

CITY OF PORT ELIZABETH



**PORT ELIZABETH
ZONING SCHEME REGULATIONS**

(AS AMENDED - REPRINTED MAY 1993)

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PART I - GENERAL

1.0 Statement

1.1 The Port Elizabeth and Walmer Zoning Scheme Regulations deemed to have been in force in terms of Section 7(1) of the Land Use Planning Ordinance 1985 (Ordinance 15 of 1985) shall be and are hereby withdrawn with effect from 2 November 1990 and replaced with effect from that date by the combined and revised Scheme regulations hereinafter set forth; provided that anything lawfully done in terms of the previous Scheme regulations shall be deemed to have been done under the corresponding provisions, if any, of the Scheme regulations that follow hereafter.

1.2 This Zoning Scheme shall be known as the Port Elizabeth Zoning Scheme 1989, (as amended), as approved by virtue of Provincial Notice No. 676 dated 2 November 1990 published in terms of Section 9(2) of the Land Use Planning Ordinance 1985 (Ordinance 15 of 1985).

1.3 Components of the Zoning Scheme

The Zoning Scheme comprises the following:-

- The Zoning Map
- The Register
- The Scheme Regulations

1.4 Responsible Authority

The Municipality of Port Elizabeth shall be the local authority responsible for administering the provisions of the Zoning Scheme.

1.5 Inspection of Scheme

The Scheme may be inspected at the offices of the City Engineer during hours as determined from time to time.

1.6 Conflict of Laws

1.6.1 When any provision of the Zoning Scheme is in conflict with an ordinance or by-law or regulation made thereunder, the said provision shall, subject to the provisions of subsections 1.6.2, 1.6.3 and 1.6.4, prevail.

1.6.2 The provisions of any ordinance, in so far as they relate to the determination of the boundaries and widths of and to the erection of structures within a specified distance of the boundaries or centre line of roads, shall have preference above the provisions of the Zoning Scheme except in so far as the Zoning Scheme

(a) provides for a road width greater than that determined by or in terms of such ordinance, or

(b) requires structures to be at a distance from the boundary or centre line of a road greater than that determined by or in terms of such ordinance.

1.6.3 Nothing in these regulations contained shall be deemed to grant exemption from compliance with any of the Municipality's other regulations and by-laws in so far as they are not in conflict with the Zoning Scheme.

1.6.4 The provisions of the National Building Regulations, in so far as they require buildings to be erected at a greater distance from the boundaries of an erf than is required in terms of these regulations, shall have preference above the provisions of the Zoning Scheme.

1.6.5 Nothing in these regulations shall be construed as permitting any person to do anything which is in conflict with the conditions registered against the title deed of the land.

PART II - DEFINITIONS

2.0 Definitions

In these regulations, except where the context otherwise requires, or it is otherwise expressly provided, the following words and expressions shall have the respective meanings hereby assigned to them:-

'Administrator' means the Administrator of the Province of the Cape of Good Hope.

'Agricultural Purposes' means the use of land as a farm, market garden, poultry farm, nursery garden, vineyard, plantation and orchard and includes use or building incidental and subordinate to the agricultural purpose but excludes:-

- (a) land occupied as a park together with a dwelling house thereon;
- (b) land used as a garden other than aforesaid;
- (c) land kept or used for the purpose of sport, recreation, racecourse, cemetery or aerodrome.

'Area' means that area under the jurisdiction of the Municipality of Port Elizabeth as amended from time to time.

'Basement' is any storey having the majority of its volume falling below ground level. For this purpose volume is measured horizontally over the external walls and vertically between the floor level of the basement and that of the floor immediately above.

'Bottlestore' means a building designed and used for the purpose of the retail sale of alcoholic beverages but excludes the sale of such beverages for consumption on the premises and the sale of such beverages in a shop where such sales are not the primary business of the shop.

'Brothel' means a structure from where prostitution takes place. (TPA 1106A6)

'Builder's Yard' means land or a building used for the storing of material and equipment used in the building trade and by civil engineering contractors.

