that an activity constitutes a primary use right in terms of this zoning, no activity or use which includes the on site storage of hazardous substances shall be permitted unless a risk management and prevention plan has been submitted and the City has given approval thereto.

70 Service station and motor repair garage

The development rules applicable to a service station and motor repair garage in Local Business Zoning 2 shall also apply to a service station and motor repair garage in this zoning.

71 Factory shop

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

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

72 Adult shop

| The following development rules shall apply to an adult shop:—

- (a) An adult shop shall not be located within 100 m of an existing adult shop, adult entertainment or adult services premises;
- (b) The street front and entrance shall be discreet and unobtrusive, and no pornographic, sexually explicit or erotic material shall be visible from outside the premises;
- (c) Outdoor signage must comply with the City's Outdoor Advertising and Signage By-Law; and
- (d) No form of public address or sound amplification shall be audible from outside the premises.

73 Informal trading

Informal trading shall only be permitted on sites demarcated for informal trading in terms of the City's informal trading by-law.

Part 2: Risk Industry Zoning (RI) (items 74-79)

The RI zoning provides for those industries which are noxious in terms of smell, product, waste or other objectionable consequence of their operation, or which carry a high risk in the event of fire or accident. While other uses are permitted with approval, the City should not compromise the capacity of the RI zoning to accommodate noxious trade and risk activities.

74 Use of the property

| The following use restrictions apply to property in this zoning:—

- (a) Primary uses are noxious trade, risk activity, crematorium, rooftop base telecommunication station, freestanding base telecommunication station, private road, open space, filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system, ground-mounted energy system and additional use rights as listed in paragraph (b).
[Para. (a) substituted by s. 46(a) of City of Cape Town: Municipal Planning Amendment By-Law, 2016]
- (b) Additional use rights are factory shop, subject to the provisions of item 78 and small-scale wind turbine, subject to the provisions in item 25E.
- (c) Consent uses are shop, restaurant, informal trading, service station, motor repair garage, industry, scrap yard, abattoir, authority use, utility service, wind turbine infrastructure, helicopter landing pad, container site, transport use, recycling centre, utility-scale energy structure and multiple parking garage.
[Para. (c) substituted by s. 44(b) of City of Cape Town: Municipal Planning Amendment By-Law, 2016]

75 Development rules

| The following development rules apply:—

- (a) Floor factor
The floor factor on a land unit shall not exceed 2.0.
- (b) Coverage
The coverage on a land unit shall not exceed 100%.

The coverage for all buildings on a land unit shall not exceed 75%.

(c) Height
 (i) No height restriction applies to buildings used for a noxious trade, risk activity or manufacturing in this zoning;
 (ii) Buildings not used for noxious trade, risk activity or manufacturing purposes shall not exceed a height of 18 m measured from the existing ground level to the top of buildingthe roof;
 [Sub-para. (ii) substituted by s. 57 (a) of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]
 (iii) Earth banks and retaining structures are subject to item 126; and
 (iv) Shipping or transport containers, when stored or stacked outside a building, may not be higher than 15 m above existing ground level.
 [Sub-para. (iv) substituted by s. 57 (b) of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]

(d) Building lines
 (i) The street boundary building line is 5 m;
 (ii) The common boundary building lines are 5 m; and
 (iii) The general building line encroachments in item 126 shall apply.

(e) Parking and access
 Parking on and access to a land unit shall be provided in accordance with Chapter 15.

(f) Loading
 Loading bays shall be provided on the land unit in accordance with item 144.

(g) Screening
 The City may require screening in accordance with item 125.

(h) Boundary walls
 Where a land unit has a common boundary with another land unit that is not zoned General Industry or Risk Industry, the City may require a 1,8 m high wall to be erected, to its satisfaction, along the common boundary.

76 Hazardous substances

~~Notwithstanding the fact that an activity constitutes a primary use right in terms of this zoning, no activity or use which includes the on-site storage of hazardous substances shall be permitted unless a risk management and prevention plan has been submitted and the City has given approval thereto....~~

77 Service station and motor repair garage

The development rules applicable to a service station and motor repair garage in Local Business Zoning 2 shall also apply to a service station and motor repair garage in this zoning.

78 Factory shop

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

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

79 Informal trading

Informal trading shall only be permitted on sites demarcated for informal trading in terms of the City's informal trading by-law.

CHAPTER 11:- UTILITY, TRANSPORT AND NATIONAL PORT ZONINGS (items 80-96)

Government facilities, whether national, provincial or municipal, should be zoned according to their use, not ownership. For example, municipal offices should be zoned an appropriate business zoning. However, certain government activities cannot be classified into other zonings, and can be included in the Utility zoning. This zoning also accommodates uses and infrastructure required for utility services that are not necessarily owned by an organ of state.

Transport zonings are designed to facilitate efficient operation of the various transport systems. There is a close relationship between transportation and development, and appropriate development can help to promote public transport. Provision is made for controlled mixed-use development in certain transportation zones, provided the operation of the transport system is not compromised. At times transport systems run along defined corridors but at different height levels, and there are opportunities for air rights and underground rights, whereby appropriate development can be constructed at a different level to the transport system without compromising the operation thereof.

The National Port Zoning has been included to provide for the provisions contained in the National Ports Act, 2005 (Act 12 of 1005).

Part 1: Utility Zoning (UT) (items 80-81A)

The UT zoning provides for utility services such as electrical substations and water reservoirs, which may be supplied by a municipal, government or private agency; and makes provision for government or authority uses, such as prisons and military bases, that are not covered by another use or zoning category.

80 Use of the property

The following use restrictions apply to property in this zoning:—

- (a) Primary uses are utility service, authority use, filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system, ground-mounted energy system, rooftop base telecommunication station, freestanding base telecommunication station, minor freestanding base telecommunication station and minor rooftop base telecommunication station.

[Para. (a) substituted by s. 58 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (aA) Additional use rights are small-scale wind turbine subject to the development rules in item 25E.
- (b) Consent uses are cemetery, informal trading, funeral parlour, crematorium, urban agriculture, airport, wind turbine infrastructure, urban agriculture, utility-scale energy structure and helicopter landing pad.

81 Development rules

The following development rules apply:—

- (a) The City may require a site development plan for a primary use, and shall require a site development plan for a consent use application.
- (b) The site development plan as approved by the City shall constitute the development rules for a primary use if applicable, and a consent use.
- (c) The provisions for a site development plan in item 123 shall apply.

81A Informal trading

Informal trading shall only be permitted on sites demarcated for informal trading in terms of the City's by-law on informal trading.

Part 2: Transport Zoning 1: Transport Use (TR1) (items 82-86)

The TR1 zoning provides for transportation systems, excluding public roads and public streets, but including all other transport undertakings which serve the public such as airports, harbours, railway lines, bus, railway and other depots associated with public transport uses, public transport terminuses, ranks or holding areas, and cable car stations. Provision is made to approve other uses that can help to support the transport undertaking.

82 Use of the property

The following use restrictions apply to property in this zoning:—

- (a) Primary uses are transport use, multiple parking garage, utility service, shop, restaurant, service trade, office, warehouse, rooftop base telecommunication station, minor freestanding base telecommunication station, minor rooftop base telecommunication station filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and container site.
[Para. (a) substituted by s. 59 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]
- (aA) Additional use rights are small-scale wind turbine subject to the development rules in item 25E.
- (b) Consent uses are business premises, flats, place of assembly, place of entertainment, hotel, conference facility, service station, motor repair garage, freestanding base telecommunication station, wind turbine infrastructure, airport, helicopter landing pad, informal trading, industry, ground-mounted energy system, utility-scale energy structure and air-and-underground and other rights, provided that:—
 - (i) such consent uses do not detract from transport use as the dominant use; and
 - (ii) if, in the opinion of the City, a consent use application constitutes a significant and permanent change to the property from the intended primary use, the City may require a rezoning application instead.

83 Development rules

The following development rules apply:—

- (a) Floor factor
The floor factor on a land unit shall not exceed 2,0.
- (b) Coverage
The coverage of all buildings on a land unit shall not exceed 75%.
- (c) Height
 - (i) The maximum height of a building shall be 18 m measured from existing ground level to the top of buildingthe roof;
[Sub-para. (i) substituted by s. 60 (a) of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]
 - (ii) Earth banks and retaining structures are subject to item 126; and
 - (iii) Shipping or transport containers when stored or stacked outside a building, may not extend higher than 15 m above existing ground level.
[Sub-para. (iii) substituted by s. 60 (b) of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]
- (d) Building lines
 - (i) The street boundary building line is 0 m.
 - (ii) The common boundary building lines are 3,0 m.
 - (iii) The general building line encroachments in item 121 shall apply.
- (e) Parking and access
Parking on and access to a land unit shall be provided in accordance with Chapter 15.

84 Service station and motor repair garage

The development rules applicable to a service station and motor repair garage in Local Business Zoning 2 shall also apply to a service station and motor repair garage in this zoning.

85 Informal trading

Informal trading shall only be permitted on sites demarcated for informal trading in terms of the City's informal trading by-law.

86 Air-and-underground and other rights

The City may approve a consent use for air-or underground and other rights provided that:

- (a) A site development plan is submitted to the City's satisfaction in terms of item 123;
- (b) The City is satisfied that structural components, clearance and operational characteristics are sufficient to ensure safe and efficient operation of streets, roads or parking;
- (c) Such consent use does not compromise the intended primary use of the land;
- (d) An agreement defining the extent of rights, time-period, compensation, ownership and maintenance obligations relating to the property is concluded between the parties concerned and is approved by the City; and
- (e) A servitude in respect of the air-or-underground and other rights is registered over the concerned land.

Part 3: Transport Zoning 2: Public road and public parking (TR2) (items 87-92)

The TR2 zoning provides for public streets and roads, whether constructed or still to be constructed, as well as premises for the public parking of operable motor vehicles. Such parking may be provided in buildings or open parking areas, with or without the payment of a fee, in order to address the need for off-site parking. On-site parking for a permitted activity in any zoning is considered to be an associated use and do not represent a separate use category that requires separate zoning or approval.

87 Use of the property

The following use restrictions apply to property in this zoning:

- (a) Primary uses are public street, public road, minor freestanding base telecommunication station, minor rooftop base telecommunication station filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and utility service.
[Para. (a) substituted by s. 61 of City of Cape Town: Municipal Planning Amendment By Law 2019]
(aA) Additional use rights are small-scale wind turbine subject to the development rules in item 25E.
(b) Consent uses are informal trading, multiple parking garage, wind turbine infrastructure and air and underground rights. Consent uses are any other use defined in this development management scheme.

88 Development rules

The following development rules apply:

- (a) The City may require a site development plan for a primary use, and shall require a site development plan for a consent use application.

- (b) The site development plan as approved by the City shall constitute the development rules for a primary use if applicable, and a consent use.
- (c) The provisions for a site development plan in item 123 shall apply.

89 Construction and deposit of materials

- | No person shall:—
 - (a) construct a private crossing, bridge or culvert onto, under or across a public street;
 - (b) construct or lay a sidewalk on a public street;
 - (c) construct a verandah, stoep, wall, steps or other projection in or over a public street;
 - (d) deposit or leave any goods, articles, building materials or waste in a public street or public road-reserve other than for a reasonable period during the course of loading, off-loading or removal thereof, except in accordance with and after the City has given its approval.

90 Air and underground and other rights

The City may approve a consent use for air—or underground and other rights provided that:—

- | (a) a site development plan is submitted to the City's satisfaction in terms of item 123;
- | (b) the City is satisfied that structural components, clearance and operational characteristics are sufficient to ensure safe and efficient operation of streets, roads or parking;
- | (c) such consent use does not compromise the intended primary use of the land;
- | (d) an agreement defining the extent of rights, time-period, compensation, ownership and maintenance obligations relating to the property is concluded between the parties concerned and is approved by the City; and
- | (e) a servitude in respect of the air—or underground and other rights is registered over the concerned land.

91 Proposed public street, street widening and street closure

- | (1) The City may indicate on the zoning map:—
 - (a) new public streets and public roads which it proposes to establish;
 - (b) public streets and public roads which it proposes to widen; and
 - (c) public streets and public roads which it proposes to close.
- | (2) Any indications referred to in sub-item (1) are intended for the information of the public, and to assist the City in achieving its planning and development objectives. The base zoning of the property in question does not change until the new public street, widening or closure has been approved in terms of relevant legislation, and any further legal procedures relating to rezoning have been complied with.

92 Informal trading

Informal trading shall only be permitted on sites demarcated for informal trading in terms of the City's informal trading by-law.

Part 3A: Transport Zoning 3: Toll Road (TR3) ***(items 92A-B)***

The TR3 zoning provides for toll roads, whether constructed or still to be constructed.

92A Use of the property

- | The following use restrictions apply to property in this zoning:—

- (a) Primary uses are toll road, public street, public road, minor freestanding base telecommunication station, minor rooftop base telecommunication station, filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and utility service.
- (aA) Additional use rights are small-scale wind turbine subject to the development rules in item 25E.
- (b) Consent uses are wind turbine infrastructure, ground-mounted energy system, utility-scale energy structure and air, and underground and other rights.

92B Development rules

The following development rules apply:

- (a) The City shall require a site development plan for a primary and consent use.
- (b) The site development plan as approved by the City shall constitute the development rules for a primary use and a consent use, if applicable.
- (c) The provisions for a site development plan in item 123 shall apply.

[Part 3A inserted by s. 62 of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

Part 4: National Port Zoning (NP) (items 93-96)

The NP zoning is provided as a zoning in which land use within a national port is controlled by an approved port development framework plan.

93 Use of the property

The purposes for which land may be used in this zoning and any possible land use restrictions thereon are as set out in the Port development framework plan, drafted in accordance with the provisions of the National Ports Act, 2005 (Act 12 of 2005).

94 Development rules

Development rules as contained in an approved Port development framework plan.

95 Port development framework plan

This zoning will only apply where an approved Port development framework plan exists which reflects the National Ports Authority's policy for port development and control of land use within such a port.

96 Deemed zoning of land transferred to National Ports Authority

All land that is zoned Transport Zoning 1: Transport Use (TR1) and transferred to the National Ports Authority is deemed to be zoned National Ports Zoning (NP) and therefore subject to the provisions of this zoning.

CHAPTER 12: OPEN SPACE ZONINGS (items 97-107)

Different types of open space fulfil different functions. Certain open spaces have particular importance as nature, cultural heritage or environmental areas and a separate zoning facilitates the management of these areas. Within this zoning provision is made for the development of amenities to meet the needs of tourists and visitors. Other open spaces have a more active role in addressing the sporting and recreation needs of the community. Public open space has an important status because of its contribution to the recreation needs of the general public, and the difficulty of replacing public open space once lost. The development management scheme also recognises special areas of open space that are not designated as public open space, but may be privately owned.

Part 1: Open Space Zoning 1: Environmental conservation (OS1)
(items 97-98A)

The OS1 zoning provides for the conservation of environmental resources, although cultural heritage resources may also be included. Provision is made for limited, low-impact uses associated with conservation, such as environmental education, associated infrastructure and facilities for tourists and visitors with the approval of the City.

97 Use of the property

The following use restrictions apply to property in this zoning:—

(a) Primary uses are environmental conservation use, filming, structure-mounted energy system, minor freestanding base telecommunication station and minor rooftop base telecommunication station.

[Para. (a) substituted by s. 63 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

(b) Consent uses are harvesting of natural resources, environmental facilities, tourist accommodation, tourist facilities, utility service, rooftop base telecommunication station, freestanding base telecommunication station, wind turbine infrastructure, electric vehicle charging stations, micro wind turbine, ground-mounted energy system, utility-scale energy structure, small-scale wind turbine, informal trading and cultural and social ceremonies.

98 Development rules

The following development rules apply:—

(a) The City may require a site development plan for a primary use, and shall require a site development plan for a consent use application, as well as for any dwelling house which may be erected as a consequence of rights granted in terms of this By-LawBy-law.

(b) The site development plan as approved by the City shall constitute the development rules for a primary use if applicable, and a consent use.

(c) The provisions for a site development plan in item 123 shall apply.

98A Informal trading

Informal trading is permitted only on a site demarcated in terms of the City's by-law on informal trading.

Part 2: Open Space Zoning 2: Public open space (OS2)
(items 99-103)

The OS2 zoning provides for active and passive recreational areas on public land, as well as protection of landscape and heritage areas including woodlands, ridges, watercourses, wetlands and the coastline. It is important to recognise the interests of the general public for access to and preservation of public open space.

99 Use of the property

The following use restrictions apply to property in this zoning:—

(a) Primary uses are public open space, environmental conservation use, filming, structure-mounted energy system, minor freestanding base telecommunication station and minor rooftop base telecommunication station.

[Para. (a) substituted by s. 64 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

(b) Consent uses are environmental facilities, tourist facilities, utility service, cemetery, rooftop base telecommunication station, freestanding base telecommunication station, wind turbine infrastructure, cultural and social ceremonies, urban agriculture, informal trading, harvesting of natural

resources, electric vehicle charging stations, micro wind turbine, ground-mounted energy system, utility-scale energy structure, small-scale wind turbine and air, and underground and other rights.

100 Development rules

The following development rules apply:

- (a) The City may require a site development plan for a primary use, and shall require a site development plan for a consent use application.
- (b) The site development plan as approved by the City shall constitute the development rules for a primary use if applicable, and a consent use.
- (c) The provisions for a site development plan in item 123 shall apply.

101 Construction and deposit of materials

No person shall:

- (a) construct a private crossing, bridge or culvert onto, under or across a public open space;
- (b) construct or lay a sidewalk on a public open space;
- (c) construct a verandah, stoep, wall, steps or other projection in or over a public open space; or
- (d) deposit or leave any goods, articles, building materials or waste in a public open space;

except in accordance with and after the City has given its approval.

102 Air, and underground and other rights

The City may approve a consent use for air, or underground and other rights if:

- (a) Such consent use does not compromise the intended primary use of the land;
- (b) An agreement defining the extent of rights, time-period, compensation, ownership and maintenance obligations relating to the property is concluded between the parties concerned and is approved by the City;
- (c) A servitude in respect of the air, or underground and other rights is registered over the land concerned; and
- (d) A site development plan is submitted to the City's satisfaction in terms of item 123.

103 Informal trading

Informal trading shall only be permitted on sites demarcated for informal trading in terms of the City's informal trading by-law.

Part 3: Open Space Zoning 3: Special open space (OS3) (items 104-107)

The OS3 zoning provides for active or passive recreation and open spaces on land that is not designated as public open space. This land may be owned by private or public bodies, but does not have the status of public open space which requires particular protection. The OS3 zoning is appropriate for relatively large areas where open space has special characteristics that require a separate zoning to ensure that the purpose and function of the open space is maintained. Many other zonings allow for open spaces as primary, consent or ancillary uses and such open spaces do not need to be zoned as OS3. However some land uses such as golf courses, parklands and landscape areas can benefit from this zoning which provides limitations on development, but also allows a range of consent uses to cater for leisure needs and uses compatible with open spaces.

104 Use of the property

The following use restrictions apply to property in this zoning:—

- (a) Primary uses are open space, private road, environmental conservation use, filming, structure-mounted energy system, minor freestanding base telecommunication station and minor rooftop base telecommunication station.
[Para. (a) substituted by s. 65 of City of Cape Town: Municipal Planning Amendment By Law, 2019]
- (b) Consent uses are environmental facilities, tourist facilities, place of instruction, place of assembly, place of entertainment, plant nursery, utility service, cemetery, rooftop base telecommunication station, freestanding base telecommunication station, wind turbine infrastructure, cultural and social ceremonies, urban agriculture, informal trading, electric vehicle charging station, micro wind turbine, ground-mounted energy system, utility-scale energy structure, small-scale wind turbine and harvesting of natural resources.

105 Development rules

The following development rules apply:—

- (a) The City may require a site development plan for a primary use, and shall require a site development plan for a consent use application.
- (b) The site development plan as approved by the City shall constitute the development rules for a primary use if applicable, and a consent use.
- (c) The provisions for a site development plan in item 123 shall apply.

106 Approval of consent uses

The City may only approve a consent use if such use does not compromise the use of land for its primary purpose as open space.

107 Informal trading

Informal trading shall only be permitted on sites demarcated for informal trading in terms of the City's informal trading by-law.

CHAPTER 13: AGRICULTURAL, RURAL AND LIMITED USE ZONINGS

(items 108-120)

Agricultural land should generally be protected from developments that render the land less suitable for agriculture, or detract from its aesthetic and cultural value. Aside from sustaining a valuable economic sector, agricultural land can help to promote stability of the urban edge, conserve naturally sensitive areas and maintain rural characteristics which are valued by the community. Unnecessary subdivision of farms should be avoided and economically viable units must be maintained. Agricultural activities should not be subject to unreasonable limitations because the economic viability of the agricultural sector is important.

Complementary activities to conventional agriculture can assist with the viability of the sector, and to this end, compatible uses are permitted as consent uses, provided the latter do not detract from agriculture as the main farming activity. Where non-agricultural uses are permitted, such uses should form an integral part of the agricultural undertaking. A distinction is made between large farms which are zoned AG and smallholdings zoned as RU zoning, which can accommodate a range of peri-urban activities.

A transitional mechanism, the LU zoning, deals with land that was zoned as undetermined in previous zoning schemes, and limits development to existing lawful uses only.

Part 1: Agricultural Zoning (AG)
(items 108-111B)

The AG zoning promotes and protects agriculture on farms as an important economic, environmental and cultural resource. Limited provision is made for non-agricultural uses to provide owners with an opportunity to increase the economic potential of their properties, without causing a significant negative impact on the primary agricultural resource.

108 Use of the property

The following use restrictions apply to property in this zoning:

- (a) Primary uses are agriculture, intensive horticulture, dwelling house, riding stables, environmental conservation use, environmental facilities, rooftop base telecommunication station, minor freestanding base telecommunication station, minor rooftop base telecommunication station, filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and additional use rights as listed in paragraph (b).

[Para. (a) substituted by s. 66 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (b) Additional use rights, which may be exercised by the occupant of a property as a primary use are second dwelling, third dwelling, supplementary dwelling unit, small-scale wind turbine and home occupation, or bed and breakfast establishment, or home child carechildcare, subject to:
 - (i) only one of the activities listed as additional use rights shall be conducted from any land unit, provided this does not apply to a second dwelling or supplementary dwelling unit, and if more than one such activity is required, the City's approval shall be obtained;
 - (ii) the proprietor of the activity concerned shall live on the property; and
 - (iii) the development rules stipulated in items 23, 24, and 25, 25A, 25B, 25C and 25E, whichever is applicable, shall be adhered to.