'Building' without in any way limiting the ordinary meaning of the word, includes:-

- (1) any structure, whether of a permanent or temporary nature, erected or used for the housing or accommodation of human beings or animals, or for the storage, manufacture or sale of goods and materials, or for the destruction or treatment of refuse or other waste material;
- (2) a wall, swimming pool, swimming bath, reservoir, water tower, bridge, summerhouse, hothouse and any structure appurtenant thereto.

'Business Purposes' means land or a building used for the provision of a service for gain or reward such as an office, restaurant for on-site consumption of food, hairdresser, medical use or for other business purposes, but does not include a place of assembly, place of amusement, institution, bottlestore, shop, brothel, public garage, scrapyards, industry, workshop, noxious use or licensed restaurant or escort agency. [Amended TPA 1106 (Amended 2) 10.7.92]

'By-laws' means the by-laws for the time being in force in the Area.

'Consent of the Council' means the consent granted by the Council or by any Committee or official of the Council to whom the power has been delegated by the Council where, in terms of these regulations, compliance with the advertisement procedure laid down in regulation 3.18 hereof is not required.

'Council' means the Council of the Municipality of the City of Port Elizabeth.

'Coverage' means the total percentage of site area that may be covered by buildings, measured over the outside walls and covered by a roof or projection provided that:-

- (i) the following are to be included in coverage:-
 - (a) external staircases;

- (b) fire escapes;
- (c) electrical substations for the exclusive use of the development;
- (d) motor car ramps, the undersides of which are more than 1,5 m above the ground level of such ramps;
- (e) canopies and permanent awnings projecting more than 1 m beyond the building;
- (f) canopies over fuel pumps at filling stations/service stations/public garages;
- (ii) the following are to be excluded from coverage:-
 - (a) the area covered by a maximum eaves projection of 1 m;
 - (b) unroofed stoeps, terraces and patios;
 - (c) arcade passageways, i.e. any covered walk providing public access, with shops along one or both sides which are roofed but not built over;
 - (d) motor car ramps, the undersides of which are 1,5 m or less above the ground level of such ramps;
 - (e) basements;
 - (f) unroofed entrance steps and landings;
 - (g) minor decorative projections projecting not more than 0,3 m from the wall of such building;
 - (h) canopies for pedestrian protection at the ground floor of shopping centres;
 - (i) driveways covered by canopies, whether cantilevered or not, for public protection from the elements relating to hotels, flats and public buildings and includes a portŠ-cochere;
 - (j) covered refuse bin storage areas.

'Departure' means an altered land use restriction or a use right granted on a temporary basis in terms of Section 15 of the Ordinance.

'Dwelling House' means a building containing only one dwelling unit.

'Dwelling Unit' means a self-contained interleading suite of rooms, which shall contain not more than one kitchen, used for human habitation and includes uses normally associated therewith but subordinate thereto and includes also the letting on a permanent basis by the resident of part of the dwelling unit, otherwise than as a separate dwelling unit, to not more than four persons. [Amended TPA 1106 (Amended 3) 2.10.92]

'Erection' in relation to a building includes the alteration, conversion, extension, reconstruction, reerection, repair or subdivision of or addition to a building and 'erect' has a corresponding meaning.

'Erf' means a portion of land registered or capable of being registered in the Deeds Registry and may include a servitude right or lease.

'Escort agency' means any agency which provides an escort or companion, whether male or female, for any other person over the age of 21 years and which requires to be licensed in terms of any law. [Introduced TPA 1106 (Amended 2) 10.7.92]

'Extractive Use' means the extraction of stone, shale, rock, slate, limestone, clay, gravel, sand, soil, water or any other material, substance or liquid normally taken from the earth, rivers or the sea and includes the processing of such extracted material, substance or liquid.

'Floor Area' of a building includes the terms "Gross Leasable Area", "Gross Floor Area", "Gross Building Area", "Permissible Floor Space" and any other similar term and means the sum total of all floors at all levels measured over the main containing walls of the building (i.e. outer plinth area of the building) but shall exclude:-

- (a) vertical ventilation shafts, ducts;
- (b) lift shafts, staircases;
- (c) lift motor rooms and air-conditioning plant rooms;
- (d) electricity sub-station/transformer rooms;
- (e) the area covered by the projection of the eaves;
- (f) any floor area used solely for parking or loading/unloading;
- (g) refuse bin storage areas;
- (h) unroofed balconies, unroofed terraces;
- (i) malls which allow free public access to shops, other buildings, public transport systems or streets (malls do not include access corridors or foyers);
- (j) public or private toilets, staff change rooms, cleaners' and maintenance staff rooms, sick bays;

'Floor Space Index' (F.S.I.) includes the terms 'Bulk', 'Floor Area Ratio' and any other similar term and means the ratio obtained by dividing the floor area by the erf area less any area required for road widening and for public purposes.

'Funeral Parlour' means the business of an Undertaker and may include any or all of the following:-

A chapel, mortuary, office, workshop, garage, warehouse, refrigerator and plant used in conjunction with any of the foregoing.

'Ground Level' means the mean between the highest and the lowest natural ground levels immediately adjacent to the building.

'Guest house' means a building which is used for human habitation, has not more than one kitchen and is occupied by the owner and in which persons are accommodated on a temporary basis. [Introduced TPA 1106 (Amended 3) 2.10.92]

'Habitable Room' means any room greater than 6 m² in area used and/or intended to be used for living, sleeping or dining purposes and includes:-

- 1) any hallway or passage having a width greater than 2,0 m;
- 2) with effect from 22 November 1985, any balcony with an area greater than 6 m², whether enclosed or not; but excludes an unenclosed balcony existing prior to 22 November 1985.

'Height' in relation to a building means the height of the highest part of such building, above a datum level specified in the relevant regulations.

'Industry' means an activity which is not a noxious use but in which:-

- (a) a movable article or part of such an article is made, manufactured, produced, built, assembled, compiled, printed, processed, treated, adapted, repaired, renovated, rebuilt, altered, ornamented, painted (including spray painting), polished, finished, cleaned, dyed, washed, broken up, disassembled, sorted, packed or put into a container, chilled, frozen or stored in cold storage;
- (b) livestock (including poultry) are slaughtered;
- (c) electricity is generated;
- (d) photographs, films or tapes are developed or processed; or
- (e) any activity is carried out which is connected with or incidental to any one or more of the activities mentioned in paragraphs (a) to (d);

and which occupies a floor area in excess of 100 m² but excludes a public garage but may include offices and caretaker's accommodation associated with and subordinate to the main activity.

'Institution' means a charitable or social welfare institution and the administration thereof, and includes a building designed for use as a hospital, nursing home, sanatorium, clinic or dispensary, whether private or public, but does not include:-

(1) a hospital, sanatorium, dispensary or clinic for the treatment of infectious or contagious diseases;

(2) a state psychiatric hospital or a provincial hospital or a halfway house at which provision has been made for the detention or treatment of persons who are mentally ill, and includes any other place designated by the Minister of Health as a place for the reception and detention of two or more persons suffering from mental illness and in respect of which a licence has been granted under the Mental Health Act, 1973 (Act No. 18 of 1973).

'Land' includes land covered with water and any right in or over land.

'Licensed Hotel' means a hotel licensed in terms of the Liquor Act 1977 (Act 87 of 1977), as amended from time to time and may, with the consent of the Council, include:-

1. a Place of Amusement;
2. the provision of shops with an internal entrance and designed to provide a facility for the patrons of the hotel.

'Licensed restaurant' means a restaurant licensed in terms of the Liquor Act, 1977 (Act 87 of 1977).
[Introduced TPA 1106 (Amended 2) 10.7.92]

'Map' means the zoning map framed in terms of Section 10 of the Ordinance or to which the provisions of Section 7(1) of the Ordinance apply.

'Medical Use' means the professional activities of members of the medical and allied professions.

'Multiple Dwelling' means a building containing two or more dwelling units.