- (c) Consent uses are additional dwelling units, guest house, hotel, tourist accommodation, tourist facilities, intensive animal farming, harvesting of natural resources, mine, utility service, freestanding base telecommunication station, wind turbine infrastructure, aquaculture, animal care centre, farm shop, renewable energy structureground-mounted energy system, utility-scale energy structure, veterinary practice, chancery, cemetery, place of instruction, informal trading, abattoir, auction house, livestock auction house, and agricultural industry.

[Para. (c) substituted by s. 47 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

109 Development rules

The following development rules apply:

- (a) Floor spaceFloor space
 - (i) The total floor space of all dwelling units on the land unit, including accommodation for bona fide agricultural workers employed on the property, shall not exceed 1 500 m²; provided that with the approval of the City this requirement may be relaxed if such accommodation is required for persons who are genuinely engaged for their livelihood in agricultural activities on the land unit;
 - (ii) Any farm shop shall not exceed a floor space of 100 m².
- (b) Building linesBuilding lines
 - (i) The street and common boundary building lines are determined in accordance with the area of the land unit, as shown in the following 'Table 12: of building lines in Agricultural Zoning'.
 - (ii) The general building line encroachments in item 121 shall apply.

Table 12: of building lines in Agricultural Zoning

Land unit area	Street boundary building line	Common boundary building line
>20 ha	30,0 m	30,0 m
>10 ha up to ≤20 ha	15,0 m	15,0 m
>2 000 m ² ha up to 10 ha	6,0 m	6,0 m
≤2000 m ² ha	<u>Street boundary building line in the applicable land unit area category as stipulated in the 'Table 2: floor factor, floor space, coverage, height and building lines in Residential Zoning 1'</u>	<u>Common boundary building line in the applicable land unit area category as stipulated in the 'Table 2: floor factor, floor space, coverage, height and building lines in Residential Zoning 1'</u> shall apply

| (c) Parking
Parking

| Parking and access shall be provided on the land unit in accordance with Chapter 15.

| (d) Height
Height

| (i) The maximum height of a dwelling house, measured from the existing ground level to the top of the wallplate, shall be 9 m and to the top of ~~building~~the roof shall be 11,10 m.

| [Sub-para. (i) substituted by s. 67 (a) of City of Cape Town: Municipal Planning Amendment By-Law~~By-law~~, 2019]

| (ii) Agricultural buildings other than the dwelling houses shall not exceed a height of 12 m measured from the existing ground level to the top of ~~building~~the roof.

| [Sub-para. (ii) substituted by s. 67 (b) of City of Cape Town: Municipal Planning Amendment By-Law~~By-law~~, 2019]

| (iii) Earth banks and retaining structures which in the opinion of the City are associated with bona fide agricultural activities are exempt from the requirements of item 126.

| (e) Minimum subdivision size
Minimum subdivision size

| No new subdivision or any remainder that is zoned and intended to remain zoned Agriculture shall be less than:

| (i) the minimum subdivision size specified in terms of an approved local area overlay zone; or

| (ii) 20 ha if no such overlay zone exists, unless the new subdivision or remainder concerned is consolidated with a property zoned Agriculture, so as to make up a consolidated land unit of at least the minimum required subdivision size and provided that compliance with this requirement does not limit the City's powers to refuse a subdivision application that it considers to be undesirable.

110 Agricultural industry

| The City may approve a consent use application for an agricultural industry provided:

- it is satisfied as to the desirability of the agricultural industry on the land unit in question;
- the agricultural industry is subservient and related to the dominant agricultural use of the property;
- the agricultural industry does not adversely affect the agricultural potential of the property; and

(d) the area allocated for purposes of an agricultural industry shall be clearly identified on a land survey diagram.

111 Second dwelling and additional dwelling units

One second dwelling shall be permitted as an additional use right, and additional dwelling units may be erected with the approval of the City, provided that:

- (a) the density of additional dwelling units plus any second dwelling unit does not exceed 1 unit per 10 ha;
- (b) no more than 5 units comprising additional dwelling units plus any second dwelling shall be permitted on a land unit;
- (c) a dwelling for a person engaged in bona fide agricultural activities on the land unit and permanently occupied by such person shall not be regarded as a second dwelling or additional dwelling unit; and
- (d) the development rules in item 25A shall apply to second dwellings and additional dwelling units in this zoning.

[Para. (d) substituted by s. 68 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

111A Renewable energy structures

The City may approve a consent use application for a renewable energy structure, provided that:

- (a) A site development plan must be submitted to the City for approval.
- (b) The site development plan as approved by the City constitutes the development rules for a renewable energy structure and the provisions for a site development plan in item 123 apply.
- (c) Decommissioning is done in accordance with the following requirements:
 - (i) Any renewable energy structure which is decommissioned or abandoned must be removed by the owner.
 - (ii) When a renewable energy structure is scheduled to be decommissioned, the owner must notify the City.
 - (iii) The owner is responsible for the removal of the structure in all its parts, within 150 days after the date of being decommissioned or abandoned.
- (d) A renewable energy structure is considered abandoned when the structure fails to continuously operate for more than two years....

[Item (111A) inserted by s. 48 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

111B Informal trading

Informal trading is permitted only on a site demarcated in terms of the City's by-law on informal trading.

Part 2: Rural Zoning (RU) (items 112-116A)

The RU zoning accommodates smaller rural properties that may be used for agriculture, but which may also be occupied as places of residence by people who seek a country lifestyle, and who view agriculture as a secondary reason for occupying their property. Such properties may occur inside or outside a recognised urban edge.

112 Use of the property

The following use restrictions apply to property in this zoning:

- (a) Primary uses are dwelling house, agriculture, filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and additional use rights as listed in paragraph (b).

- (b) Additional use rights, which may be exercised by the occupant of a property as a primary use are second dwelling, third dwelling, supplementary dwelling unit, small-scale wind turbine and home occupation, or bed and breakfast establishment, or home child carechildcare, subject to:
 - (i) only one of the activities listed as additional use rights shall be conducted from any land unit as a primary use, provided this does not apply to a second dwelling or supplementary dwelling unit, and if more than one such activity is required, the City's approval shall be obtained;
 - (ii) the proprietor of the activity concerned shall live on the property; and
 - (iii) the conditions stipulated in items 23, 24, and 25, 25A, 25B, 25C and 25E, whichever is applicable, shall be adhered to.
- (c) Consent uses are guest house, tourist accommodation, tourist facilities, harvesting of natural resources, mine, rooftop base telecommunication station, freestanding base telecommunication station, wind turbine infrastructure, ground-mounted energy system, utility-scale energy structure, aquaculture, intensive animal farming, intensive horticulture, riding stables, animal care centre, farm shop, veterinary practice, chancery, place of instruction, informal trading, auction house, livestock auction house, recycling centre and agricultural industry.

[Para. (c) substituted by s. 49 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

113 Development rules

The following development rules apply:

- (a) Floor space
 (i) The total floor space of all buildings on a land unit shall not exceed 1 500 m².
 (ii) Any farm shop shall not exceed a floor space of 100 m².
- (b) Coverage
 The coverage for all buildings on a land unit shall not exceed 40%.
- (c) Building lines
 (i) The street boundary building line is 10 m.
 (ii) The common boundary building line is 5 m.
 (iii) The general building line encroachments in item 121 shall apply.
- (d) Parking
 Parking and access shall be provided on the land unit in accordance with Chapter 15.
- (e) Height
 (i) ~~The maximum height of a building, measured from existing ground level to the wallplate, shall be 9 m, and to the top of the roof shall be 11 m. The maximum height of a building, measured from existing ground level to the top of building shall be 10 m.~~
 [Sub-para. (i) substituted by s. 69 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]
- (ii) Earth banks and retaining structures are subject to item 126.

114 Minimum subdivision size

No new subdivision or any remainder that is zoned and intended to remain zoned Rural shall be less than:

- (a) the minimum subdivision size specified in terms of an approved overlay zone; or
- (b) 2 ha if no such overlay zone exists,

unless the new subdivision or remainder concerned is consolidated with a property zoned Rural, so as to make up a consolidated land unit of at least the minimum required subdivision size, provided that compliance with this requirement does not limit the City's powers to refuse a subdivision application that it considers to be undesirable.

115 Agricultural industry

| The City may approve a consent use application for an agricultural industry provided:—

- (a) it is satisfied as to the desirability of the agricultural industry on the land unit in question; and
- (b) the area allocated for purposes of an agricultural industry shall be clearly identified on a land survey diagram.

116 Second dwelling

The development rules in item 25A apply, provided that a dwelling unit for persons engaged in bona fide agricultural activities on the land unit shall not be regarded as a second dwelling.

[Item 116 substituted by s. 70 of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

116A Informal trading

Informal trading is permitted only on a site demarcated in terms of the City's by-law on informal trading.

Part 3: Limited Use Zoning (LU) (items 117-120)

The LU zoning is a transitional mechanism to deal with land that was zoned as undetermined in previous zoning schemes. Existing lawful uses may continue, but no other uses are permitted. The aim is to progressively phase this zoning out and so no property should be rezoned to this zoning. Any development that requires additional use rights beyond the existing limited use shall require rezoning from LU to another more appropriate zoning.

117 Use of the property

| The following use restrictions apply to property in this zoning:—

- (a) Primary uses are limited to lawful uses existing at the commencement date.
- (b) Consent uses: None.

118 Development rules

No new building or structure and no change of an existing use or alteration of the external structure of an existing building or structure is permitted.

119 No rezoning to this zoning permitted

No rezoning of any property to this zoning is permitted after 1 March 2013, and if additional uses or development rights are required, a rezoning application to another more appropriate zoning in terms of this development management scheme must be processed.

120 Reconstruction of destroyed property

Property that has been partially or completely damaged or destroyed by accidental causes may be reconstructed in accordance with the development rights that existed prior to the commencement date, provided that building plans for such reconstruction are approved within 12 months from the date of such accidental damage or destruction.

DIVISION III: GENERAL PROVISIONS

CHAPTER 14.: GENERAL PROVISIONS

(items 121 — 136B)

121 Encroachment of building lines

(1) The following additional development rules apply with regard to encroachment of building lines:

- (a) Notwithstanding the building line requirements set out in Division II, the following structures or portions thereof may be erected within the prescribed building lines, provided they do not extend beyond the boundaries of a land unit:
 - (i) boundary walls, fences and gates;
 - (iA) walls, fences and gates, other than (i), being used as architectural features, garden walls and similar purposes;
 - (ii) open and uncovered stoeps;
 - (iii) entrance steps, landings, ramps, tracks, jetty and entrance porches leading to the ground floor or basement of a building;
 - (iv) a covered entrance or gatehouse that has a roofed area not exceeding 5 m² and a roof height not exceeding 3 m from floor to highest point;
 - (v) eaves and awnings projecting no more than 1 m from the wall face of a building;
 - (vi) cornices, chimney breasts, flower boxes, water pipes, drain pipes and minor decorative features not projecting more than 500 mm from the wall of a building;
 - (vii) screen-walls not exceeding 2,1 m in height above the existing ground level abutting such wall;
 - (viii) swimming pools not closer than 1 m from any erf boundary;
 - (ix) any part of a basement that is below existing ground level;
 - (x) a refuse room required by the City in terms of item 145;
 - (xi) a retaining structure within a street boundary building line, subject to item 126, or any retaining structure located under the existing ground level;

[Sub-para. (xi) inserted by s. 50 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

- (xii) pergolas on ground floor not exceeding 40 m² in area total extent and 4m in height from existing ground level;
- (xiii) water tanks and their supporting structures not exceeding 3,2 m in height from existing ground level;
- (xiv) child's playhouse or similar play structure not exceeding 510 m² in area and 2,53 m in height from existing ground level, only from a common boundary; or
- (xv) unless provided elsewhere in this development management scheme, two storage sheds not exceeding 5 m² each in area and 2,5 m in height from existing ground level, only from a common boundary:-

[Para. (a) substituted by s. 71 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (xvi) outdoor braai or pizza oven, provided than any chimney or flue shall not be closer than 1,5m from a boundary; or
- (xvii) air conditioner units, heat pumps or similar systems and screening protruding not more than 500 mm from the face of a building.

(2) A building line of 5 m shall apply to any boundary adjacent to a designated metropolitan road, unless otherwise agreed by the City and to which sub-item (1)(a)(i) is also applicable.

[Sub-item 2 substituted by s. 50 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

121A Common boundary building line for unscreened trafficable roof, balcony or terrace

An unscreened trafficable part of a roof, balcony or terrace facing onto a common boundary must be set back at the common boundary building line or at least 2 m from the common boundary, whichever is more restrictive.

122 Street centreline setback or other land for road widening

The portion of a land unit falling within a street centreline setback area or any other land ceded for road widening purposes shall be excluded for the purpose of determining coverage and maximum floor space, unless the owner transfers the portion concerned to the City free of charge. In such case, the portion shall be included for the purpose of determining coverage or maximum floor space on a land unit and the street building line would be deemed to be 0m.

[Item 122 substituted by s. 72 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

123 Site development plans

(1) In addition to the zonings that specifically require a site development plan, the City may require a site development plan in respect of the following development types:—

- (a) shopping centres and shopping complexes;
- (b) business and office park developments;
- (c) industrial park developments;
- (d) developments in conservation areas;
- (e) developments that will be sectionalised;
- (f) incremental residential developments; and
- (g) major developments where there are concerns relating to urban form, environmentally sensitive attributes, heritage, traffic or spatial planning in general.

(2) The City may require some or all of the following information for a site development plan:—

- (a) existing bio-physical characteristics of the property;
- (b) existing and proposed cadastral boundaries;
- (c) the layout of the property, indicating the use of different portions thereof;
- (d) the massing, position, use and extent of buildings;
- (e) sketch plans and elevations of proposed structures, including information about external finishes;
- (f) cross-sections of the site and buildings on site;
- (g) the alignment and general specification of vehicle access, roads, parking areas, loading areas, pedestrian flow and footpaths;
- (h) the position and extent of private, public and communal space;
- (i) typical details of fencing or walls around the perimeter of the land unit and within the property;
- (j) electricity supply and external lighting proposals;
- (k) provisions for the supply of water, management of stormwater, and disposal of sewage and refuse;
- (l) external signage details;
- (m) general landscaping proposals, including vegetation to be preserved, removed or to be planted, external paving, and measures for stabilising outdoor areas where applicable;
- (n) the phasing of a development;
- (o) the proposed development in relation to existing and finished ground levels, including excavation, cut and fill;
- (p) statistical information about the extent of the proposed development, floor space allocations and parking supply;

- (q) relationship of the proposed development to the quality, safety and amenity of the surrounding public environment;
- (r) the external outline of parts of the adjacent buildings facing the proposed development as well as the street access to adjacent sites on plan and elevations, demonstrating the relationship of the proposed development to adjacent sites, especially with respect to access, overshadowing and scale;
- (s) illustrations in a three-dimensional form depicting visual impacts of the proposed development on the site and in relation to surrounding buildings; and
- (t) any other details as may reasonably be required by the City.

(3) The City may require that the area covered by a site development plan shall extend beyond the site under consideration if, in its opinion, the proposed development will have a wide impact. The City may determine the extent of such area.

(4) When required in terms of this development management scheme, a site development plan shall be submitted to the City for its approval before any development on a land unit may commence.

(5) A site development plan shall not be refused if it is consistent with the development rules of a base zoning, overlay zoning, or condition of approval.

(6) The City may require amendments of detail to the site development plan to address reasonable concerns relating to access, parking, architectural form, urban form, landscaping, environmental management, engineering services or similar concerns.

(7) The following provisions shall apply with regard to site development plans:—

- (a) Developed Development of the property shall be generally in accordance with an approved site development plan;
- (b) If the City considers it necessary, a transport or traffic impact statement or assessment may be required in conjunction with a site development plan, the extent of which shall be determined by the City depending on the magnitude of the development;
- (c) If the City considers it necessary, a stormwater impact assessment and/or stormwater management plan may be required in conjunction with a site development plan, the extent of which shall be determined by the City depending on the magnitude of the development;
- (d) In circumstances where a site development plan is required in terms of this development management scheme, no application for building plan approval in terms of the National Building Act shall be granted by the City, unless a site development plan has first been approved; and
- (e) An approved site development plan shall be considered as setting additional development rules applicable to the base zoning, and any application for amendment shall comply with the City's requirements for permanent departure applications such amendments.

(8) A site development plan will only lapse if replaced by another site development plan.
[Sub-item 8 inserted by s. 51 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

124 Hazardous substance

(1) Any use or ancillary activity that involves the storage or keeping of hazardous substances that may result in an installation being declared a major hazardous installation in terms of occupational health and safety law is not permitted, unless a risk management and prevention plan has been submitted by the owner, and the City has given approval thereto. Despite a land use being permitted by the zoning, the City may require an owner to have a risk management plan to the City's satisfaction if—

- (a) the owner applies for an approval under this By-law or a building plan approval under the National Building Act; and
- (b) the use or ancillary activity involves the storage of a hazardous substance that may result in an installation being declared a major hazardous installation in terms of occupational health and safety law.

(2) ~~The City's approval in terms of sub-item (1) above does not exempt the owner from applying for permission in terms of other relevant legislation.~~...

(3) Section 142(10)(b) governs the amendment of this item by the City of Cape Town: Municipal Planning Amendment By-law, 2025.

125 Screening

| The City may require screening in accordance with the following provisions:—

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

126 Earth banks, retaining structures, support structures and similar devices

| Without the approval of the City:—

- (a) no earth bank, retaining structure, column, suspended floor, other device or series of such devices shall be constructed that enables a ground floor of a building to be raised more than 1,5 m above existing ground level, provided that where such raising takes place, the height thereof shall still be measured from existing ground level;
- (b) no earth bank or retaining structure used for holding back earth or loose rock, whether associated with a building or not, shall be constructed to a height of more than 2 m above existing ground level; and
- (c) no series of earth banks or retaining structures shall be constructed to a cumulative height of more than 2,5 m above existing ground level, unless an approximately level area of at least 2 m wide is incorporated between successive embankments or retaining structures for every 2 m of cumulative height.

127 Maintenance of property

| Property, including landscaping, shall be properly maintained by the owner or occupier and shall not:—

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

128 Parking of vehicles in residential zones

| The following development rules apply to the parking of vehicles in the Single-Residential zonings and General Residential zonings:—

- (a) A motor vehicle owned by an occupant of a dwelling unit and used for commercial activities conducted away from the dwelling unit, may be parked on the property where the occupant resides, provided that:—

- (i) there is adequate space on the property concerned;
- (ii) no more than one commercial vehicle per dwelling unit shall be parked on the property; and
- (iii) the gross weight of any such commercial vehicle shall not exceed 3 500 kg.

129 Recreational vehicles and watercraft

[Heading substituted by s. 73 of City of Cape Town: Municipal Planning Amendment ~~By Law~~^{By-law}, 2019]

- (1) Recreational vehicles and watercraft may not be used for permanent habitation without the approval of the City, unless the applicable zoning allows such activity.
- (2) An approval granted in terms of sub-item (1) is subject to, but not limited to, the following conditions:—
 - (a) The recreational vehicle or watercraft shall be sited on a foundation slab and properly anchored;
 - (b) Solid perimeter skirting, of material and colour complementary to the recreational vehicle or watercraft, shall be provided from the bottom of the recreational vehicle or watercraft to the ground surface;
 - (c) The roof and exterior siding of the recreational vehicle or watercraft shall be of a non-reflective material; and
 - (d) Any structural additions shall be of materials which, in the opinion of the City, are compatible with the recreational vehicle or watercraft.

[Item 129 substituted by s. 73 of City of Cape Town: Municipal Planning Amendment ~~By Law~~^{By-law}, 2019]

130 Base telecommunication station as a primary or consent use

- (1) A rooftop or freestanding base telecommunication station which may be erected as a primary or consent use in terms of this development management scheme, shall be subject to any relevant requirements of the National Environmental Management Act.
- (2) A rooftop base telecommunication station may not extend more than 3 m in height above the part of the building that it is attached, or a lateral distance of 3 m when attached to the side or any other part of a building; the base zoning development rules apply where it relates to maximum heights or building lines to without the prior approval of the City.
- (3) A freestanding base telecommunication station is not subject to the development rules pertaining to height in the applicable base zoning insofar as it does not exceed a maximum height of 25 m, excluding any lighting spike or any navigation light.
- (4) A minor freestanding base telecommunication station may be attached to a street lamp, traffic light, road directional signage, a camera pole, flag pole or similar support structure.
- (5) For a minor freestanding base telecommunication station—
 - (a) an antenna may not be placed lower than 8m measured from existing ground level or road surface or pavement as the case may be;
 - (b) a screened container for an antenna must be part of the post or support structure and may not exceed a vertical dimension of 2m or diameter of 500mm; and
 - (c) an equipment container above existing ground level may not exceed 1m x 1m x 1m cube.

131 Decommissioned antennas or base telecommunication stations

The following provisions shall apply with regard to decommissioned antennas or base telecommunication stations:—

- (a) The owner or operator shall remove all decommissioned infrastructure;
- (b) Where the site has been disturbed, the owner or operator shall rehabilitate the site to its original state or to a state acceptable to the City;

| (c) Where the owner or operator fails to comply with paragraph (a) or (b) above within a period of 90 days from the decommissioning, the City may remove such infrastructure, and rehabilitate the site at the cost of the owner or operator.

132 Satellite dish antenna systems

(1) Any satellite dish antenna with a diameter in excess of 1,5 m shall be placed in a position that minimises the visual impact on the surrounding area to the satisfaction of the City.

(2) Any satellite dish antenna of 1,5 m in diameter and smaller, and used solely for the purposes of television reception or telecommunication, will not require the City's approval and is excluded for the purposes of height measurement.

133 ~~Geysers and solar panels~~ structure-mounted energy system or similar infrastructure affixed to the roof of a building

Any external geysers and associated equipment or ~~solar panels~~ structure-mounted energy system or similar infrastructure affixed to the roof of a building may not at any point be more than 1,5 m above the roof surface, measured perpendicularly from such surface.

133A Structure-mounted energy systems, ground-mounted energy systems and utility-scale energy structures

(1) The City may approve a consent use application for a ground-mounted energy system or utility-scale energy structure, where a site development plan is submitted to the City for approval.

(2) An approved site development plan constitutes the development rules for a renewable energy structure, and item 123 applies.

(3) Decommissioning of a structure-mounted energy system, ground-mounted energy system or utility-scale energy structure must be done in accordance with the following requirements—

- (a) Any energy structure which is decommissioned or abandoned must be removed by the owner.
- (b) When an energy structure is scheduled to be decommissioned, the owner must notify the City.
- (c) The owner is responsible for the removal of the structure in all its parts, within 150 days after the date of being decommissioned or abandoned.

(4) An energy structure is considered abandoned when the structure fails to continuously operate for more than two years.

134 Flood-prone areas

Development in flood-prone areas shall have regard to the City's policy on flood-prone areas.