'Municipal Purposes' means an activity carried out by the Council for any purpose permitted in terms of the Municipal Ordinance 1974 (Ordinance 20 of 1974).

'Noxious Use' means the following businesses, trades, works and establishments:-

Chemical works; dye works; breweries and distilleries; sugar mills and sugar refineries; oil refineries and works dealing with processing of products of petroleum refining; manure, superphosphate, or fertilizer works; works or premises used for storing, drying, preserving, or otherwise dealing with bones, horns, hoofs, fish-curing or fish-canning works; whaling stations and premises or works used for storing or dealing with material derived from whales, or for the preparation of fish liver oil from sharks and other varieties of fish; works or premises used for the manufacture, storage or mixing of meal from crayfish, fish or meat; slaughter-houses or abattoirs; knackers' yards; glue or size factories; gut-scraping works; tripe boiling works; soap or candle works; fat melting or tallow-melting works, and any similar works or establishments for dealing with meat, bones, blood, offal or other animal organic matter; wool scouring or wool-washing works; paper mills or paper works, wattle bark grinding or extract factories; destructors, depositing sites or other works for the disposal or treatment of house refuse, trade refuse, sewage or night-soil; and premises used for storing, sorting or dealing with hides, fleshings, skins and wool; and premises used for storing or mixing of manure superphosphate or fertilizers; burning charcoal, coke or lime; manufacturing malt; selling the raw meat of any equine; manufacturing or processing of bricks, cement, asbestos, lead or concrete products or dressing or crushing of stone; manufacturing yeast; manufacturing flock or any other activity allied to any of the aforementioned which may be injurious to health and may include offices and caretaker's accommodation associated with and subordinate to the main activity.

'Occupation' means any business, trade, calling or vocation conducted by any person in order to earn a living and/or for purposes of gain; but shall not include a profession.

'Occupier' or 'Occupant' in relation to any building, structure or land, means and includes any person in actual occupation of, or legally entitled to occupy such building, structure or land, or any person having the charge or management thereof, and includes the agent of any occupier absent from the area or whose whereabouts are unknown.

'Ordinance' means the Land Use Planning Ordinance 1985 (Ordinance 15 of 1985) together with any amendment thereof.

'Owner' in relation to any building, structure or land means and includes:-

- (1) the person in whose name the title to such building, structure or land is registered;
- (2) if such person is dead, insolvent, mentally disordered or defective, a minor, or under any legal disability, the person in whom the administration of that person or his estate is vested, whether as executor, guardian or in any other capacity whatever;
- (3) if the premises are under lease, the registration whereof is in Law necessary for the validity of such lease, as between the lessor or lessee and third persons, the lessee; or
- (4) when an owner as herein defined is absent from the area or his whereabouts are unknown, an agent of such owner or any person receiving or entitled to receive rent in respect of the premises.

'Parking' means the space provided for the parking of motor vehicles.

'Person' shall include:-

- (1) any State, Provincial, Regional or Local Authority;
- (2) any company or close corporation incorporated or registered as such under any law;
- (3) any body of persons corporate or unincorporate.

'Place of Amusement' includes a public hall, theatre, cinema, music hall, concert hall, billiard salon, sports arena, skating rink, or dance hall or for the purposes of exhibitions of trade or industry, or a use in connection with a racecourse, racing track or ground for other sports or amusement which is intended to be ordinarily open to the public.

'Place of Assembly' means a building used for gatherings, meetings and recreation and includes a Masonic Temple and a non-residential club but does not include a Place of Amusement.

'Place of Public Worship' means a Church, Chapel, Temple, Meeting House, Oratory, Synagogue, Mosque or other place of devotion and may include a building designed for religious instruction and an institute or other building designed for purposes of social intercourse and recreation, with the same erf as and associated with any of the foregoing buildings.

'Place of Instruction' means a crŠche, nursery school, school, college, technical institute, university, academy, lecture hall or other educational centre and includes a hostel appertaining thereto, a monastery, convent, public library, art gallery, museum, gymnasium, but does not include a building designed for use wholly or principally as a certified reformatory or industrial school.