135 Electronic or mechanical playing devices

(1) A maximum of 5 electronic or mechanical playing devices are permitted within a building in a zoning with primary uses for a business premises, hotel or place of assembly, but excluding house shops.

(2) Where the floor space of a building on a property zoned for the purpose as set out in sub-item (1) exceeds 5 000 m², more than 5 electronic or mechanical playing devices are permitted, provided that—

- (a) Not more than 5 such devices shall be permitted on a particular premises within such a building; and
- (b) The City may limit the number of such premises in a building where such devices are permitted in order to mitigate their impact on the surrounding uses, be they internal or external to the building or property.

136 Package of plans

(1) The general purpose of a package of plans is to provide for a mechanism to plan and manage the development of large or strategic urban development areas. It is a phased process of negotiation, planning and approvals, whereby increasing levels of planning detail are approved together with conditions for such approvals. Areas where the package of plans approach is used are referred to as Special Planning Areas (SPA), and are recorded on the City's spatial viewers as Special Planning Areas in Annexure B.

(2) The City may require a package of plans to be submitted for approval in respect of the following base zonings and overlay zoning:

- (a) General Residential Subzonings GR2-GR6;
- (b) Community Zoning 2: Regional;
- (c) General Business Subzonings;
- (d) Mixed Use Subzonings;
- (e) General Industry Subzonings;
- (f) Risk Industry Zoning; and
- (g) Subdivisional Area Overlay Zoning.

(3) A package of plans consists of the following components that are listed in a hierarchy from higher-order to lower-order plans, and the lower-order plans must be in compliance with the higher-order plans.

(4) The City may require all or any of the following components of the package of plans:

- (a) Contextual framework:
A Contextual framework lays down broad land use policy for the development and the surrounding area. It may include principles or heads of agreement summarising the general obligations of the City and the developer in relation to the development. The contextual framework may be prepared by the City, or by a land owner or development agency under supervision of the City, and may not be in conflict with a spatial development framework or structure plan approved by the City.
- (b) Development framework:
A development framework identifies overall policy, broad goals, and principles for development within the development. The development framework identifies the range of uses, general spatial distribution of uses, major transport and pedestrian linkages, infrastructure and any limits within the development, including but not limited to density and floor space.
- (c) Precinct plans:
Precinct plans apply to specific areas within the development framework that have common features, functional relationships or phasing requirements. There may be several precinct plans that make up a development. A precinct plan describes in more detail the development objectives and intentions for a specific area in the development, as well as principles for urban form, land use, pedestrian links, traffic movement, floor space and environmental management.
- (d) Subdivision plans:
Subdivision plans, if required, are processed in terms of this By-LawBy-law to establish new cadastral boundaries and to facilitate the transfer of land units. Subdivision plans may be approved at any stage after the development framework has been approved, and the provisions of sub-item (6) shall apply.
- (e) Site development plans:
Site development plans depict more detailed design and development provisions for one or more land units within a development. These provisions may include, but are not limited to, details relating to land use, floor space, building lines, height, parking requirements, municipal services and landscaping, as well as details relating to the position and appearance of

buildings, open space, pedestrian links and traffic movement. A site development plan may be required before or after a subdivision plan, and should provide for the information as required in item 123(2).

(f) Building plans:

Building plans contain detailed specifications as required by the National Building Act, and once approved by the City, authorise building work to be performed.

(5) The City may require that the area covered by a contextual framework shall extend beyond the land under consideration if, in its opinion, the proposed development will have a wider impact, and the City may determine the extent of such area.

(6) In approving any component of a package of plans, the City shall determine the total floor space or density permitted within the development which must be imposed as a condition of approval.

(7) The allocation of floor space shall take into account the carrying capacity of internal and external infrastructure including but not limited to roads and utility services, and any urban design principles approved by the City as part of a rezoning or contextual framework.

(8) The approved floor space may remain as 'floating floor space' assigned to the overall development for later allocation, or may be assigned to particular precincts or properties when a precinct plan is approved; and in either case shall be allocated in individual subdivisions or site development plans.

(9) When a package of plans is required in terms of this development management scheme, the relevant components shall be submitted to the City for its approval before any development on a land unit can commence, provided that:—

- (a) approval shall not be refused if it is consistent with the development rules of a base zoning, overlay zoning, or condition of approval; but
- (b) the City may require amendments of detail to the relevant component to address reasonable concerns relating to access, parking, architectural form, urban form, landscaping, environmental management, engineering services or similar concerns.

(10) The provisions as contained in item 123 shall apply with regard to site development plans.

(11) An approval granted for a component of a package of plans referred to in sub-item (4)(a) to (c) does not lapse.

[Sub-item (11) inserted by s. 51A of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2016]

136A Outbuildings

(1) Except with the consent of the City, no person shall use or occupy an outbuilding before the erection of the building to which it is an outbuilding.

(2) An outbuilding may not be used as a dwelling unit or for human habitation.

[Item 136A inserted by s. 52 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2016]

136B Boundary walls

The following provisions shall apply to a boundary wall:—

- (a) a street boundary wall must not exceed 2,1 metres in height when measured from the existing ground level on the public street side of the wall to the top of the boundary wall;
- (b) A retaining wall of up to 1m in height, when measured from the existing ground level on the public street side of the wall, may form part of a street boundary wall providing that if the retaining wall is 1m in height a 1m high balustrade is required;
- (c) a common boundary wall must not exceed 2,5 metres in height when measured from the lowest existing ground level on either side of the wall to the top of the boundary wall;

- (d) A retaining wall of up to 1,5m in height, when measured from the lowest existing ground level on either side of the wall, may form part of a common boundary wall providing that if the retaining wall is greater than 1m in height a 1m high balustrade is required;
- (e) security devices, such as spikes, barbed wire, razor wire or electric fences must not exceed a height of 1,0 metre measured from the top of a boundary wall;
- (eA) security devices, such as spikes, barbed wire, razor wire or electric fences must be located at a minimum of 1,8 m measured from the existing ground level on the public street side of the wall in the case of a street boundary wall or 1,8 m measured from the lowest existing ground level on either side of the wall in the case of a common boundary wall;
- (f) any portion of a boundary wall in excess of 1 metre in height, when measured from the existing ground level on the public street side of the wall to the top of the boundary wall, located within 4,5 metres of the intersection of two street boundaries which create/enclose an angle of less than 135 degrees must be visually permeable;
- (g) All boundary walls that face a public street, public road or public open space and exceed 1,5m in height, when measured from the existing ground level on the public street or public open space side of the boundary wall to the top of the boundary wall, must comply with the following visual permeability requirements:
 - (aa) general business, industrial, risk industry, and utility, agricultural and rural zonings: a minimum of 60% of the total vertical area of the boundary wall, excluding including any visually permeable gates or garage doors; and
 - (bb) in all other zonings: a minimum of 25% of the total vertical area of the boundary wall, excluding any garage doors or visually permeable gates, including any visually permeable gates or garage doors.

[Item 136B inserted by s. 74 of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

CHAPTER 15.: PARKING, LOADING AND INFRASTRUCTURE

(items 137-145)

Part 1: Conventional parking requirements

(items 137-139)

137 Off-street parking requirements

The following parking requirements shall apply unless otherwise stated elsewhere in this development management scheme:

- (a) In cases where parking requirements are not stipulated for a particular use, or in terms of a specific condition imposed by the City, parking shall be provided at a minimum ratio in accordance with the table titled 'Table 13: Minimum off-street parking requirements'. Where the requirements in this table contradict each other, the most restrictive parking requirement shall apply. The City shall determine off-street parking requirements for land uses not stipulated in the table 'Table 13: Minimum off-street parking requirements'.
- (b) The second column in the table headed 'Standard areas' refers to requirements that apply to areas with standard parking needs, or where public transport is not specifically promoted or available. The column headed 'PT1 areas' refers to areas where the use of public transport is promoted, but where the City considers the provision of public transport inadequate or where the use of motor vehicles is limited. The column headed 'PT2 areas' refers to areas where the use of public transport is promoted and the City considers the provision of public transport good, or where the use of motor vehicles is very limited.

- (c) The City may approve and shall maintain a plan or plans which indicate the areas it deems to be PT1 and PT2 areas. Such plans shall be recorded in Annexure C and may be amended from time to time upon approval by the City as required. The City may approve a plan or amend an approved plan, which indicates the areas it deems to be PT1 and PT2 areas and which is published on the City's website, after following a public participation process and by publication in the *Provincial Gazette*.
- (d) If an area has not been specifically identified by the City as a PT1 or PT2 area, then the parking requirements for standard areas shall apply.
- (e) Through the provisions of Chapter 17, the City may develop overlay zonings to set maximum parking requirements for specific areas and/or determine different parking requirements for specific areas, depending on motor vehicle usage or ownership.
- (f) Off-street parking space shall be provided:
 - (i) on the property for which parking is required;
 - (ii) subject to the City's approval, in public parking facilities available in the vicinity; or
 - (iii) in accordance with item 138 below.

138 Alternative parking supply

As an alternative to compliance with the off-street parking requirements in terms of this development management scheme, with the approval of the City, an owner may:

- (a) acquire an area of land sufficient for the relevant parking requirements elsewhere, in a location approved by the City; or
- (b) acquire permanent rights to a parking facility or portion of a parking facility elsewhere, in a location approved by the City;

and shall register a notarial tie or servitude against such land or parking facility to link the properties concerned for the purpose of parking, and the owner shall cause the parking concerned to be constructed and maintained in accordance with the City's approval. The cost of registration of the notarial tie or servitude shall be borne by the owner.

Table 13: Minimum off-street parking requirements

[Table substituted by s. 53 of City of Cape Town: Municipal Planning Amendment By Law, 2016]
 [Table substituted by s. 75 of City of Cape Town: Municipal Planning Amendment By Law, 2019]

Land use	Standard areas	PT1 areas	PT2 areas
Main dwelling house (SR1 Zoning) (Any zoning other than R2)	2 bays per dwelling unit (1 bay per dwelling house for erven < 350 m ²)	1 bay per dwelling unit	Nil
Main dwelling house (SR2 Zoning)	1 bay per dwelling unit (Nil per dwelling house for erven < 100 m ²)	Nil	Nil
Second dwelling	1 bay per 2 nd dwelling unit	1 bay per 2 nd dwelling unit	Nil
Third dwelling on land unit larger than 650m ²	1 bay per 3 rd dwelling unit	1 bay per 3 rd dwelling unit	Nil
Third dwelling on land unit smaller or equal to 650m ²	Nil	Nil	Nil

Land use	Standard areas	PT1 areas	PT2 areas
Chancery	<u>4 bays per 100 m² floor space</u>	<u>2,5 bays per 100 m² floor space</u>	<u>Nil</u>
Group dwelling	1,75 bays per dwelling unit, plus 0,25 bays per dwelling unit for visitors	1 bay per dwelling unit, plus 0,25 bays per dwelling unit for visitors	Nil
Flats	1,25 bays per dwelling unit, plus 0,25 bays per dwelling unit for visitors	1 bay per dwelling unit, plus 0,25 bays per dwelling unit for visitors	Nil
Social housing / affordable housing	<u>1 bay per unit (0.8 per unit for residents and 0.2 per unit for visitors)</u>	<u>0.65 bays per unit (0.5 per unit for residents and 0.15 per unit for visitors)</u>	<u>Nil</u>
Bed & breakfast establishment	1 additional bay per guest room	1 additional bay per guest room	Nil
Boarding house, guest house	1 bay per bedroom for the first 10 bedrooms, thereafter 0.5 bays for each bedroom in excess of 10	1 bay per bedroom for the first 10 bedrooms, thereafter 0.25 bays for each bedroom in excess of 10	<u>Nil. Facility to accommodate stop and go facility for e-hailing taxis and collection point for scooter deliveries</u>
Backpackers lodge	1 bay per 10 beds plus associated reduced (based on parking sharing) requirement for any ancillary land uses open to general public	1 bay per 10 beds plus associated reduced (based on parking sharing) requirement for ancillary land uses open to general public	<u>Nil. Facility to accommodate stop and go facility for e-hailing taxis and collection point for scooter deliveries</u>
Hotel	0,5 bays per bedroom, plus associated reduced (based on parking sharing) requirement for any ancillary land uses open to general public	0,5 bays per bedroom, plus associated reduced (based on parking sharing) requirement for any ancillary land uses open to general public	<u>Nil. Facility to accommodate stop and go facility for e-hailing taxis and collection point for scooter deliveries</u>
Retirement home, orphanage	0,25 bays per resident	0,25 bays per resident	Nil
Crèche, <u>early childhood development centre</u>	Nil. Facilities with more than 34 learners must be able to accommodate an informal stop and drop facility on-street. Pro-forma Traffic Management Plan to be submitted detailing planned operations of the stop and drop facility	Nil. Facilities with more than 34 learners must be able to accommodate an informal stop and drop facility on-street. Pro-forma Traffic Management Plan to be submitted detailing planned operations of the stop and drop facility	<u>Nil. Facilities with more than 34 learners must be able to accommodate an informal stop and drop facility on-street.</u> <u>Pro-forma Traffic Management Plan to be submitted detailing planned operations of the stop and drop facility</u>

Land use	Standard areas	PT1 areas	PT2 areas
School	<p>1 bay per classroom and office, plus stop & drop facility.</p> <p>Capacity for stop and drop facility to be provided at a rate of 1 bay per 20 learners.</p> <p>If facility cannot be accommodated on street, provision must be made to accommodate the equivalent amount of bays required for this facility off-street</p>	<p>1 bay per classroom and office, plus stop & drop facility.</p> <p>Capacity for stop and drop facility to be provided at a rate of 1 bay per 20 learners.</p> <p>If facility cannot be accommodated on street, provision must be made to accommodate the equivalent amount of bays required for this facility off-street</p>	<p>Nil</p> <p><u>Capacity for stop and drop facility to be provided at a rate of 1 bay per 20 learners.</u></p> <p><u>If facility cannot be accommodated on street, provision must be made to accommodate the equivalent amount of bays required for this facility off-street</u></p>
Place of instruction (post-school level)	0,1 bays per student, plus 1 bay per classroom and 1 bay per office	0,1 bays per student, plus 1 bay per classroom and 1 bay per office	Nil
Library, museum	2 bays per 100 m ² floor space	1,5 bays per 100 m ² floor space	Nil
Place of assembly, place of worship, place of entertainment, funeral parlour	1 bay per 6 seats or persons, calculated at 1,4 m ² floor space = 1 person	1 bay per 8 seats or persons, calculated at 1,4 m ² floor space = 1 person	Nil
Sport stadium	1 bay per 4 seats or persons (or as per transport management plan)	3 bays per 20 seats or persons (or as per transport management plan)	Nil
Recreation or sports complex	1 bay per 8 seats or persons	1 bay per 10 seats or persons	Nil
Gymnasium, health club	7 bays per 100 m ² GLA	7 bays per 100 m ² GLA	Nil
Hospital (general and private)	1 bay per bed, plus 3 bays per consulting room	1 bay per bed, plus 2 bays per consulting room	Nil
Clinic, medical consulting rooms, veterinary practice	<p>Base ratio of 2.5 bays per consulting room for facilities comprising a maximum of 5 consulting rooms.</p> <p>For larger facilities, consecutively add 0.5 bays for each consulting room in excess of 5 consulting rooms, up to a maximum ratio of 5 bays per consulting room for facilities with 10 or more such rooms</p>	<p>Base ratio of 2.5 bays per consulting room for facilities comprising a maximum of 5 consulting rooms.</p> <p>For larger facilities, consecutively add 0.5 bays for each consulting room in excess of 5 consulting rooms, up to a maximum ratio of 5 bays per consulting room for facilities with 10 or more such rooms</p>	Nil
Shops (excluding supermarket)	3 bays per 100 m ² GLA	2 bays per 100 m ² GLA	Nil
Supermarket, shopping centre	4 bays per 100 m ² GLA	2,5 bays per 100 m ² GLA	Nil

Land use	Standard areas	PT1 areas	PT2 areas
Restaurant	6 bays per 100 m ² GLA	4 bays per 100 m ² GLA	Nil
Offices	4 bays per 100 m ² GLA	2,5 bays per 100 m ² GLA	Nil
Conference centre	6 bays per 10 seats	4 bays per 10 seats	Nil
Motor showroom	2 bays per 100 m ² GLA	2 bays per 100 m ² GLA	Nil
Motor repair garage, service station	4 bays per service bay, plus 4 bays per 100 m ² GLA, minimum 8 bays	4 bays per service bay, plus 4 bays per 100 m ² GLA, minimum 8 bays	4 bays per service bay
Motor fitment centre	2 bays per service bay	2 bays per service bay	2 bays per service bay
Industry	1,5 bays per 100 m ² GLA for facilities up to 3000m ² GLA. 1 bay per 100m ² GLA for facilities larger than 3000m ² GLA	0,5 bays per 100 m ² GLA for facilities up to 3000m ² GLA. 1 bay per 100m ² GLA for facilities larger than 3000m ² GLA	Nil
Warehouse, storage building	1 bay per 100 m ² GLA	1 bay per 100 m ² GLA	Nil
<u>Any retail use as part of a warehouse</u>	<u>3 bays per 100 m² GLA</u>	<u>2 bays per 100 m² GLA</u>	<u>Nil</u>
Self-storage	0,2 bays per 100m ² GLA	0,2 bays per 100m ² GLA	Nil

139 Combined parking requirements

Where two or more uses combine to share a common parking area, the City may approve parking requirements that are less than the sum of the parking required for individual uses provided that:

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

Part 2: Site access and parking layout requirements (items 140-141)

140 Site access and exits

- (1) The following site access requirements shall apply:
 - (a) The City may require compliance with standard municipal or provincial access spacing guidelines;
 - (b) No vehicular ingress or egress shall be closer than 10 m from an intersection as defined by the prolongation of street boundaries; except for industrial-zoned properties, where the distance shall be 15 m; and
 - (c) The City may restrict or prohibit access if a pedestrian or traffic hazard is created or is likely to be created.
- (2) Vehicle entrances and exit ways to and from property shall conform to the following requirements:
 - (a) Motor vehicle carriageway crossings shall be limited to one per site per public street or public road abutting the site;
 - (b) Notwithstanding paragraph (a) above, where the total length of any street boundary of a site exceeds 30 m in length, one additional carriageway crossing may be permitted, provided that no two carriageway crossings are closer than 12 m to each other;

(c) The minimum and maximum width of any motor vehicle carriageway crossing shall be 2,4 m and 8,0 m respectively.

[Para. (c) substituted by s. 76 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

(d) ...

[Para. (d) inserted by s. 54 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

[Para. (d) deleted by s. 76 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

...

[Table 'Width of motor vehicle carriageway crossings' deleted by s. 76 (c) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

141 Parking layout requirements

(1) The following parking layout requirements shall apply unless otherwise stated elsewhere in this development management scheme:

(a) Parking layout configuration, minimum dimensions and ramps to a parking area shall be in accordance with the provisions of this development management scheme or an approved site development plan;

(b) The layout of any parking area, except for parking in SR1 and SR2 zonings, shall ensure that vehicles can readily leave the site without reversing across the sidewalk, unless approved by the City;

(c) A tandem bay accommodating two motor vehicles, but not more, shall be regarded as one bay for the purposes of this development management scheme; except for single-residential zonings, general residential subzoning 1: group housing or for a dwelling unit, other than flats, in any other zoning, where a tandem bay shall be regarded as two bays;

[Para. (c) substituted by s. 77 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

(d) Visitor parking bays shall be clearly demarcated, readily visible and accessible to visitors, and preferably grouped together;

(e) Parking areas shall be used for the parking of vehicles which are lawfully allowed on them, and any activity which causes an obstruction for vehicular traffic or pedestrian use of the sidewalk is prohibited;

(f) Parking areas shall be constructed and maintained in a state suitable for the parking and movement of vehicles;

(g) Notwithstanding paragraphs (a) to (f), the City may lay down more restrictive requirements in connection with parking, site access or motor vehicle carriageway crossing, if considered necessary from a pedestrian or traffic safety point of view.

(2) The City may require a parking layout plan to be submitted, indicating the way in which it is intended that motor vehicles shall park, the means of entrance and exit, landscaping proposals, and construction details.

(3) The City may approve or refuse the parking layout plan and impose conditions of approval.

Part 3: Unconventional parking requirements (items 142-145)

142 Parking for the physically disabled

(1) The City may require parking that is capable of use by persons with physical disabilities to be provided on any land unit, in order to ensure easy and convenient access for such persons to services and facilities generally open to the public and to residential uses.

(2) In any parking facility serving the public, parking for persons with physical disabilities shall be provided in accordance with the following table, titled 'Table 14: Physically disabled accessible parking'.

Table 14: Physically disabled accessible parking

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

(3) Parking for the physically disabled shall comply with the following requirements:—

- (a) Parking bays shall be a minimum of 3,7 m in width and 5 m in length;
- (b) Parking and access aisles shall be level;
- (c) Parking bays shall be located as near as possible to accessible building or site entrances, and shall be located to provide convenient access to kerb ramps;
- (d) Each parking bay reserved for physically disabled persons shall be marked on the parking surface with the international symbol of disabled accessibility;
- (e) Additional signage indicating the parking bay as reserved for exclusive use by persons with physical disabilities may be required by the City;
- (f) Where five or fewer parking bays are provided, at least one bay shall be 4 m wide and marked to provide a parking bay of 2,5 m with an access aisle of 1,5 m, but the bay need not be reserved exclusively for persons with physical disabilities.

(4) Parking for persons with physical disabilities shall count towards fulfilling off-street parking requirements.

143 Motorcycle and bicycle parking spaces

(1) The City may require that parking be provided for motorcycles and bicycles.

(2) For every four motorcycle or ten bicycle parking spaces provided, a credit of one parking bay may be given towards the parking requirements, provided that:—

[Sub-item (2) substituted by s. 78 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (a) the total credit shall not exceed 2,5% of the parking bays required;
- (b) the minimum dimension for a motorcycle space shall be 2,2 m in length and 1 m in width; and
- (c) the minimum dimension for a bicycle space shall be 2 m in length and 0,6 m in width.

(3) Signage, bollards and racks or other devices for storing bicycles and motorcycles in such bays shall be installed.

144 Loading

(1) Unless the City grants approval to waive this requirement, loading bays shall be provided in accordance with the table, titled 'Table 15: Minimum off-street loading bay requirements'. The City may determine off-street loading requirements for uses not stipulated in the table.

—Table 15: Minimum off-street loading bay requirements

Land use	Floor space (m ²)	Number of loading bays
Offices	0 – 5 000	0
	5 001 – 15 000	1
	15 001 – 30 000	2
	Every additional 30 000 or part thereof	1 additional bay
Business premises (other than offices, supermarket), Industry	0 – 1 000	0
	1 001 – 2 500	1
	2 501 – 5 000	2
	5 001 – 10 000	3
	Every additional 10 000 or part thereof	1 additional bay
Supermarket	0 – 500	1
	501 – 1 000	2
	1 001 and greater	3 x requirement in row 2

(2) The following minimum requirements shall apply to loading bays:

- A loading bay shall measure not less than 4,5 m by 10 m for perpendicular loading, and 2,5 m by 12 m for parallel loading.
- No carriageway crossing to be accessed by loading vehicles shall be less than 3 m in width, and no combined entrance and exit way shall be less than 6 m in width.
- Covered loading areas shall have a minimum headroom of 3,7 m.

145 Refuse rooms

The City may, for the purposes of collecting refuse, require the owner to install a refuse receptacle on a property which shall:

- be of sufficient size to accommodate the refuse generated from the property for one week;
- be located adjacent to a public street, or in a position which will provide acceptable access to a refuse collection vehicle;
- be designed in a manner that is architecturally compatible with the other structures on the property and will screen refuse bins from public view; and
- comply with any other condition or standard requirements that the City may impose relating to access, health, pollution control, safety or aesthetics.

CHAPTER 16: SUBDIVISION OF LAND (items 146-147)

146 Deemed approval for building line and coverage development rule departures

When the City grants approval for the subdivision of property containing one or more existing approved structures, so as to locate different structures on separate land units, the City's approval is deemed to have been granted for any building line or coverage development rule departure that arises from the approved subdivision, provided that future structures shall comply with the requirements of this development management scheme.

147 Subdivision of a property with consent use rights or a temporary land use departure

If a property that has been granted a consent use right or temporary land use departure is subsequently subdivided, the consent use right or temporary land use departure shall apply to only one of the subdivided portions, unless the City states otherwise by means of a condition of the subdivision.

DIVISION IV: OVERLAY ZONING

(items 148-191)

This Chapter deals with procedures to prepare, adopt, replace, amend or recommend overlay zonings and sets out the legal status of an overlay zoning.

CHAPTER 17.: GENERAL PROVISIONS IN RESPECT OF OVERLAY ZONINGS

(items 148-152)

The general provisions apply to all overlay zonings in this division.

148 Requirements for preparing an overlay zoning

(1) Preparation of an overlay zoning shall take into consideration the following requirements where applicable:—

- (a) the development principles contained in the SPLUMA, the Land Use Planning Act LUPA and this By-Law;

[Para. (a) substituted by s. 55 of City of Cape Town: Municipal Planning Amendment By-Law, 2016]

- (b) the City's planning vision and principles as set out in its Integrated Development Plan;
- (c) desired spatial form, including but not limited to the development of public and private land, infrastructure investment, utilisation of space, spatial reconstruction, location and nature of development, urban edge, scenic routes, areas of strategic intervention, mitigation of development impacts;
- (d) the principles as set out in an approved spatial development framework or a policy plan;
- (e) environmental and heritage protection and conservation; and
- (f) the principles of co-operative governance and the duties and objectives of local government as set out in the Municipal Systems Act and the Constitution of the Republic of South Africa, 1996.

(2) An overlay zoning must not detract from the City's ability to serve the needs of the municipal area as a whole.

149 Identification and numbering

The City shall approve a distinctive name and number for each overlay zoning when adopting such overlay zoning.

150 Status of overlay zoning

(1) An overlay zoning applies to land which the City has designated by notice in the Provincial Gazette as having that overlay zoning.

(2) Land which has an overlay zoning is regulated by the provisions for that overlay zoning in this development management scheme in respect of—

- (a) general provisions;
- (b) specific provisions;
- (c) use of property; and
- (d) development rules.

(3) An overlay zoning may vary the development rules or use rights relating to an area or land unit, or may set new development rules or use rights.

(4) The provisions of an overlay zoning may be more restrictive or more permissive than the provisions applicable to the base zoning of the property concerned, or may set specific development rules for an area or land unit.

(5) If the provisions of an overlay zoning are different to, or in conflict with, the provisions of a base zoning, the more restrictive provisions shall apply, unless stated otherwise in the overlay zoning concerned.

(6) Any development rules in the overlay zoning that exceed or are more restrictive than the limitations of the base zoning are deemed to be approved permanent departures from the provisions in the base zoning.

(7) The City may grant departures from the development rules or restrictions or provisions of any overlay zoning by following the departure procedures set out in this By-LawBy-law.

(8) The overlay zoning may contain general provisions or specific provisions and the designation must indicate which provisions apply to a land unit, area or to the City.

(9) The provisions of ~~m~~More than one overlay zoning may apply to a land unit or area.

151 Development rules

(1) The development rules may apply generally to all land units designated to have the specified overlay zoning or specific rules may apply to specified land units.

(2) The City may on its own initiative amend, replace or delete the development rules for an overlay zoning by amendment of this development management scheme.

(3) The detailed provisions of an overlay zoning must be consistent with a policy plan and the Integrated Development Plan as approved by the City.

152 Process to designate a land unit, area or the city to have an overlay zoning

(1) The City may, after following a notice procedure contemplated in section 81 of this By-LawBy-law and after considering the objections, comments or representations received, designate a land unit, area or the City to have a specified overlay zoning.

(2) Prior to designating a land unit, area or the city, the City must have regard to any approved policy plan dealing with the specified overlay zoning.

CHAPTER 18.: OVERLAY ZONINGS PROVIDING SPECIFIC DEVELOPMENT DIRECTIVES

(items 153-154)

The SAO zoning designates land for future subdivision with development rights by providing development directives through specific conditions as approved in terms of this By-LawBy-law. The SAO zoning confirms 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. The SAO zoning does not detract from the rezoning to Subdivisional Area as stipulated in this By-LawBy-law, but gives effect to such stipulations through the provisions of this development management scheme. The SAO zoning may or may not be used in conjunction with the Special Planning Area mechanism.

153 Use of the property: Subdivisional Area Overlay Zoning

| The following use restrictions apply to property in this zoning:—

- | (a) Primary uses are as stipulated in the conditions of approval imposed in terms of this By-LawBy-law.
- | (b) Additional use rights are as stipulated in the conditions of approval imposed in terms of this By-LawBy-law and item 154(4).
- | (c) Consent uses are as stipulated in the conditions of approval imposed in terms of this By-LawBy-law.

154 Development rules: Subdivisional Area Overlay Zoning

| (1) Land zoned as a Subdivisional Area may be subdivided as contemplated in this By-LawBy-law.

| (2) Conditions of approval for rezoning to Subdivisional Area should take into account, but are not limited to, the following:—

- | (a) the requirements of an applicable structure plan or spatial development framework as contemplated in section 3 of this By-LawBy-law;

- (b) impact assessments for environment, heritage resources, transport or hazardous installations;
- (c) main transport routes
- (d) main land uses and the extent thereof
- (e) physical development constraints or opportunities;
- (f) provision of services;
- (g) bulk infrastructure
- (h) development density;
- (i) floor space limitations;
- (j) open space requirements, and
- (k) requirements of organs of state.

| (3) The conditions of approval imposed in terms of this ~~By-Law~~By-law when the property is rezoned to Subdivisional Area shall apply.

| (4) Any existing use or development on a property which is lawful at the time that the property is rezoned to Subdivisional Area may continue as long as the Subdivisional Area zoning remains in place, provided that:

- (a) The City may approve additional uses and extensions to existing lawful development if these are ancillary to the existing, lawful uses; and
- (b) Once a subdivision is confirmed, all future development on the subdivision concerned shall comply with the development rules of the base zoning on the confirmed land units, any overlay zonings which may be applicable, and any conditions imposed in terms of this ~~By-Law~~By-law.

CHAPTER 19.: OVERLAY ZONINGS PROVIDING STRATEGIC DEVELOPMENT DIRECTIVES

(items 155-158)

Part 1: Incentive Overlay Zoning (ICO) (IOZ)

(items 155-156C)

ICO/IOZ provides a mechanism for designating development incentive measures to land in order to promote development priorities and strategies as may be identified in the integrated development plan or spatial plans approved by the City. The development incentive measures may include, but are not limited to, incentives or concessions relating to parking, height, floor space, coverage and density. Such incentives could involve an increase in the floor space or density otherwise permitted in terms of this development management scheme.

155 General provisions: Incentive Overlay Zoning

~~This overlay zoning has no general provisions. The following conditions shall apply to the incentives provided in items 156B and 156C—~~

- (a) ~~the relevant service department of the City must first give clearance that internal engineering service capacity is available or can be made available for the proposed additional land use; and~~
- (b) ~~a development charge has been paid for the demand by the proposed additional land use on the external engineering service or bulk engineering service in accordance with the policy contemplated in section 66(1).~~

156 Specific provisions: Incentive Overlay Zoning

~~...This overlay zoning has no specific provisions.~~

156A Designated land units in the Incentive Overlay Zoning

~~Items 156B and 156C apply—~~

- (a) ~~to a land unit with a zoning of—~~

- (i) Residential Zoning 1: Conventional Housing (R1);
- (ii) General Residential Subzoning 2 and 4 (GR 2 and 4);
- (iii) Local Business Zoning 1: Intermediate Business (LB1);
- (iv) Local Business Zoning 2: Local Business (LB2);
- (v) General Business Subzonings 1-5 (GB1-5); or
- (vi) Mixed Use Subzoning 2 (MU2);
- (b) in the areas and sub-areas depicted on Plan IOZ/01/Athlone, IOZ/02/Bellville, IOZ/03/Maitland, IOZ/04/Parow/Elsies River and IOZ/05/Diep River.

156B Use of property

- (1) In addition to the land uses permitted in the base zoning, land units with a zoning of Residential Zoning 1: Conventional Housing (R1) may have the following land uses in the overlay zoning, subject to item 155—
 - (a) Primary uses are shop, house shop, guest house, bed and breakfast establishment, commune, boarding house and home occupation.
 - (b) Consent uses are place of assembly and hotel.
- (2) In addition to the land uses permitted in the base zoning, land units with a zoning of General Residential Subzoning 2 and 4 (GR2 and 4) may have the following land uses in the overlay zoning, subject to item 155—
 - (a) Primary uses are shops on ground floor only, place of instruction, place of worship, institution, place of assembly, home occupation, hotel and boarding house.
 - (b) Consent use is shops above ground floor.
- (3) In addition to the land uses permitted in the base zoning, land units with a zoning of Local Business Zoning 1: Local Business (LB1) may have the following land uses in the overlay zoning, subject to item 155—
 - (a) Primary uses are shop, bed and breakfast establishment, place of instruction, place of worship, institution, clinic, guest house, service trade, utility service, rooftop base telecommunication station, private road, open space and veterinary practice.

156C Development rules

- (1) The following development rules apply to properties with a zoning of Residential Zoning 1: Conventional Housing (R1), subject to the conditions in item 155—
 - (a) Floor factor
The maximum floor factor is determined in accordance with the area of the land unit as shown in the following 'Table 16: floor factor, floor space, height and building lines in Residential Zoning 1 in the Incentive Overlay Zoning'.
 - (b) Floor space
The maximum floor space, if applicable, to all buildings on a land unit is determined in accordance with the following 'Table 16: floor factor, floor space, height and building lines in Residential Zoning 1 in the Incentive Overlay Zoning'.
 - (c) Height
 - (i) The maximum height of a building is determined in accordance with the area of the land unit as shown in the following 'Table 16: floor factor, floor space, height and building lines in Residential Zoning 1 in the Incentive Overlay Zoning'.
 - (ii) Where a building is permitted in this zoning within 3m of a common boundary beyond the first 12 m along a common boundary measured perpendicular from the street boundary line, the height will be limited to 4 m measured from existing ground level to top of building.
 - (iii) Notwithstanding the provisions in sub-paragraph (ii), within the first 12 m along a common boundary measured perpendicular from the street

boundary line the height is determined in accordance with the 'Table 16: floor factor, floor space, height and building lines in Residential Zoning 1':

(iv) Earth banks and retaining structures are subject to item 126.

(d) Building lines are determined in accordance with the area of the land unit as shown in the 'Table 16: floor factor, floor space, height and building lines in Residential Zoning 1 in the Incentive Overlay Zoning, subject to—

(i) the general building line encroachments in item 121;

(ii) where more than four dwelling units are attached to each other, the City may require a common boundary building line of 1 m between a batch of four attached dwelling units and any adjacent dwelling unit; and

(iii) further restrictions stipulated in paragraphs (e) and (eA) of item 22 as applicable.

(e) Coverage

The maximum coverage is determined in accordance with the area of the land unit as shown in the following 'Table 16: floor factor, floor space, height and building lines in Residential Zoning 1 in the Incentive Overlay Zoning'.

(f) Parking

Minimum parking requirement for all uses is nil.

Table 16: floor factor, floor space, coverage, height and building lines in Residential Zoning 1 in the Incentive Overlay Zoning

<u>Sub-area</u>	<u>Land Unit area (m²): Floor factor</u>	<u>Coverage</u>	<u>Maximum height above existing ground level to top of building</u>	<u>Street boundary building line</u>	<u>Land Unit area (m²): Common boundary building line</u>
A1	>2000: 2 > 1000 up to 2000: 2 > 650 up to 1000: 2 > 350 up to 650: 2 650: n/a>200 up to 350: n/a ≤ 200: n/a	100% coverage within 12m of street boundary; 60% for the remainder of the site	12,0 m	2m up to 3m height; 0m above 3m	0m for 12m along every common boundary from street boundary (regardless of erf size)
B1 B2					Remainder of site: > 650: 3m > 350 up to 650: 0m >200 up to 350: 0m ≤ 200: 0m
C1 D1				2m up to 3m height; 1m above 3m	>2000: 6,0 m > 1000 up to 2000: 3,0 m > 650 up to 1000: 3,0 m > 350 up to 650: 0m >200 up to 350: 0m ≤ 200: 0m

(2) Properties with a zoning of General Residential Subzoning 2 and 4 (GR 2 and 4), subject to the conditions in item 155—

(a) Coverage

The maximum coverage for all buildings on the land unit is determined in accordance with Table 17 and Table 19.

(a) Floor factor

The maximum floor factor for all buildings on the land unit shall be determined in accordance with Table 17 and Table 19.

(c) Height

(i) The maximum height of a building, measured from the existing ground level to the top of building, shall be determined in accordance with Table 17 and Table 19.

(ii) Earth banks and retaining structures are subject to item 126.

(d) Building lines

No building shall be erected so that any point on the building is nearer to a street boundary or a common boundary than the distance specified in Table 18 and Table 20.

(e) Parking

(i) Minimum parking requirement for all uses is nil.

(ii) Except with the approval of the City, no parking bays at ground floor level on a land unit, either outside or within a building, shall be located closer than 10 m to a street boundary, in order to enhance amenity at street level.

Table 17: coverage, height and floor factor in General Residential Subzoning 2 in the Incentive Overlay Zoning

<u>Sub-area</u>	<u>Coverage</u>	<u>Floor factor</u>	<u>Maximum height above existing ground level to top of building</u>
A1	100% coverage within 18m of street boundary;		25m within 18m of street boundary;
B1			15m for the remainder of the site.
C1			18m
D1	60% for the remainder of the site	2	25m for 18m from street boundary; 20m for the remainder of the site

Table 18: building lines in General Residential Subzoning 2 in the Incentive Overlay Zoning

<u>Sub-area</u>	<u>Street boundary building line</u>	<u>Land Unit area (m²) : Common boundary building line</u>
A1	2m setback up to 3m height; 0m setback above 3m and up to 15m height	All sizes : 0,0 m up to 15,0 m in height where intersecting a street boundary, for a distance of 18,0 m measured along every common boundary perpendicular from such street boundary)
B1	2m setback up to 3m height; 1m setback above 3m and up to 15m height; 4,5m above 15m	Remainder of site: >650: 6,5m
C1	2m setback up to 3m height; 1m setback above 3m and up to 15m height; 4,5m above 15m	> 350 up to 650: 0m (12,0 m from street and 60%) and 3,0 m rest >200 up to 350: 0m

<u>Sub-area</u>	<u>Street boundary building line</u>	<u>Land Unit area (m²) : Common boundary building line</u>
<u>D1</u>	<u>2m setback up to 3m height;</u> <u>1m setback above 3m and up to 15m height; 4.5m above 15m</u>	<u>≤ 200: 0m</u>

Table 19: coverage, height and floor factor in General Residential Subzoning 4 in the Incentive Overlay Zoning

<u>Sub-area</u>	<u>Coverage</u>	<u>Floor factor</u>	<u>Maximum height above existing ground level to top of building</u>
<u>A2</u>			<u>25m within 18m of street boundary;</u> <u>15m for the remainder of the site</u>
<u>B1</u>	<u>100% coverage within 18m of street boundary;</u>		
<u>B2</u>	<u>60% for the remainder of the site</u>	<u>2</u>	<u>25m within 18m of street boundary;</u> <u>20m for the remainder of the site</u>
<u>C1</u>			
<u>D1</u>			

Table 20: building lines in General Residential Subzoning 4 in the Incentive Overlay Zoning

<u>Sub-area</u>	<u>Street boundary building line</u>	<u>Land Unit area (m²) : Common boundary building line</u>
<u>A2</u>	<u>2m setback up to 3m height; 0m setback above 3m and up to 15m height; 4.5m above 15m</u>	All sizes : 0,0 m up to 15,0 m in height where intersecting a street boundary, for a distance of 18,0 m measured perpendicular from such street boundary)
<u>B1</u>	<u>2m setback up to 3m height;</u>	Remainder of site:
<u>B2</u>	<u>1m setback above 3m and up to 15m height; 4.5m above 15m</u>	>650: 4.5m or 0.6 H
<u>C1</u>	<u>2m setback up to 3m height;</u> <u>1m setback above 3m and up to 15m height; 4.5m above 15m</u>	> 350 up to 650: 0m (12,0 m from street along every common boundary and 60%) and 3,0 m rest
<u>D1</u>	<u>2m setback up to 3m height;</u> <u>1m setback above 3m and up to 15m height; 4.5m above 15m</u>	>200 up to 350: 0m <u>≤ 200: 0m</u>

(3) Properties with a zoning of **Local Business Zoning 1: Intermediate Business (LB1)**, subject to the conditions in item 155:

(a) Floor factor
The maximum floor factor for all buildings on the land unit shall be determined in accordance with the following 'Table 21: floor factor, height, coverage and building lines in Local Business Zoning 1' in the Incentive Overlay Zoning'.

(b) Height
 (i) The maximum height of a building, measured from the existing ground level to the top of building, shall be determined in accordance with the following 'Table 21: floor factor, height, coverage and building lines in Local Business Zoning 1' in the Incentive Overlay Zoning'.
 (ii) Earth banks and retaining structures are subject to item 126.

(c) Coverage
The maximum coverage on the land unit shall be determined in accordance with the following 'Table 21: floor factor, height, coverage and building lines in Local Business Zoning 1' in the Incentive Overlay Zoning'.

(d) Building lines
The street and common boundary building lines are determined in accordance with the area of the land unit as shown in the following 'Table 21: floor factor, height, coverage and building lines in Local Business Zoning 1' in the Incentive Overlay Zoning' subject to the general building line encroachments in item 121.

(e) Parking
Minimum parking requirement for all uses is nil.

Table 21: floor factor, height, coverage and building lines in Local Business Zoning 1' in the Incentive Overlay Zoning'

<u>Sub-area</u>	<u>Floor factor</u>	<u>Coverage</u>	<u>Maximum height above existing ground level</u>	<u>Street boundary building line</u>	<u>Common boundary building line</u>
A1	2	<u>100% coverage within 18m of street boundary; 75% for the remainder of the site</u>	<u>18m for 18m from street boundary. 15m for the remainder of the site</u>	<u>2m setback up to 3m height; 0m setback above 3m and up to 15m height; 4.5m above 15m</u>	<u>0m for 18m along every common boundary from street and 60%; and 3m rest</u>
B1		<u>100% coverage within 18m of street boundary; 60% for the remainder of the site</u>	<u>18m for 18m from street boundary. 15m for the remainder of the site</u>	<u>2m setback up to 3m height; 1m setback above 3m and up to 15m height; 4.5m above 15m</u>	
C1		<u>100% coverage within 12m of street boundary; 60% for the remainder of the site</u>	<u>12m</u>	<u>2m setback up to 3m height; 1m setback above 3m and up to 12m height;</u>	<u>0m for 12m along every common boundary from street and 60%; and 3m rest</u>

D1		<u>100% coverage within 18m of street boundary; 75% for the remainder of the site</u>	<u>18m for 18m from street boundary. 15m for the remainder of the site</u>	<u>2m setback up to 3m height; 1m setback above 3m and up to 15m height; 4.5m above 15m</u>	<u>0m for 18m along every common boundary from street and 60%; and 3m rest</u>
----	--	---	--	---	--

(4) Properties with a zoning of Local Business Zoning 2: Local Business (LB2), subject to the conditions in item 155—

(a) Floor factor

The maximum floor factor for all buildings on the land unit shall be determined in accordance with the following 'Table 22: floor factor, height, coverage and building lines in Local Business Zoning 2' in the Incentive Overlay Zoning.

(b) Height

(i) The maximum height of a building, measured from the existing ground level to the top of building, shall be determined in accordance with the following 'Table 22: floor factor, height, coverage and building lines in Local Business Zoning 2' in the Incentive Overlay Zoning.

(ii) Earth banks and retaining structures are subject to item 126.

(c) Coverage

The maximum coverage on the land unit shall be determined in accordance with the following 'Table 22: floor factor, height, coverage and building lines in Local Business Zoning 2' in the Incentive Overlay Zoning.

(d) Building lines

The street and common boundary building lines are determined in accordance with the area of the land unit as shown in the following 'Table 22: floor factor, height, coverage and building lines in Local Business Zoning 2' in the Incentive Overlay Zoning subject to the general building line encroachments in item 121.

(e) Parking

Minimum parking requirement for all uses is nil.

'Table 22: floor factor, height coverage and building lines in Local Business Zoning 2' in the Incentive Overlay Zoning'

<u>Sub-area</u>	<u>Floor factor</u>	<u>Coverage</u>	<u>Maximum height above existing ground level</u>	<u>Street boundary building line</u>	<u>Common boundary building line</u>
A1	2	<u>100% coverage within 18m of street boundary; 75% for the remainder of the site</u>	<u>18m for 18m from street boundary. 15m for the remainder of the site</u>	<u>2m setback up to 3m height; 0m setback above 3m and up to 15m height; 4.5m above 15m</u>	<u>0m</u>

<u>A2</u>	<u>3</u>	<u>100% coverage within 18m of street boundary; 75% for the remainder of the site.</u>	<u>25m within 18m of street boundary; 15m for the remainder of the site</u>	<u>2m setback up to 3m height; 0m setback above 3m and up to 15m height; 4.5m above 15m</u>	
<u>B1</u>	<u>2</u>	<u>100% coverage within 18m of street boundary; 75% for the remainder of the site</u>	<u>18m for 18m from street boundary. 15m for the remainder of the site</u>	<u>2m setback up to 3m height; 1m setback above 3m and up to 15m height; 4.5m above 15m</u>	<u>0m for 18m along every common boundary from street and 60%; and 3m rest</u>
<u>B2</u>		<u>100% coverage within 18m of street boundary; 75% for the remainder of the site</u>	<u>18m for 18m from street boundary. 15m for the remainder of the site</u>	<u>2m setback up to 3m height; 1m setback above 3m and up to 15m; 4.5m above 15m</u>	
<u>C1</u>		<u>100% coverage within 18m of street boundary; 60% for the remainder of the site</u>	<u>15m for 18m from street boundary. 12m for the remainder of the site</u>	<u>2m setback up to 3m height; 1m setback above 3m and up to 15m</u>	
<u>D1</u>		<u>100% coverage within 18m of street boundary; 75% for the remainder of the site</u>	<u>18m for 18m from street boundary. 15m for the remainder of the site</u>	<u>2m setback up to 3m height; 1m setback above 3m and up to 15m; 4.5m above 15m</u>	

(5) Properties with a zoning of **General Business Subzonings 1 – 5 (GB1 – 5)**, subject to the conditions in item 155—

(a) Floor factor

The maximum floor factor for all buildings on the land unit shall be determined in accordance with Table 23, Table 24, Table 25, Table 26 and Table 27, as applicable.

(b) Height

(i) The maximum height of a building, measured from the existing ground level to the top of building, shall be determined in accordance with Table 23, Table 24, Table 25, Table 26 and Table 27, as applicable.

(ii) Earth banks and retaining structures are subject to item 126.

(c) Coverage

The maximum coverage on the land unit shall be determined in accordance with Table 23, Table 24, Table 25, Table 26 and Table 27.

(d) Building lines

The street and common boundary building lines are determined in accordance with the area of the land unit as shown in Table 23, Table 24, Table 25, Table 26

and Table 27, as applicable, subject to the general building line encroachments in item 121.

(e) Parking

Minimum parking requirement for all uses is nil.

Table 23: floor factor, height, coverage and building lines in General Business Subzoning 1 in the Incentive Overlay Zoning

<u>Sub-area</u>	<u>Floor factor</u>	<u>Coverage</u>	<u>Maximum height above existing ground level</u>	<u>Street boundary building line</u>	<u>Common boundary building line</u>
A1	2.5	100% coverage within 18m of street boundary;	20m within 18m of street boundary;	2m setback up to 3m height; 0m setback above 3m and up to 15m height; 4.5m above 15m	0m
A2		75% for the remainder of the site	15m for the remainder of the site		
B1	2	75% for the remainder of the site	18m for 18m from street boundary.	2m setback up to 3m height;	
B2			15m for the remainder of the site	1m setback above 3m and up to 15m height; 4.5m above 15m	
C1					
D1					

Table 24: floor factor, height, coverage and building lines in General Business Subzoning 2 in the Incentive Overlay Zoning

<u>Sub-area</u>	<u>Floor factor</u>	<u>Coverage</u>	<u>Maximum height above existing ground level</u>	<u>Street boundary building line</u>	<u>Common boundary building line</u>
A1	3	100% coverage within 18m of street boundary;	20m within 18m of street boundary;	2m setback up to 3m height; 0m setback above 3m and up to 15m height; 4.5m above 15m	0m
		75% for the remainder of the site	15m for the remainder of the site		
B1	2.5	75% for the remainder of the site	18m for 18m from street boundary. 15m for the remainder of the site	2m setback up to 3m height;	
C1				1m setback above 3m and up to 15m height; 4.5m above 15m	
D1					

Table 25: floor factor, height, coverage and building lines in General Business Subzoning 3 in the Incentive Overlay Zoning

<u>Sub-area</u>	<u>Floor factor</u>	<u>Coverage</u>	<u>Maximum height above existing ground level</u>	<u>Street boundary building line</u>	<u>Common boundary building line</u>
A1	3.5	<u>100% coverage within 18m of street boundary;</u> <u>75% for the remainder of the site</u>	30m within 18m of street boundary; 25m for the remainder of the site	2m setback up to 3m height; 0m setback above 3m and up to 15m height; 4.5m above 15m	0m
B1			25m	2m setback up to 3m height;	
C1				1m setback above 3m and up to 15m height; 4.5m above 15m	
D1					

Table 26: floor factor, height, coverage and building lines in General Business Subzoning 4 in the Incentive Overlay Zoning

<u>Sub-area</u>	<u>Floor factor</u>	<u>Coverage</u>	<u>Maximum height above existing ground level</u>	<u>Street boundary building line</u>	<u>Common boundary building line</u>
A1	4	<u>100% coverage within 18m of street boundary;</u> <u>75% for the remainder of the site</u>	35m for 18m from street boundary. 25m for the remainder of the site	2m setback up to 3m height; 0m setback above 3m and up to 15m height; 4.5m above 15m	0m
B1			25m	2m setback up to 3m height; 1m setback above 3m and up to 15m height; 4.5m above 15m	
C1					
D1			35m for 18m from street boundary. 25m for the remainder of the site	2m setback up to 3m height; 0m setback above 3m and up to 15m height; 4.5m above 15m	

Table 27: floor factor, height, coverage and building lines in General Business Subzoning 5 in the Incentive Overlay Zoning

<u>Sub-area</u>	<u>Floor factor</u>	<u>Coverage</u>	<u>Maximum height above existing ground level</u>	<u>Street boundary building line</u>	<u>Common boundary building line</u>
A1	4	<u>100% coverage</u>	35m for 18m from street boundary. 25m for the remainder of the site	2m setback up to 3m height; 0m setback above 3m and up to 15m height; 4.5m above 15m	0m
B1			35m for 18m from street boundary. 30m for the remainder of the site		
B2			30m		
D1			35m for 18m from street boundary. 30m for the remainder of the site		

(6) Properties with a zoning of **Mixed Use Subzoning 2 (MU2)**, subject to the conditions in item 155—

(a) Floor factor

The maximum floor factor for all buildings on the land unit shall be determined in accordance with the following 'Table 28: floor factor, height, coverage and building lines in Mixed Use Subzoning 2' in the Incentive Overlay Zoning'.

(b) Height

(i) The maximum height of a building, measured from the existing ground level to the top of building, shall be determined in accordance with the following 'Table 28: floor factor, height, coverage and building lines in Mixed Use Subzoning 2' in the Incentive Overlay Zoning'.

(ii) Earth banks and retaining structures are subject to item 126.

(c) Coverage

The maximum coverage on the land unit shall be determined in accordance with the following 'Table 28: floor factor, height, coverage and building lines in Mixed Use Subzoning 2' in the Incentive Overlay Zoning'.

(d) Building lines

The street and common boundary building lines are determined in accordance with the area of the land unit as shown in the following 'Table 28: floor factor, height, coverage and building lines in Mixed Use Subzoning 2' in the Incentive Overlay Zoning' subject to the general building line encroachments in item 121.

(e) Parking

Minimum parking requirement for all uses is nil.

Table 28: floor factor, height, coverage and building lines in Mixed Use Subzoning 2 in the Incentive Overlay Zoning

<u>Sub-area</u>	<u>Floor factor</u>	<u>Coverage</u>	<u>Maximum height above existing ground level</u>	<u>Street boundary building line</u>	<u>Common boundary building line</u>
A1	4	100% coverage	35m within 18m of street boundary; 30m for the remainder of the site	2m setback up to 3m height; 0m setback above 3m and up to 15m height; 4,5m above 15m	0m up to 10m height along every common boundary; 4,5m above 10m along every common boundary

Part 2: Density Overlay Zoning (DO)
(items 157-158A)

The DO provides a mechanism for designating development density measures to land in order to establish development priorities and strategies as may be identified in the IDP or spatial plans approved by the City. The development density measures may include the setting of specific minimum or maximum development densities (e.g. erf sizes) given the availability of invested infrastructure or lack of available infrastructure, and may also include incentive measures to encourage and support development priorities and strategies.

157 General provisions: Density Overlay Zoning

This overlay zoning has no general provisions.

158 Specific provisions: Koeberg Restriction Area Overlay Zoning

(1) In this item:

- (a) 'Precautionary Action Zoning Zone (PAZ)' means land within a 5 km radius from a point defined by the co-ordinates X= 52727,4000 and Y= 3727966,6500 in WGS84 transverse Mercator projection;
- (b) 'Urgent Protective Action Zone (UPZ)' means land within a 16 km radius from a point defined by the co-ordinates X= 52727,4000 and Y= 3727966,6500 in WGS84 transverse Mercator projection, but excluding the Precautionary Action Zone (PAZ); and
- (c) 'development application' means any construction or utilisation of land or any application made to the City for increased use rights in terms of planning legislation or the zoning scheme regulations, other than that which is already permitted in terms of the development management scheme, and which either increases the transitory or permanent population within the Precautionary Action Zone (PAZ) or the Urgent Protective Action Zone (UPZ) and/or which might compromise the effective implementation of the Koeberg Nuclear Emergency Plan.

[Para. (c) substituted by s. 79 (a) of City of Cape Town: Municipal Planning Amendment By Law, 2019]

(2) In the Precautionary Action Zone (PAZ):

- (a) no development application shall be approved, except development by the Koeberg nuclear operator ancillary to the siting, design, construction, operation and decommissioning of the Koeberg Nuclear power station in terms of its operating licence;
- (b) provided land owners may, subject to obtaining the approval of the City, exercise increased use rights which will not result in any transitory or

permanent population growth and where the City is satisfied that the disaster management infrastructure necessary to ensure effective implementation of the approved traffic evacuation model and associated disaster risk management procedures, is adequate.

[Para. (b) substituted by s. 79 (b) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

(3) In the Urgent Protective Action Zone (UPZ):

- (a) a development application shall only be approved by the City where it is satisfied that the disaster management infrastructure necessary to ensure effective implementation of the approved traffic evacuation model and associated disaster risk management procedures, is adequate;

[Para. (a) substituted by s. 79 (c) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

- (b) provided land owners may, subject to obtaining the approval of the City, exercise increased use rights which will not result in any transitory or permanent population growth; and

[Para. (b) substituted by s. 79 (d) of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

- (c) provided in considering development applications for approval in terms of paragraph (a) above, regard shall be had to the following:
 - (i) estimated existing population and envisaged population growth in the UPZ as a result of the proposed development;
 - (ii) impact of envisaged population growth on the effective implementation of the Koeberg Nuclear Emergency Plan and the approved traffic evacuation model;
 - (iii) capacity of disaster management infrastructure to meet the requirements of the Koeberg Nuclear Emergency Plan in relation to the envisaged population growth; and
 - (iv) any other consideration considered relevant which has the potential to detrimentally impact upon the effective implementation of the Koeberg Nuclear Emergency Plan.

158 Specific provisions: Koeberg Restriction Area Overlay Zoning

(1) In this item, unless the context otherwise indicates—

- (a) '**0-5km Zone**' is the precautionary action zone and means land within a radius of 5km or less from the point defined by the co-ordinates X= -52727,4000 and Y= -3727966,6500 in the World Geodetic System WGS84 Universal Transverse Mercator coordinate system;
- (b) '**0-16km Zone**' is the emergency planning zone and means land within a radius of 16 km or less from the point defined by the co-ordinates X= -52727,4000 and Y= -3727966,6500 in the World Geodetic System WGS84 Universal Transverse Mercator coordinate system;
- (c) '**5-16km Zone**' is the urgent protective action planning zone and means land within radii of more than 5 and 16 km or less from the point defined by the co-ordinates X= -52727,4000 and Y= -3727966,6500 in the World Geodetic System WGS84 Universal Transverse Mercator coordinate system;
- (d) '**disaster management infrastructure**' means all resources, equipment, facilities and services necessary for the implementation of the Koeberg Nuclear Emergency Plan, including public communication, protection of the environment and property, transport, personnel, radiation monitoring, decontamination, mass case centres and medical care;
- (e) '**Eskom**' means Eskom Holdings SOC Ltd, being the holder of the nuclear authorisation for the Koeberg Nuclear Power Station;
- (f) '**evacuation time criteria**' mean—
 - (i) four hours from when an evacuation is ordered in the 0-5km Zone; and
 - (ii) sixteen hours from when an evacuation is ordered in the 5-16km Zone;

(g) '**Koeberg Nuclear Emergency Plan**' means the integrated nuclear emergency plan for Koeberg Nuclear Power Station designed to provide for on-and-off site measures necessary to respond to a nuclear or radiological emergency and approved by the Regulator in terms of section 38 of the National Nuclear Regulator Act;

(h) '**National Nuclear Regulator Act**' means the National Nuclear Regulator Act, 1999 (Act No. 47 of 1999);

(i) '**nuclear-related development**' means a land use which directly supports a function associated with the siting, design, construction, operation or decommissioning of a nuclear installation on the site of Koeberg Nuclear Power Station, Farm Duynefontyn 1552, in the magisterial district of Malmesbury in the Western Cape, for which an authorisation has been granted in terms of the National Nuclear Regulator Act;

(j) '**population**' means the total number of resident and non-resident individuals;

(k) '**Regulator**' means the National Nuclear Regulator established in terms of section 3 of the National Nuclear Regulator Act;

(l) '**traffic evacuation model**' means the road traffic assessment tool approved by the Regulator as part of the Koeberg Nuclear Emergency Plan.

(2) The City may not approve the subdivision of land within the 0-5km Zone if a subdivided portion is granted a use right which did not vest in the land before subdivision.

(3) In the 0-5km Zone—

- a second dwelling, third dwelling or affordable rental flat, which is an additional use right, is not permitted;
- the City may not approve an application in terms of this By-law if it will—
 - increase the population within the 0-5km Zone;
 - adversely affect the implementation of the Koeberg Nuclear Emergency Plan;
 - adversely affect compliance with evacuation time criteria; or
 - adversely affect a nuclear-related development.

(4) In the 5-16km Zone—

- a second dwelling, third dwelling or affordable rental flat, which is an additional use right, is deemed to be a consent use;
- in deciding an application in terms of this By-law, the City must consider the impact of the proposed use or development of land on—
 - population growth; and
 - implementation of the Koeberg Nuclear Emergency Plan.

(5) In the 0-16km Zone, the City may not approve an application in terms of this By-law if it will—

- result in the disaster management infrastructure lacking capacity to ensure effective implementation of the Koeberg Nuclear Emergency Plan;
- adversely affect compliance with evacuation time criteria; or
- adversely affect a nuclear-related development.

(6) The restrictions in this item do not apply to a nuclear-related development.

(7) The City must give the Regulator and Eskom notice in terms of section 87 of an application in terms of this By-law in the 0-16km Zone and consider any comment provided in accordance with that section.

(8) Only after consultation with the Minister contemplated in the National Nuclear Regulator Act, the Regulator and Eskom may the City—

- amend this item; or
- amend or deviate from the municipal spatial development framework or a district spatial development framework which concerns development in the 0-16 km Zone.

158A ...

[Item 158A inserted by s. 56 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2016]
[Item 158A deleted by s. 80 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]

Part 3: Scheduled Public Transport Accessibility Overlay Zoning (SPTAO)
(Items 158B-158DA)

[Heading substituted by s. 81 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]

158B Designated erven in the Scheduled Public Transport Accessibility Overlay Zoning

High intensity residential land units and low intensity residential land units as depicted on the scheduled public transport accessibility map and as designated to have this overlay zoning are subject to items 158C, 158D and 158DA.

[Item 158B inserted by s. 56 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2016]
[Item 158B substituted by s. 81 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]

158C Use of property: Scheduled Public Transport Accessibility Overlay Zoning

(1) High intensity residential land units have the following additional use rights, in addition to the additional use rights listed in the respective base zonings, and subject to the development rules in the base zoning and item 158C:—

- (a) land units with a zoning of Single Residential 1 and 2 - office, guest house, restaurant, service trade and place of instruction; and
- (b) land units with a zoning of Single Residential 1 - business premises.

(2) Low intensity residential land units have the following additional use rights, in addition to the additional use rights listed in the respective base zonings, and subject to the development rules in the base zoning and item 158C:—

- (a) land units with a zoning of Single Residential 1 and 2 - office, guest house, place of instruction and service trade; and
- (b) land units with a zoning of Single Residential 1 - house shop.

[Item 158C inserted by s. 56 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2016]
[Item 158C substituted by s. 81 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]

158D Development rules: Scheduled Public Transport Accessibility Overlay Zoning

(1) The following development rules are applicable to high intensity residential land units:—

- (a) Land units with a zoning of Single Residential 1:—
 - (i) floor factor of 1.5 on land units up to 350m^2 in area;
 - (ii) floor factor of 2 on land units greater than 350m^2 up to 650m^2 in area; and
 - (iii) 1,0 m street boundary building line, for land units up to 650m^2 in area.
- (b) Land units with a zoning of Single Residential 2:—
 - (i) floor factor of 1.5 on all land units.

(2) The following conditions apply to the respective additional use rights on high intensity residential land units, in addition to the respective conditions listed in items 21(b)(i),(iii),(iv) and (v) and 26(b) (ii), (iii), (iv) and (v):—

- (a) Office, guest house and restaurant
 - At least one dwelling unit used for permanent accommodation of a single family must exist on the property.
- (b) Service trade
 - (i) At least one dwelling unit used for permanent accommodation of a single family must exist on the property;

- (ii) The extent and position of the service trade shall be clearly defined on a site development plan to be approved by the City and the floor space thereof shall not exceed 40% of the size of the land unit;
- (iii) No more than six persons in total shall be engaged in activities linked to the service trade on the property, excluding public visitors and clients;
- (iv) The hours of operation shall not extend beyond 08:00 to 18:00 on Mondays to Fridays;
- (v) A builder's yard and allied trades, recycling centre, spray-paint centre, fitment centre for tyres, shock absorbers or exhausts, and similar types of uses are not permitted;
- (vi) Service trade activities are only permitted on the ground floor of a building;
- (vii) The service trade is subject to the relevant City department permitting direct access from a public street; and
- (viii) The City may, at any stage, by written notice call for a cessation of the land use or activity, or impose conditions in order to minimise any potential nuisance to surrounding neighbours or the general public.

| (c) Place of instruction

| The following conditions apply:

- (i) At least one dwelling unit used for permanent accommodation of a single family must exist on the property;
- (ii) The extent and position of the place of instruction shall be clearly defined on a plan to be approved by the City and the floor space thereof shall not exceed 40% of the size of the land unit;
- (iii) No more than 35 persons in total shall be enrolled or involved in a place of instruction on the property, which include students, children; trainees, trainers and educators;
- (iv) The hours of operation shall not extend beyond 07:00 to 18:00 on Mondays to Fridays; and
- (v) The City may, at any stage, by written notice call for a cessation of the land use or activity, or impose conditions in order to minimise any potential nuisance to surrounding neighbours or the general public.

| (d) Business premises

| The following conditions apply to a business premises, other than a restaurant, office or service trade:

- (i) At least one dwelling unit used for permanent accommodation of a single family must exist on the property;
- (ii) The extent and position of the business premises shall be clearly defined on a plan to be approved by the City and the floor space thereof shall not exceed 40% of the size of the land unit;
- (iii) No more than ten persons shall be employed in activities linked to the business premises on the property, excluding public visitors and clients;
- (iv) The hours of operation shall not extend beyond 08:00 to 18:00 on Mondays to Fridays;
- (v) Business premises activities are only allowed from the ground floor of a building;
- (vi) A builder's yard and associated trades, recycling centre, spray-paint centre, fitment centre for tyres, shock absorbers or exhausts, and similar types of uses are not allowed as part of the business premises;
- (vii) The business premises is subject to the relevant City department permitting direct access from a public street; and
- (viii) The City may, at any stage, by written notice call for a cessation of the land use or activity, or impose conditions in order to minimise any potential nuisance to surrounding neighbours or the general public.

(3) The following conditions apply to the respective additional use rights on low intensity residential land units, in addition to the conditions listed in items 21(b)(i), (iii), (iv) and (v) and 26(b) (ii), (iii), (iv) and (v):—

(a) Office and guest house

At least one dwelling unit used for permanent accommodation of a single family must exist on the property.

(b) Place of instruction

- (i) At least one dwelling unit used for permanent accommodation of a single family must exist on the property;
- (ii) The extent and position of the place of instruction shall be clearly defined on a plan to be approved by the City and the floor space thereof shall not exceed 25% of the size of the land unit;
- (iii) No more than 15 persons in total shall be enrolled or involved in a place of instruction on the property, which include students, children; trainees, trainers and educators;
- (iv) The hours of operation shall not extend beyond 07:00 to 18:00 on Mondays to Fridays; and
- (v) The City may, at any stage, by written notice call for a cessation of the land use or activity, or impose conditions in order to minimise any potential nuisance to surrounding neighbours or the general public.

(c) Service trade

- (i) At least one dwelling unit used for permanent accommodation of a single family must exist on the property;
- (ii) The extent and position of the service trade shall be clearly defined on a plan to be approved by the City and the floor space thereof shall not exceed 25% of the size of the land unit;
- (iii) No more than three persons in total shall be engaged in activities linked to the service trade on the property, excluding public visitors and clients;
- (iv) The hours of operation shall not extend beyond 09:00 to 17:00 on Mondays to Fridays;
- (v) A builder's yard and allied trades, recycling centre, spray-paint centre, fitment centre for tyres, shock absorbers or exhausts, and similar types of uses are not allowed;
- (vi) Service trade activities are only allowed from the ground floor of a building;
- (vii) The service trade is subject to the relevant City department permitting direct access from a public street; and
- (viii) The City may, at any stage, by written notice call for a cessation of the land use or activity, or impose conditions in order to minimise any potential nuisance to surrounding neighbours or the general public.

(d) House shop

The conditions listed in item 28 apply.

(4) Any development rule contained in the public transport accessibility overlay zoning that exceeds the limitations of a base zoning shall be deemed to be an approved departure from the provisions of the base zoning.

[Item 158D inserted by s. 56 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2016]

[Item 158D substituted by s. 81 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

158DA General provisions: Scheduled Public Transport Accessibility Overlay Zoning

The following provisions apply:—

- (a) The City's municipal services departments must certify that capacity is available on the services network for the additional use rights listed in item 158B.
- (b) The City may approve a scheduled public transport accessibility map which indicates high and low intensity residential land units.

[Item 158DA inserted by s. 82 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

Part 4: Extensive Residential Use Overlay Zoning
(Items 158E-158F)

158E General provisions: Extensive Residential Use Overlay Zoning

Use of property

- (a1) Primary uses are dwelling house and private road.
- (b2) Additional use rights are second dwelling, subject to item 25A.
[Sub-item (2) substituted by s. 83 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]
- (c3) Consent uses are home occupation, bed and breakfast establishment, home ~~child care~~childcare, utility service, place of instruction, place of worship, house shop, institution, guest house, rooftop base telecommunication station, wind turbine infrastructure, open space, urban agriculture and halfway house.
[Item 158E inserted by s. 56 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2016]

158F Specific provisions: Extensive Residential Use Overlay Zoning

- (1) No subdivision of land shall be permitted with an erf size of less than 4000 square metres.

[Item 158F inserted by s. 56 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2016]

CHAPTER 20: OVERLAY ZONINGS FOR SPECIFIC MANAGEMENT MECHANISMS
(items 159-191)

These overlay zonings provide mechanisms for designating either city-wide or localised development management rules to deal with specific concerns, over and above the provisions of a base zoning. These overlay zonings should be applied to promote the City's planning principles, goals, objectives and strategies as may be identified in the approved Integrated Development Plan, ~~Integrated Metropolitan Environmental Policy~~ strategies, or spatial plans.

Part 1: Heritage Protection Overlay Zoning (HPO)
(items 159-164)

The HPO makes provision for the protection of heritage places entered on the heritage register maintained by the provincial heritage resources authority, and for the protection of heritage areas as provided for in terms of the National Heritage Resources Act. It also provides a mechanism for the protection of heritage places the City considers to be conservation-worthy in terms of its heritage strategies. The HPO enables the designation of such heritage places and heritage areas on the zoning map. The HPO also provides for the City to apply section 38(8) of the National Heritage Resources Act within the HPO.

159 Deemed Heritage Protection Overlay Zones

The following heritage places are deemed to have Heritage Protection Overlay zonings and shall be subject to the provisions of this overlay zoning:

- (a) any heritage place that has been entered into the register of heritage resources maintained by the provincial heritage resources authority in accordance with the National Heritage Resources Act;
- (b) any heritage place that has been designated a heritage area in accordance with the National Heritage Resources Act; and

160 Use of the property: Heritage Protection Overlay Zoning

The following land use restrictions apply to property in this zoning:

- (a) Primary uses are as stipulated in the base zoning.
- (b) Additional use rights are as stipulated in the base zoning.

- (c) Consent uses are as stipulated in the base zoning, or any use approved by the City as an incentive in terms of item 161(1).
- (d) Any use approved by the City as an incentive in terms of item 161(1).

161 Development rules: Heritage Protection Overlay Zoning

- (1) The City may approve any use as a consent use in this overlay zoning provided that:
 - (a) such use is consistent with the uses determined to be appropriate in terms of a City approved Heritage Management plan, in order to provide the owner with an incentive to preserve the heritage resource, and
 - (b) the City may require cessation of the consent use right if the heritage place protected in terms of the Heritage Protection Overlay zoning is not maintained and protected to the requirements stipulated in the City's approved Heritage Management plan for the property, or as agreed between the City and the owner, in which case section 127 of this ~~By Law~~~~By-law~~ applies.
- (2) Any additional development rules in terms of an approved Heritage Protection Overlay zoning that exceed, or are more restrictive than, the limitations of a base zoning, shall be are deemed to be approved departures from the provisions of the base zoning.

162 General provisions: Heritage Protection Overlay Zoning

- (1) Unless exempted, the following activities affecting a place or an area protected as a Heritage Protection Overlay zone require the approval of the City:
 - (a) any alteration, including any action affecting the structure, appearance or physical properties of a heritage place, whether by way of structural or other works, by painting, plastering or other decoration or any other means;
 - (b) any development, including any physical intervention, excavation, or action other than those caused by natural forces, which may in any way result in a change to the appearance or physical nature of a heritage place, or influence its stability and future well-being, including—
 - (i) construction, alteration, demolition, removal or change of use of a heritage place or a structure at a heritage place;
 - (ii) carrying out any works on or over or under a heritage place;
 - (iii) subdivision or consolidation of land comprising a heritage place, including the structures or airspace of a heritage place;
 - (iv) any change to the natural or existing condition or topography of land; and
 - (v) any permanent removal or destruction of trees (unless the City is satisfied, after an inspection or based on objective evidence, that a tree is infested to cause damage or disease to other trees), or removal of vegetation or topsoil;
 - (c) addition of any new structure;
 - (d) partial demolition of a structure;
 - (e) alteration to or removal of any historical landscape or any landscape feature, including boundary hedges and mature plantings; or addition or removal of or alteration to hard landscape surfaces, street furniture or signage;
 - (f) any below-ground excavation.
- (2) The City may exempt a specific activity or schedule of activities in a geographic area which has been protected as a heritage protection overlay zone from the requirements of sub-item (1).

163 Specific provisions: Heritage Protection Overlay Zoning

- (1) The City may apply specific provisions to a heritage place or heritage area protected as a under the Heritage Protection Overlay zone zoning, which may be in addition or alternative to the general provisions in item 162, provided it relates to land use and development rules.

[Sub-item (1) substituted by s. 84 of City of Cape Town: Municipal Planning Amendment ~~By Law~~~~By-law~~, 2019]

(2) The City must consult the owner or owners of the heritage place or area before introducing specific provisions in respect of the place or area protected ~~as a heritage protection overlay zone under the Heritage Protection Overlay Zoning~~.

164 Consideration of applications

(1) In respect of an application for approval for an activity referred to in items 162 or 163, the City may require from an applicant whatever information it deems necessary, in addition to what is the standard requirements for submitting an application, to enable an informed decision to be made regarding the application, which may, inter alia, include:

- (a) details of the activities for which an application is made;
- (b) a statement of significance or a heritage statement, heritage report or heritage impact assessment;
- (c) a statement of conservation policy in respect of the work proposed to be carried out;
- (cA) a detailed methodology of work;
- (d) an annotated recording of the heritage place or parts of the heritage place to be affected by the actions;
- (e) heritage and historical research; and
- (f) photographs.

(2) In considering an application referred to in item 162(1), the City must take into account the effect such activity may have on the significance of the heritage place or heritage area concerned.

(3) In approving an application referred to in item 162(1), the City may impose any conditions it believes appropriate for the protection and enhancement of the heritage place or area, including inter alia conditions regarding:

- (a) requirements for landscaping;
- (b) use of materials and finishes;
- (c) heritage management plans;
- (d) recycling or reuse of materials;
- (e) method statements;
- (f) timescales within which work approved must be in place or be completed;
- (g) architectural form and treatment; and
- (h) development rules applicable to the land unit.

[Sub-item (3) substituted by s. 85 of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

(4) Approval for an activity in a heritage protection overlay zone as referred to in item 162(1) does not exempt an applicant or owner from obtaining other required approvals.

Part 2: Environmental Management Overlay Zoning (EMO) (items 165-168)

The EMO makes provision for the protection and management of the special natural and environmental characteristics of environmentally-sensitive places and areas, or those that are worthy of protection in accordance with the City's environmental management frameworks, in order to ensure that development responds sensitively to these characteristics, that impacts are mitigated, and to promote sustainable development for the benefit of the general public, including tourists. The EMO also enables the designation of such environmentally-sensitive places or areas on the zoning map.

165 Development rules: Environmental Management Overlay Zoning

The City may approve any appropriate use as a consent use in terms of this overlay zoning provided that:

- (a) it considers such use to be desirable or justified in order to provide the owner with an incentive to preserve the environmental resource, and

| (b) the City may require cessation of the consent use right if the environmental resource is not properly maintained and protected to the City's satisfaction, in which case section 127 of this By LawBy-law will apply.

166 General provisions: Environmental Management Overlay Zoning

(1) Unless exempted, the following activities affecting the area protected by an Environmental Management Overlay zoning require the approval of the City:—

- (a) any change in land use resulting from an application in terms of this By LawBy-law;
- (b) any subdivision;
- (c) addition of any new structure requiring building plan approval in terms of the National Building Act;
- (d) removal of indigenous vegetation or site clearing, or felling, lopping, topping or otherwise damaging any tree that is either more than 6 m in height or more than 500 mm in diameter, other than for the removal of dangerous branches or bona fide pruning; and
- (e) any below-ground excavation, or change to watercourses.

| (2) Activities exempt from approval as referred to in sub-item (1) include the following:—

- (a) clearing of invasive alien plant infestations;
- (b) routine building maintenance and repairs; and
- (c) any other activity specifically exempted by the City.

(3) In addition to sub-item (2), the City may exempt from the requirements of sub-item (1) any other activity or schedule of activities in a geographic area which has been protected as an Environmental Management Overlay zone.

167 Specific provisions: Environmental Management Overlay Zoning

(1) The City may apply specific provisions in an environmental management overlay zone, which may be in addition or alternative to the general provisions in item 166, provided it relates to land use and development rules.

| [Sub-item (1) substituted by s. 86 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]

(2) The City must consult the owner or owners of the land or area affected by the environmental management overlay zone before introducing specific provisions of an Environmental Management Overlay zoning.

168 Consideration of applications

(1) In respect of an application for approval of an activity referred to in item 166(1), the City may require from an applicant whatever information it deems necessary to enable an informed decision to be made regarding the application, which may, *inter alia*, include:—

- (a) statements of significance;
- (b) environmental, botanical or other audit or research information; and
- (c) photographs.

(2) In approving an application referred to in item 166(1), the City may impose any condition it believes appropriate for the protection and enhancement of the area protected by the Environmental Management Overlay zoning, including *inter alia* conditions regarding:—

- (a) requirements for landscaping;
- (b) use of materials and finishes;
- (c) environmental site- and activity-management plans;
- (d) recycling or reuse of materials; and
- (e) method statements.

(3) Approval for an activity in an environmental management overlay zone as referred to in item 166(1) does not exempt an applicant or owner from obtaining other required approvals.

Part 3: Urban Edge Overlay Zoning (UEO)
(items 169-170)

The UEO zoning guides development at the urban edge area in order to achieve a sensitive transition between urban and rural or conservation areas, to contain urban sprawl and to protect valuable natural and agricultural resources adjacent to urban development.

169 Development rules: Urban Edge Overlay Zoning

This overlay zoning has no general provisions.

170 Specific provisions: Urban Edge Overlay Zoning

This overlay zoning has no specific provisions.

Part 4: Scenic Drive Overlay Zoning (SDO)
(items 171-172)

The SDO zoning protects the natural and cultural landscape along important tourist and transport routes, to enhance the scenic experience of travellers and promote the tourism potential of the city.

171 General provisions: Scenic Drive Overlay Zoning

(1) Save as provided for in sub-item (3), nothing shall be built, constructed, erected, fixed or placed, whether permanently or temporarily, on land which:—

- (a) abuts the lower side of a scenic drive; or
- (b) abuts any land (including any street) owned by or vesting in the City which abuts the lower side of a scenic drive

so as to project above the level of the nearest point on the abutting pedestrian footway of such scenic drive; or, where no such footway exists, the highest point of the abutting road surface.

(2) Any vehicle parking area on land referred to in sub-items (1)(a) or (1)(b) shall have a floor or ground level that is 2 m or more below the level of the nearest point on the pedestrian footway of the scenic drive; or, where no such footway exists, the highest point of the abutting road surface.

(3) Fencing, railings, gates and similar structures which:—

- (a) do not exceed a maximum height at any point of 1,2 m above the nearest point on the pedestrian footway of such scenic drive, or where no such footway exists, the highest point of the abutting road surface; or
- (b) have a visually permeable design to the satisfaction of the City

may, in accordance with plans approved by the City, be erected above the level of the nearest point on the pedestrian footway of such scenic drive; or, where no such footway exists, the highest point of the abutting road surface.

172 Specific provision: Victoria Road, Clifton

No building shall be erected on any site abutting Victoria Road, Clifton, on the upper side of the street, if such building would be more than 13 m above the street level of Victoria Road at points opposite such building.

Part 5: Local Area Overlay Zoning (LAO)
(items 173-191)

The LAO zoning provides opportunities for the City to apply specific local development rules that reflect local circumstances. The LAO zoning can provide the City with mechanisms to determine local provisions for encouraging development in support of the local economy, or special management provisions to encourage appropriate development in response to local, cultural, urban design or landscape circumstances. It is important to recognise that the LAO zoning is a tool to be applied by the City in the interests of the city, and local interests needs to be balanced against the interests of the general community.

173 General provisions: Local Area Overlay Zoning

This overlay zoning has no general provisions.

174 Specific provisions: Strand Beachfront Local Area (LAO/1)

- (1) The area depicted on Plan LAO/1 is subject to the provisions in this item.
- (2) Prior to the consideration of any application in terms of this By LawBy-law or the National Building Act:
 - (a) the applicant shall furnish the City with a land surveyor's certificate identifying where any predicted rise in sea level will affect the property; and
 - (b) in response to a predicted rise in sea level, the City may require that:
 - (i) a particular street or common boundary building line shall be complied with; or that
 - (ii) the finished floor level of a building shall be raised.
- (3) On request by the applicant, the City shall make available any relevant information it has in order to enable compliance with sub-item (2).

175 Specific provisions: Gordon's Bay Local Area (LAO/10)

- (1) The area depicted on Plan LAO/10 is subject to the provisions in this item.
- (2) No building on a property zoned SR1 situated below a road shall exceed 4 m above the highest point of the abutting road surface to the top of the roof of such building.
- (3) No building on a property zoned SR1 situated above a road shall exceed a height of 4 m above the highest point of the land along its common boundary.
- (4) Where a property is bordered by a road on more than one side or where both sides of the road are on the same contour level, the City will determine if sub-items (2) or (3) or only the restrictions in the base zoning shall apply.
- (5) The above restrictions apply only where they are more restrictive than the development rules set out in the base zoning.

176 Specific provisions: Harfield Village Local Area (LAO/2)

- (1) The area depicted on Plan LAO/2 is subject to the provisions in this item.
- (2) In this item:
 - (a) '**dormer**' means an upright window under a gable, built out from a sloping roof;
 - (b) '**facade**' means a main containing wall of a building, other than a wall of an internal courtyard; and
 - (c) '**street boundary wall**' or '**fence**' means any structure erected on or near a street boundary for the purposes of defining such boundary; but shall exclude planting such as a hedge along the boundary or on the structure concerned, or an outbuilding.
- (3) The maximum height of a building, measured from existing ground level to the ~~wallplate, shall be 6 m, and to the top of the roof building~~ shall be 8 m.

[Sub-item (3) substituted by s. 87 (a) of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2019]

(4) All roofs in new developments shall be double-pitched, with slopes of between 35° and 42°. All roofs for new buildings or portions of new buildings shall be double-pitched, with slopes of between 35° and 42°.

(5) No point on any building shall be erected nearer than 1 m to any street boundary.

(6) The common boundary setbacks specified in this development management scheme shall apply to all dwelling houses, second dwellings, third dwellings, group housing, blocks of flats, residential buildings, or outbuildings to any of the foregoing.

[Sub-item (6) substituted by s. 87 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

(7) The coverage provisions of this development management scheme shall apply to all dwelling houses, second dwellings, third dwellings, group housing and blocks of flats or outbuildings on any site smaller than 350 m². Permitted coverage on sites greater than 350 m² in extent for all of the above buildings shall be 65%.

[Sub-item (7) substituted by s. 87 (c) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

(8) Any proposed parking or garaging areas and the access thereto shall be shown on building plans submitted to the City, which shall have the right to approve or refuse such plans. These parking and garaging areas shall:

- (a) not be located forward of the front facade of the main dwelling on a land unit;
- (b) be subsidiary to the main dwelling, with frontages not exceeding 3 m in width;
- (c) have a height not exceeding 3,3 m or the eaves line of the main building, whichever is the lowest; and
- (d) no double garage doors shall be permitted.

(9) No person shall erect any street boundary wall or fence without the prior approval of the City, and such street boundary wall or fence shall be in accordance with the following provisions:

- (a) the height of a visually impermeable street boundary wall or fence, including a solid masonry wall, shall not exceed 1,5 m;
- (b) masonry piers, or visually permeable wooden slats, railings or similar structures, shall not exceed 2,1 m in height, provided that the City shall have the right to demand a height of less than 2,1 m where, in the opinion of the City, such lesser height is required for reasons of aesthetics, safety or the public good;
- (c) for the purposes of paragraphs (a) and (b), the height of such street boundary wall or fence shall be measured from the level of the footway immediately adjacent to such wall or fence.

(10) No person shall fell, uproot or cause to destroy a mature tree or hedge without the prior approval of the City.

177 Specific provisions: Constantia – Tokai Local Area (LAO/3)

(1) The area depicted on Plan LAO/3 is subject to the provisions in this item.

(2) No subdivision of land zoned Single Residential Zoning 1 (SR1) shall be permitted with an erf size of less than the minimum erf size specified in Plan LAO/3, unless the City grants a departure from this provision after considering all relevant considerations, including:

- (a) the impact of the subdivision on the character of the area;
- (b) the principle of spatial justice, including improving access to and use of land;
- (c) the principle of spatial sustainability, including limiting urban sprawl; and
- (d) the principle of efficiency whereby land development optimises the use of existing resources and infrastructure.

(3) Item 150(7) applies. Section 142(10)(b) governs the insertion of this sub-item by the City of Cape Town: Municipal Planning Amendment By-law, 2025.

178 Specific provisions: St James – Clovelly Local Area (LAO/6)

(1) The area depicted on Plan LAO/6 is subject to the provisions in this item.

(2) No building erected on any land unit within the area shall have more than two storeys in height.

(3) The permissible floor factor within any local or general business zone in the area is 0,8.

(4) With the exception of the properties known as 'Chartfield Private Hotel', 'Strathmore Private Hotel' and 'Sea Breezes', it shall be permissible to erect a hotel on the site of any existing hotel within the portion of the area so described and specified on Plan LAO/6, notwithstanding that such site falls within ~~Single Residential Zoning 1 (SR1)(R1)~~ zoning.

(5) Where a hotel is erected in accordance with the provisions of sub-item (4), the following provisions shall apply:

- (a) the land unit of such hotel shall, subject to the provisions of sub-items (2) and (3), be deemed to be subject to the same development rules that apply to General Residential Zoning: Subzoning 4 (GR4).
- (b) Land not forming part of such land unit, but which adjoins it, may be added to such land unit, and any land so added shall be deemed to be part of such land unit;

| (6) The following provisos apply to sub-item (5)(b):

- (a) no land shall be added if
 - (i) the actual floor space of the existing hotel on the existing land unit is less than the permissible floor space for such land unit; and
 - (ii) the existing land unit is large enough to enable the provision of sufficient uncovered parking area as prescribed in Chapter 15 that applies to a hotel;
- (b) no more land shall be so added than the minimum amount required to enable
 - (i) the permissible floor space on such land unit to equal the actual floor space of the existing hotel; and
 - (ii) sufficient parking area as aforesaid to be provided;
- (c) for the purposes of paragraphs (a) and (b), 'hotel' includes all outbuildings to an hotel.

179 Specific provisions: Land Above Boyes Drive, Kalk Bay (LAO/7)

(1) The area depicted on Plan LAO/7 is subject to the provisions in this item.

(2) Within the area depicted on Plan LAO/7, no building shall be erected on any land unit and no land unit shall be subdivided unless:

- (a) the owner of such land unit has satisfied the City that such erection or subdivision is desirable, that a satisfactory road system in accordance with the City's standards for the provision of services is possible, and that the cost of providing and maintaining essential services will not be excessive; or
- (b) it is proposed to erect a building on a land unit abutting Boyes Drive, in which event such land unit shall be deemed to be subject to the provisions of ~~Single Residential Zoning 1: Conventional Housing (SR1)(R1)~~ zoning.

180 Specific provisions: Marina Da Gama Extensions 1, 2 & 4 (LAO/8)

(1) The area depicted on Plan LAO/8 is subject to the provisions in this item.

(2) In this item, '**Marina da Gama Home Owners' association**' (formerly known as the Eastlake Association) means an association composed of the owners of properties in Marina da Gama Extensions 1, 2 and 4 in terms of the conditions of title applicable to such properties.

(3) The following special provisions shall apply to Marina Da Gama Extensions 1, 2 and 4:

- (a) Before any building may be erected, the person intending to erect such building shall submit to the City building plans drawn in accordance with the National Building Act showing the immediate intended development and the total

ultimate intended development of the land unit on which such building is to be erected.

- (b) Such building plans shall show the nature and colours of all roof coverings, the nature, colours and finishes of all external walls of buildings, free-standing walls and fences, and the positions of all proposed fences, drainage channels, drains and other structures (not being buildings) in relation to the boundaries of the land unit on which the building is to be erected.
- (c) Such building plans shall, prior to their submission to the City, be submitted to the Marina da Gama Home Owners' association for comment, which association shall furnish its comments to the City in writing within 30 days, failing which the City shall accept the plans for consideration.
- (d) Before deciding the application, the City shall consider any comments of the Marina da Gama Home Owners' association relating to such building plan, which comments must be made in writing and be submitted to the City with such building plan application.
- (e) Except with the written approval of the City, no alteration, addition, rebuilding, renovation, renewal, erection of fences, or other work (other than work within a building), and no deviation from or change in the colours of the exterior fabric of any building or of any free-standing wall or fence shown on the approved building plans shall be undertaken or made.
- (f) In addition to paragraphs (a) to (e), the following provisions shall apply to the area:
 - (i) A building which is a group house or a group of dwelling houses may exceed two storeys in height but shall not exceed three storeys in height; and
 - (ii) Parking and garaging areas for business-zoned properties shall be provided on the land unit of every building in accordance with the provisions of Chapter 15 of this development management scheme; provided that, notwithstanding the provisions of said Chapter, there shall be provided on every such land unit a parking area comprising not less than
 - (aa) one bay for every 20 m^2 of actual floor space of all shops erected thereon; and
 - (bb) one bay for every 30 m^2 of actual floor space of all business buildings erected thereon.

181 Specific provisions: Hout Bay Local Area (LAO/11)

- (1) The area depicted on Plan LAO/11 is subject to the provisions in this item.
- (2) No subdivision of land that is zoned Single Residential Zoning 1 SR1-(R1) shall be permitted with an erf size of less than the minimum erf size specified in Plan LAO/11.

182 Specific provisions: Noordhoek Local Area (LAO/12)

- (1) The area depicted on Plan LAO/12 is subject to the provisions in this item.
- (2) No subdivision of land that is zoned Single Residential Zoning 1 SR1-(R1) shall be permitted with an erf size of less than the minimum erf size specified in Plan LAO/12.

183 Specific provisions: Muizenberg Local Area (LOA/13)

- (1) The area depicted on Plan LAO/13(i) is subject to the provisions in this item.
- (2) All properties situated within this area and zoned Single Residential Zoning 1 (SR1)-(R1) have the additional use right of a second dwelling, subject to the conditions listed in item 5325A of the development management scheme.

184 Specific provisions: Llandudno Local Area (LAO/14)

- (1) The area depicted on Plan LAO/14 is subject to the provisions in this item.
- (2) For the purposes of determining existing ground level for determining the height limitation in sub-item (3), the topographical maps issued by the former Divisional Council of the Cape in May 1981, being sheets 6064A, 6064B, 6164B and 6165A, will be used. In case of any dispute, the City shall determine the existing ground level for the purposes of administering the development management scheme.
- (3) No part of any building or structure on a property zoned Single-Residential Zoning 1 (SR1)(R1) shall be built higher than 8 m above any point on the existing ground level, as determined in sub-item (2). Item 22(C) is not applicable.
- (4) Notwithstanding sub-item (3), portions of double pitched roofs above a level halfway between the eaves and the top of the roof shall not be included in the determination of height, provided that the pitch of the roof exceeds 20°.

185 Specific provisions: whole of the Cape Town CBD Area (LAO/4)

- (1) The area depicted on Plan LAO/4 is referred to as the Cape Town CBD area and is subject to the provisions in this item.
- (2) The following provisions apply to the whole of the Cape Town CBD area, as depicted on Plan LAO/4:
 - (a) except in the case of service stations, the provisions of items 137, 138, 139, 142, 143 and 144 of the development management scheme (relating to parking and loading requirements) do not apply;
 - (b) notwithstanding the provisions of the development management scheme relating to floor factor, land that is zoned GB7:
 - (i) shall be subject to the floor factor specified on Plan LAO/4 for the land unit concerned, unless there is no such specification, in which case the provisions of the development management scheme shall apply.

[Para. (b) substituted by s. 88 (a) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (bA) Notwithstanding the provisions of the development management scheme relating to floor factor, land that is zoned MU3:
 - (i) shall be subject to the floor factor specified on Plan LAO/4 for the land unit concerned, unless there is no such specification, in which case the provisions of the development management scheme shall apply; and
 - (ii) the floor factor may be increased by 30%, provided at least 30% of the building floor space remains in use as flats.

[Para. (bA) inserted by s. 88 (b) of City of Cape Town: Municipal Planning Amendment By-LawBy-law, 2019]

- (c) notwithstanding the provisions of the development management scheme relating to height and building lines, land zoned MU3 with a floor factor of 6,8 or more shall be subject to the same height and building line requirements as for GB7;
 - (d) where it is proposed to erect a hotel that contains at least 30 guest bedrooms:
 - (i) the following portions of such hotel shall be disregarded when calculating the total floor space of the building:
 - (aa) rooms used by residents and guests as dining rooms, banqueting rooms, bars, restaurants, ballrooms, games and sports rooms, lounges, sitting rooms, reading rooms, writing rooms and conference rooms;
 - (bb) public foyers and areas comprising public or communal stoeps, verandahs, balconies, terraces or sun decks used by hotel residents or guests;
 - (cc) barber shops, hairdressing salons, florists and similar shops within the hotel for the exclusive use of hotel residents;

- (dd) offices forming part of the hotel premises, used solely for the administration or management of the hotel;
- (ee) kitchens, sculleries, laundries and similar service facilities forming part of the hotel premises;
- (ff) storerooms ancillary to the hotel;
- (gg) staff quarters ancillary to the hotel, including corridors, stairs and other means of access within such staff quarters, appurtenant kitchens, dining rooms, recreation rooms, laundries and other such rooms for the exclusive use of staff;
- (ii) Any rooms which are not specifically referred to in sub-paragraph (i) shall be included in the floor space calculation of the building; and
- (iii) If, in the opinion of the City, a room is primarily for the use of persons other than hotel residents, staff or visitors, such room shall also be included in the floor space calculation of the building, notwithstanding that it may be referred to in sub-paragraph (i).
- (e) The street centreline setback shall not apply to land zoned General Business, General Residential or Mixed Use.
- (f) Except with the approval of the City, no parking bays at ground floor (first storey) or second storey level on the land unit, either outside or within a building, shall be located closer than 10 m to the street boundary, in order to enhance amenity at street level.

186 Specific provisions: St Georges Street subarea

(1) The provisions in this item apply to the subarea of St Georges Street as depicted on Plan LAO/4(i)-(iii).

(2) Where it is proposed to erect a building or portion of a building, the owner shall submit to the City, for its approval, a context plan with drawings depicting:

- (a) detailed elevations of all street facades, including all fenestration, balconies, colonnades, canopies, signage and embellishments, the materials to be used, and the colour, finish and texture of such materials; and
- (b) the relationship between the building concerned and adjacent buildings or portions thereof in regard to facade decoration, the articulation of vertical and horizontal elements, street wall height and massing.

(3) Except with the approval of the City, glass commonly known as 'reflecting glass' shall not be used in the facade of any building.

(4) The use of the ground storey portion of a building which is located within 10 m of any street boundary shall not be altered, irrespective of whether such alteration involves the erection of a building, unless:

- (a) a site development plan has been submitted indicating the purpose for which it is proposed to use such portion, the layout of the pedestrian areas therein and points of access thereto; and
- (b) the City has approved such site development plan.

(5) Except with the approval of the City, any new building fronting onto a street shall include a projection over the street, comprising a colonnade, canopy, balcony, awning or similar overhead weather protection structure, to the satisfaction of the City.

(6) Except with the approval of the City, at least 75% of the width of any new building fronting onto a street shall be erected directly on such street boundary up to a height of 25 m above the mean street level at such boundary.

(7) Notwithstanding the provisions of the development management scheme relating to building lines, no point on any building shall project beyond an imaginary plane extending back at an angle of 50° from an imaginary horizontal line above the St Georges Street boundary, which line shall be 25 m above the mean level of the street edge at that boundary.

187 Specific provisions: Roggebaai subarea

(1) The provisions in this item apply to the subarea of Roggebaai as depicted on Plan LAO/4.

(2) For the purpose of this item, the following definitions apply:

- (fa) 'building restriction line' means a line on Plan LAO/4 indicating an internal boundary between two or more portions of an erf to which different height provisions apply; and
- (ab) 'facade' of a building or portion of a building means a main containing wall of such building or portion, other than a wall to an internal courtyard, exclusive of any projections over the street;
- (bc) 'fixed height' of a facade of a building means a precise height, which must be reached and not exceeded, of all points at the top of such facade;
- (ed) 'height' in relation to a building means the height above a datum line of 4,57 m above the low water mark at ordinary spring tide in Table Bay, or the equivalent 3,89 m above mean sea level based on the height beacon established in Roggebaai by the City, and 'fixed height' has a corresponding meaning;
- (gd) 'height zone' means that portion of an erf bounded by building restriction lines or site boundaries, or both, to which a particular fixed height is applicable.
- (e) 'parapet' means a low projection, wall or moulding which finishes the uppermost edge of a building with a flat or low pitched roof;
- (ef) 'roof storey' means an additional storey which may be permitted above the fixed height of a facade, subject to the conditions as set out hereunder; and
- (dg) 'top' of a facade means the top edge of a fascia, or the top of the parapet, or such other position as the City prescribe having regard to the intent of this item;

(3) Where a building is to be erected on a property which is shown on Plan LAO/4 and which bears the reference 'FH' on such plan, the fixed height of every facade of each portion of such building shall be the relevant height shown on such plan and specified in the following table, titled 'Table 29: Fixed height of facades':

Table 29: Fixed height of facades

Erf number	Fixed height of façade (FH)
85, 86, 110, 112, 113, 114, 115, 116, 117, 128, 129, 130, 131, 132, 134, 171 & 252	36,58 m

(4) Notwithstanding sub-item (3), the City may permit the erection of water-tanks, air-conditioning plant, transformer rooms, storerooms, caretaker's quarters or other structures above the level determined by the fixed height of the facade, provided that:

- (a) a roof storey is erected above such level, and
- (b) the roof storey comply with the following conditions:
 - (i) the height of every point of the roof of the roof storey above the level determined by the fixed height of the facade shall not be less than 2,24 m or more than 3,96 m, and no building, structure or any portion of such building or structure shall project above the level of the roof storey, except machinery rooms required for the lift system of the building;
 - (ii) where a roof storey has been erected on any adjoining property, the height of any proposed roof storey shall coincide with that on the adjoining property;
 - (iii) the roof of the roof storey shall cover the whole of the area of the building below such storey, except over any internal light well areas in such building;
 - (iv) the floor of such roof storey shall not be above the level determined by the fixed height of the facade of the building;
 - (v) the exterior walls of the roof storey shall be set back a distance of 2,44 m from all boundaries of the property, except that no setback shall be

required in the case of a common boundary where the roof storey adjoins a building which has a fixed height of facade that is equal to or greater than the building on which such roof storey is erected;

- (vi) the space within the exterior walls and roof of the roof storey, and only such space, may be used for water-tanks, air-conditioning plant, transformer rooms, storerooms, caretaker's quarters, window cleaning and similar plant and equipment; and

(vii) the roof storey may not be served by the main lift system of the building.

(5) Notwithstanding the provisions of sub-items (3) and (4), the City may permit features such as flagpoles and radio or television aerials to project above the level determined by the fixed height of the facade, subject to such conditions as the City may impose.

(6) Where a building is to be erected on a property which is identified on Plan LAO/4 and which bears the reference H on such plan, the maximum height of every facade of each portion of such building shall be the relevant height shown on such plan as specified in the following table, titled 'Table 30: Maximum height of facades':

Table 30: Maximum height of facades

Erf number	Maximum height of façade (H)
144	44 m
147	89 m
156	37 m
161 & 162	38 m
166	76 m and 14 m
169	46 m
205	38 m
206 & 207	42 m and 17 m

(7) Where a property does not have a fixed height requirement or maximum height limit as shown in the table above, the height limitation of the applicable base zoning in the development management scheme regulations shall apply.

(8) Notwithstanding the provisions of the development management scheme, the floor factor of any building that is zoned General Business or Mixed Use is unlimited, and maximum floor space will be determined by the fixed or maximum height permitted for the building.

(9) Notwithstanding the provisions of the development management scheme, the building lines prescribed for General Business or Mixed Use zonings shall not apply.

(10) A building on an erf listed in the following table, titled 'Table 31: Servitude provisions', shall comply with, and be subject to, the provisions and servitudes listed in such table for that erf:

Table 31: Servitudes provisions

Category	Erf number	Nature of servitude
A	85, 86, 108, 109, 110, 112, 113, 114, 115, 116, 128, 129, 149 & 150	These properties are entitled to a servitude of extension and projection against the remaining extent of Roggebaai.
B	169	This property is entitled to a servitude of extension and projection against the remaining extent of Roggebaai.
C	7, 42, 46, 48, 148 & 171	These properties are entitled to a servitude of extension and projection against the remaining extent of Roggebaai.

Category	Erf number	Nature of servitude
D	170	<p>This property is subject to a servitude in favour of the City and the public for pedestrian arcades and underground services over areas indicated as 'servitude areas' on the relevant diagrams, on condition that:—</p> <ul style="list-style-type: none"> • Any building to be erected shall in no way interfere with the free use of such pedestrian arcades and underground service areas and no part of the said building may project onto these areas without written approval by the City, provided that supporting columns may be erected to the City's satisfaction. • Subject to the above provision and compliance with building regulations, the ends of pedestrian arcades may be enclosed with glazed screens and doors for climatic and security control, subject to the City's approval.
E	163 & 164	<p>These erven are subject to a servitude of pedestrian arcades and underground services over the areas indicated as 'servitude area' on the relevant diagrams. A pedestrian arcade shall be provided of which the floor is level with the adjoining sidewalk where it adjoins the sidewalk, and the roof thereof shall at no point be at a height of less than 3,66 m above such floor level, to the City's satisfaction.</p>
F	157	<p>This erf is subject to a servitude of a pedestrian arcade over the area indicated as 'servitude area' on the relevant plan. The building to be erected on this erf shall extend over said servitude area, from a height of 4 m above the datum line (which is 3,89 m above mean sea level) to the full permitted height of the building.</p>
G	166 & 167	<p>Any buildings erected on these erven are required to be set back at ground storey level to comply with the building restriction line shown on the relevant diagram, and that portion of the site which is situated between the site boundaries and the building restriction lines shall be subject to a servitude under the following conditions:—</p> <ul style="list-style-type: none"> • The servitude shall remain a right of way in favour of the general public and the City, and shall provide the right of access at all times; • The floor of such pedestrian arcade shall be at the level of the adjoining sidewalk where it adjoins said pedestrian arcade, or at such other level as the City may approve, and the roof shall at no point be less than 3,66 m above such floor level; • The servitude area shall remain the property of the owner or successors in title, and shall at no time be deemed to vest in the City; • A building erected on Erf 166 shall be supported by columns situated against the outside edge of the servitude area on all four sides to form a colonnade, to the satisfaction of the City; • A similar colonnade may be erected on the Roggebaai Square side of Erf 167.
H	146	<p>No building or structure other than a pedestrian arcade and a canopy over such arcade, basement parking, basement shopping, basement storage, and basement loading facilities shall, without the written approval of the City, be erected in the area marked as a pedestrian arcade and shown as such on the relevant diagram.</p>
I	144, 146 & 147	<p>Vehicular access to each of these erven shall only be from Sauer Street and shall be via the servitude roadway shown on the relevant diagrams, and in the event of one or more of these properties being sold separately, the necessary servitudes as contained in the Deeds of Transfer shall apply.</p>

(11) Where a property is subject to the servitude provisions of category A in ~~the Table 31 above, titled 'Servitude provisions'~~, the first, second and third storeys of a building on such property shall project over the street and public place boundaries to form a pedestrian arcade in accordance with the following provisions:—

(a) The extent and height of the projection shall conform to the dimensions shown on the detailed drawings TPX 7773/1 to 7773/3, reductions of which are depicted on Plans LAO/4(i)-(iii);

- (b) The projections shall be supported on cylindrical or polygonal columns, each with an overall diameter of 508 mm, spaced in accordance with the dimensions shown on said drawings;
- (c) The design and detailing of the projections, and of all materials and finishing, shall conform in all respects to the specifications shown on said drawings;
- (d) All features of the projections, including the jointing of materials, shall line up with the corresponding features of existing adjoining properties, to the satisfaction of the City; and
- (e) The roofs of the projections shall be level over the whole area thereof, with the exception of any drainage falls which may be necessary.

(12) Where a property is subject to the servitude conditions of category B in ~~the above table, titled 'Servitude provisions' Table 31~~, the whole building at and above the first storey shall project over the public place boundaries to form a pedestrian arcade in accordance with the provisions in sub-items (11)(a) to (11)(e), as specified in sub-item (10).

(13) Where a property is subject to the servitude conditions of categories A, B or C in ~~the above table, titled 'Servitude provisions' Table 31~~, no basement shall be permitted to extend under the servitude area, except with the approval of the City and subject to such conditions as the City may impose.

(14) Where a property is subject to the servitude conditions of categories D, E, F or G in ~~the above table, titled 'Servitude provisions' Table 31~~, the portion of the property to which the servitude applies shall be paved and maintained by the owner of the property to the satisfaction of the City with respect to materials, levels and any other conditions as the City may impose.

(15) The minimum clear height of any pedestrian arcade shall be 3,66 m and for any vehicular arcade shall be 7 m, and such clear height shall be measured from the highest point of the finished footway or street level within the arcade.

188 Specific provisions: Bakoven, Clifton and Glen Beach Bungalow Area (LAO/5)

- (1) The provisions in this item shall apply to the Bakoven, Clifton and Glen Beach Bungalow area as depicted on Plan LAO/5(i) and (ii).
- (2) In this item:
 - (a) '**Bakoven, Clifton and Glen Beach Bungalow area**' means the area depicted on Plans LAO/5(i) and (ii);
 - (b) '**boundary vegetation**' means any vegetation growing on or within 2 m of any site boundary;
 - (c) '**certificate**' for the purpose of sub-item (k) means a written statement signed by or on behalf of the head of the relevant service department wherein any boundary vegetation or tree damaged, tampered with or removed, and the cost of replacing same, is set out;
 - (d) '**corrugated**' means formed with alternating ridges and troughs so that:
 - (i) the vertical distance between the uppermost points on the ridges and the lowest points on the troughs does not exceed 40 mm; and
 - (ii) the horizontal distance measured between the central axes of the troughs and ridges does not exceed 95 mm;
 - (e) '**drying yards**' means any enclosed unroofed area not greater than 20 m²;
 - (f) '**lapped**' means composed of horizontally overlapping strips of a width not exceeding 150 mm;
 - (g) '**maximum development envelope**' means the parameters of the three-dimensional diagram depicted on plans numbered TPZ 11246/1 to TPZ 11246/103 inclusive, and TPZ 11731/1 to TPZ 11731/58 inclusive, and TPZ 11730/1 to TPZ 11730/14 inclusive, but shall exclude any encroachment as noted on such plan;
 - (h) '**pickets**' means composed of parallel vertical strips of a width not exceeding 100 mm, with a maximum spacing of 75 mm;

- (i) 'signs' means any sign depicting a name or any information whatsoever;
- (j) 'slatted' means composed of parallel vertical strips of a width not exceeding 150 mm; and
- (k) 'vegetation', without limiting its ordinary meaning, includes any hedge or shrub.

(3) The following provisions apply to the Bakoven, Clifton and Glen Beach Bungalow area as depicted on Plan LAO/5(i):—

[Sub-item (3) substituted by s. 57 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2016]

- (a) No point on any structure erected or to be erected on a land unit shall project or extend beyond the maximum development envelope;
- (b) All exterior walls of any buildings to be erected on a land unit shall have the finished appearance of lapped or slatted timber, or be corrugated;
- (c) All roof finishes shall be corrugated except where the City approves a slate finish, and the minimum pitch of such roof shall be 15° except where this is prevented by the limits of the maximum development envelope;
- (d) Any freestanding fence shall:—
 - (i) be slatted or of pickets; and
 - (ii) shall not exceed 1,25 m in height, other than in the case of the enclosure of a drying yard, for which it may be erected to a height not exceeding 2,1 m;
- (e) Any freestanding wall shall:—
 - (i) be plastered, colour-painted masonry; and
 - (ii) shall not exceed 1,25 m in height;
- (f) No drying yard shall be closer than 3 m from any boundary separating a land unit from any public passage or public open space or street;
- (g) No exterior earth-retaining wall shall exceed 1,25 m in height;
- (h) No roof lights, non-masonry chimneys, solar water heaters, satellite dishes or any other features shall be located in, on or above the roof of any building or anywhere else on any site except with the approval of the City;
- (i) No sign shall be displayed on a site without the prior written approval of the City;
- (j) No person shall fell, uproot or cause to destroy a mature tree or hedge without the prior written approval of the City;
- (k) In the event of any boundary vegetation or tree being damaged, tampered with or removed, the City may replace such vegetation or tree at the expense of the owner of the site concerned, in which case a certificate signed by the City Manager shall constitute final proof of such damage, tampering or removal, and the cost of such replacement; and
- (l) No exterior glazing other than that of the clear or frosted type shall be installed in any building on a site.

189 Specific provisions: Victoria Road, Clifton local area (LAO/5(ii))

(1) The provisions in this item shall apply to the Clifton area on the lower side of Victoria Road, as depicted on Plan LAO/5(ii).

[Sub-item (1) substituted by s. 58 of City of Cape Town: Municipal Planning Amendment By LawBy-law, 2016]

(2) Every main building and outbuilding erected on a site falling in this area shall comply with the following provisions:—

- (a) Except as hereinafter provided, no main building or outbuilding shall be erected so that any point on such building or outbuilding is nearer to a boundary of a site than the distance specified in the following table, titled 'Table 32: Building setback required in Victoria Road, Clifton area':

Table 32: Building setback required in Victoria Road, Clifton area

Boundary	Setback required for points on a building
Street	4,5 m
Seaward	One-third the mean depth of site from street boundary to seaward boundary
Other boundaries	6 m or 0,5H, whichever is most restrictive

(b) In application of the foregoing table, except as hereinafter provided, the following provisions shall apply:

- The symbol 'H' means the height in metre of the point concerned;
- The term 'setback', in relation to a particular boundary and to a building or a point on a building, means a distance in metre from such boundary, nearer than which such building or point (as the case may be) may not be located; and
- Where, in terms of the table, titled 'Building setback required in Victoria Road, Clifton area' above Table 32, two alternative setbacks are prescribed for a particular point or building, the greater of such setbacks shall apply.

(c) Every storey below the ground storey, other than a storey wholly below the ground level, shall for the purposes of this item be deemed to be the ground storey.

(d) The width of a main building, measured parallel to Victoria Road, shall not exceed half the total of the street frontages of such site.

(e) From at least one of the two points where the lateral boundaries of a land unit meets the street boundary, it shall be possible to draw a straight line across such land unit at an angle of 25° to a lateral boundary, so that no building or structure is erected between such line and such lateral boundary.

(f) No building on such land unit, other than a building which is not more than 18 m from the street boundary, shall exceed 13 m in height.

190 Specific provisions: Camps Bay and Bakoven local area (LAO/9)

- The area depicted on Plan LAO/9(i) is subject to the provisions in this item.
- No building within the Camps Bay and Bakoven area shall exceed three storeys in height.
- No point on the facade of any building within the Camps Bay and Bakoven area shall be more than 10 m above the level of the ground abutting the facade immediately below such point.
- For the purpose of sub-item (3), 'facade' means a main containing wall of a building, other than a wall of an internal courtyard.
- Notwithstanding the provisions of sub-items (2) to (4), within the area shown on Plan LAO/9(ii):
 - no building shall exceed two storeys in height; and
 - no point on any structure shall be higher than 6 m above the existing ground level immediately below such point.

191 Specific provisions: Gardens, Tamboerskloof, Green point, Bantry Bay and Camps Bay / Bakoven local area (LAO/13(ii))

- The area depicted on Plan LAO/13(ii) is subject to the provisions in this item.
- All properties situated within this area and zoned SR1 have the additional use right of a second dwelling, subject to the conditions listed in item 5325A of the development management scheme.

DIVISION V: ANNEXURES

CHAPTER 21: ANNEXURES

ANNEXURE A

LIST OF SPECIAL USES IN TERMS OF ITEM 15

Special use name	Special use definition	Reference number (if applicable)
Integrated rapid transport (IRT) infrastructure Applicable to 'Transport Zoning 1: Transport Use (TR1)' and 'Transport Zoning 2: Public Road and Public Parking (TR2)'. The City require a site development plan to be submitted for IRT trunk stations and ancillary uses (not for IRT feeder stops) only in the TR2 zoning, to determine development rules. The provisions for a site development plan in item 123 shall apply.	Integrated rapid transport (IRT) infrastructure' means the use of land, buildings or structures for all infrastructure, services and development required for the efficient operation of an integrated rapid transport service for the transportation of passengers including the use of such land, building or structure for the purpose of a bus station, bus stop, interchange, holding area, staging area or depot, and includes ancillary uses	

ANNEXURE B RECORD OF SPECIAL PLANNING AREAS IN TERMS OF ITEM 136(1)

Special planning area name	Special planning area number	Reference number (if applicable)
Cape Town Film Studios (Dreamworld) Special planning area		

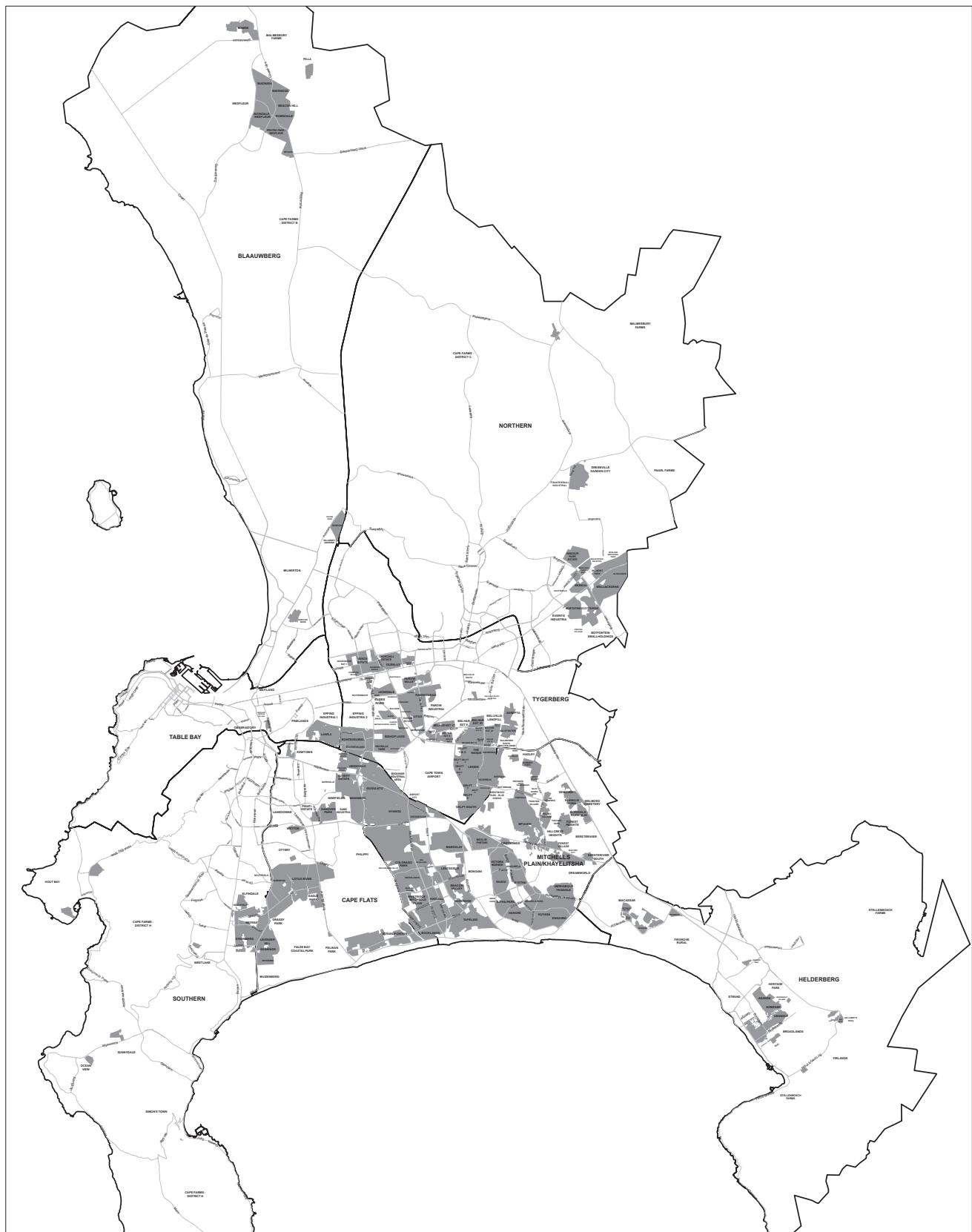
NOTE: Special Planning Areas may be indicated on the zoning map by the code SPA followed by the number of the Special planning area concerned.

ANNEXURE C LIST OF PLANS IDENTIFYING PT1 AND PT2 AREAS IN TERMS OF ITEM 137

Area description	Plan number	Reference number (if applicable)
Whole geographical area of the City	PT areas (dated: 2022/08/01)	SPE_197

General note: PT1 areas and PT2 areas are also shown on the City of Cape Town Map Viewer

[Annexure C substituted by s. 1 of City of Cape Town: Municipal Planning Amendment By-Law, 2022]



Areas where affordable rental flats are an additional use right
(as per item 25(2) of the Municipal Planning Amendment By-Law, 2013)

DIRECTORATE : Spatial Planning and Environment

DEPARTMENT : Development Management

BRANCH : Business Systems

Spheroid: WGS_1984
Projection: Transverse Mercator
Linear Unit: Meter (1.000000)

Scale - 1:80 000

Legend

- Planning_Districts
- Major_Roads
- Affordable_Rental_Flats

COPYRIGHT:

ALL RIGHTS RESERVED. No part of this data map may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording or by any information storage and retrieval systems, without written permission from the Development Management Directorate of the City of Cape Town.

Where the data is used on behalf of another person in a plan, acknowledgement must be made of the source of such data as well as the City of Cape Town.

DISCLAIMER:

The City of Cape Town makes no warranties as to the correctness of the information supplied. Persons relying on the information do so entirely at their own risk. The City of Cape Town will not be liable for any damages, whether for damages or otherwise, which may arise as a result of inaccuracies in the information supplied.

PLEASE NOTE:

Zoning is to be verified by means of an Official Zoning Certificate requested from the Surveyor General's Office. All zoning is to be verified at the Office of the Surveyor General.



Athlone

- IOZ Area
- IOZ SubArea A1
- IOZ SubArea A2
- IOZ SubArea B1
- IOZ SubArea B2
- IOZ SubArea C1
- IOZ SubArea D1
- Erven

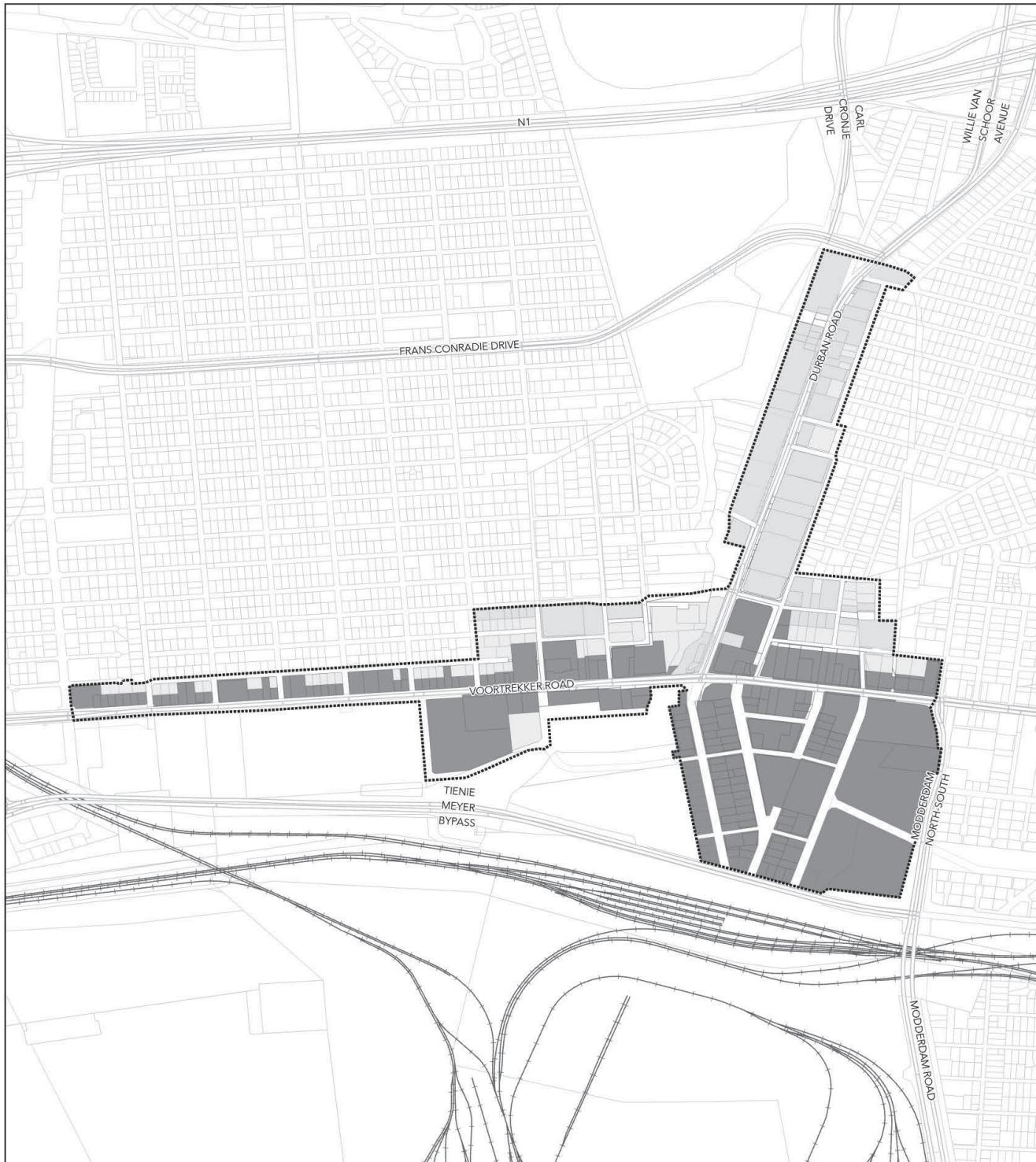
Incentive Overlay Zoning



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

APRIL 2025

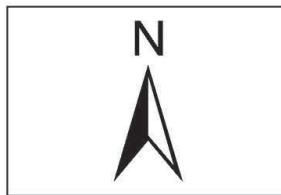
IOZ/01



Bellville

- IOZ Area
- IOZ SubArea A1
- IOZ SubArea A2
- IOZ SubArea B1
- IOZ SubArea B2
- IOZ SubArea C1
- IOZ SubArea D1
- Erven

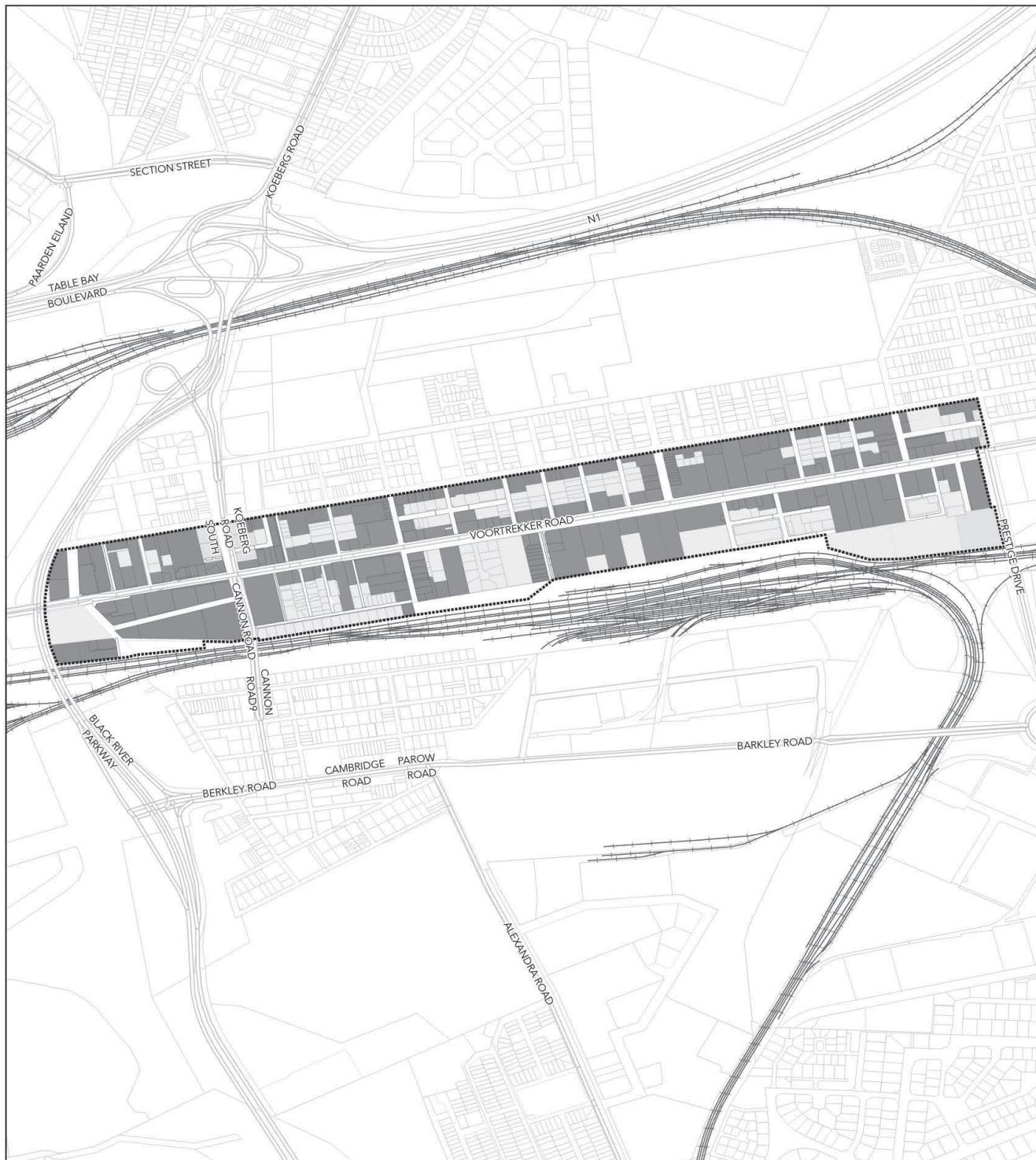
Incentive Overlay Zoning



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

APRIL 2025

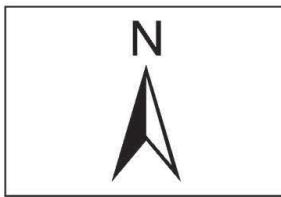
IOZ/02



Maitland

- IOZ Area
- IOZ SubArea A1
- IOZ SubArea A2
- IOZ SubArea B1
- IOZ SubArea B2
- IOZ SubArea C1
- IOZ SubArea D1
- Erven

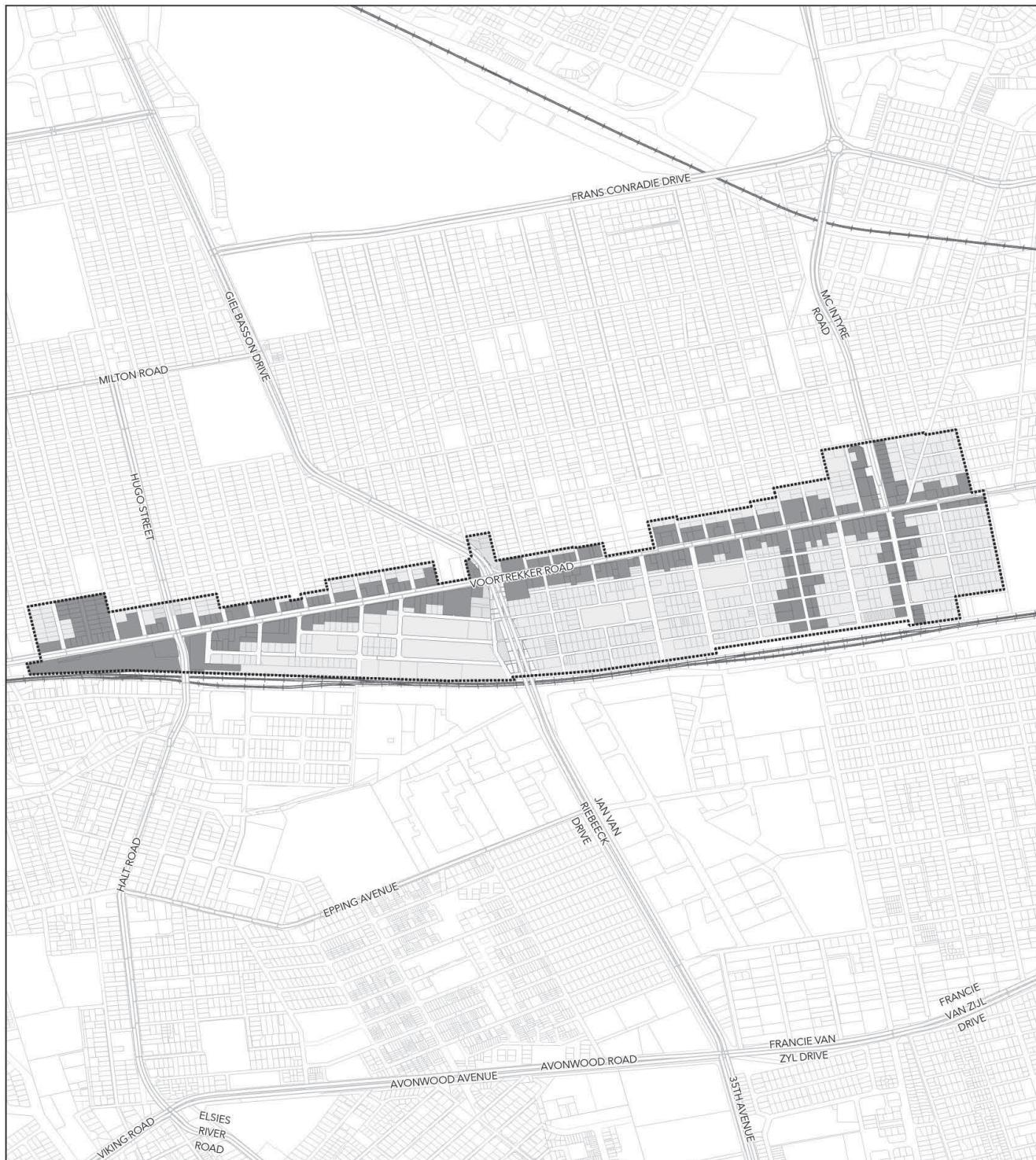
Incentive Overlay Zoning



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

APRIL 2025

IOZ/03



Parow/Elsies River

 IOZ Area

 IOZ SubArea A1

 IOZ SubArea A2

 IOZ SubArea B1

 IOZ SubArea B2

 IOZ SubArea C1

 IOZ SubArea D1

 Erven

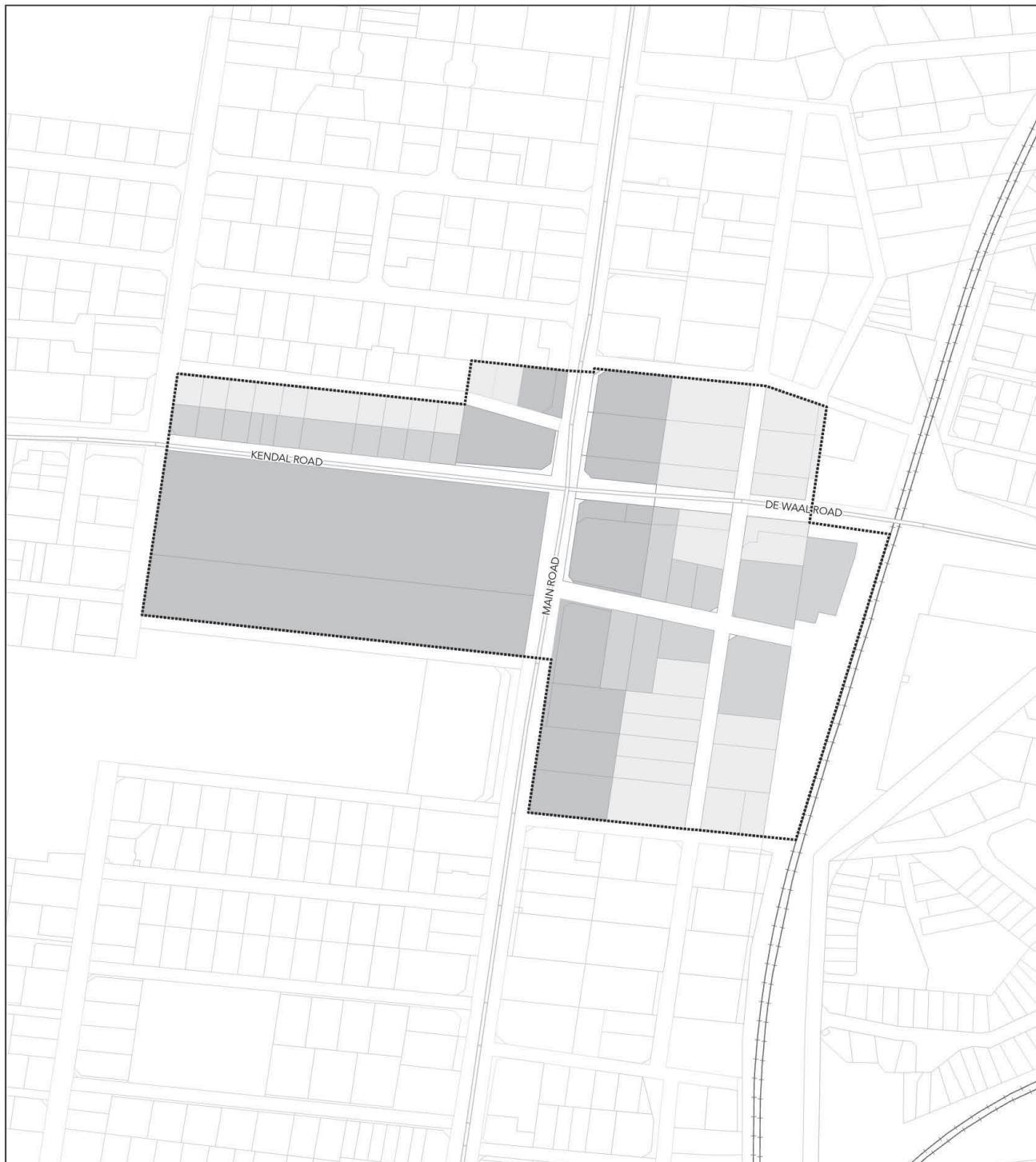
Incentive Overlay Zoning



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

APRIL 2025

IOZ/04



Diep River

- IOZ Area
- IOZ SubArea A1
- IOZ SubArea A2
- IOZ SubArea B1
- IOZ SubArea B2
- IOZ SubArea C1
- IOZ SubArea D1
- Erven

Incentive Overlay Zoning



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

APRIL 2025

IOZ/05