'Population Density Control' (P.D.C.) means the method of controlling density in respect of all Residential 3 erven in Sub-zones A, B, C, D, E, G, H and J. The graph on Page 30 indicates both the minimum area of site upon which buildings containing dwelling units are permitted and the maximum number of habitable rooms per erf in varying proportions, depending upon the Sub-zone in which it falls and the area of the erf.

'Primary Use' means any building or use listed in Column 2 of Table 'A' which may be erected or carried out without the consent of the Council.

'Private Open Space' means any land zoned for private use as a ground for sports, play, rest or recreation or as an ornamental garden or pleasure ground.

'Profession' means a vocation which:-

1. renders a service to the community whereby the specialist skills of the person involved are offered, as distinct from the sale of a tangible commodity or property;
2. is governed by a professional institute and Act of Parliament; and
3. limits advertising solely to the advertising of a skill or service and not the sale of any commodity or property.

'Public Authority' means any State, Provincial, Regional or Local Government body or a Public Corporation.

'Public Garage' means a use carried out for gain or reward for any one or more of the following purposes, namely maintenance, repair, fuelling, or storing of motor vehicles, and for purposes incidental thereto which may include the parking of motor vehicles, sale of spare parts, accessories, fuel and lubricants for motor vehicles, food and refreshments, as well as the sale of new and second hand motor vehicles; but does not include panel beating and spray painting.

'Public Open Space' means any land zoned for use by the Public as an open space, park, garden, playground, recreation ground or square.

'Rear boundary' of an erf means every boundary thereof (other than a street boundary) which is parallel to or is within 45° of being parallel to a street boundary of such erf and which does not intersect a street boundary.

'Register' when used as a noun, means documents held by the Council in connection with all departures, consents and special consents.

'Regulation' means

- (1) a regulation made under the Ordinance; or
- (2) a regulation of this Zoning Scheme which controls zoning and which may authorise the granting of departures and subdivisions by the Council.

'Resident' means any person who, on a permanent basis, lives, resides, inhabits, sleeps, or has an abode in any dwelling unit or residential building of any nature whatsoever which he uses as his fixed residential address.

'Residential Building' means a building, other than a dwelling unit or multiple dwelling, used for human habitation, but excludes a licensed hotel and guest house. [Amended TPA 1106 (Amended 3) 2.10.92]

'Rezoning' means the alteration of this Zoning Scheme under Section 14(4), 16 or 18 of the Ordinance in order to effect a change of zoning to particular land.

'Scrap Yard' means land or a building used for one or more of the following uses:-

- (1) the storage, depositing or collecting of scrap or waste material or articles whose value lies mainly or entirely in that of the material of which they are composed;
- (2) the dismantling of second hand vehicles or machines for the purpose of recovering spare parts or materials therefrom;
- (3) the storage or sale of second hand articles capable of being left in the open without serious detriment thereto;

but does not include a builders yard.

'Secondary Use' means any building or use listed in Column 3 of Table 'A' which may be erected or carried out only with the Special Consent of the Council.

'Sex Shop' means a shop where the principal business is the open display for sale or hire of items of an erotic nature, which shall include but not be limited to sex aids, literature and audio-visual material of a sexually explicit nature. (TPA 1106A6)

'Shop' means land or a building used for the carrying on of retail trade other than a bottlestore or a sex shop and includes an industry or workshop on the same premises which is ordinarily incidental and subordinate to the conduct of the retail trade thereon.

'Side boundary' of an erf means a boundary other than a street or rear boundary.

'Special Consent' means the consent of the Council, or of any Committee or official of the Council to whom the power to grant such consent is delegated, after compliance with the procedure laid down in regulation 3.18 hereof.

'Special Use' means any use other than one of the uses herein defined.

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

'Street Boundary' means the boundary of an erf which forms the boundary of a street, provided that where a portion of an erf is zoned in terms of the Zoning Scheme as Transportation, the street boundary is the boundary of such Transportation zone.

'Sub-zone' means the area containing those Residential 3 erven identified on the Map by means of a letter or a border.

'Transport uses' means the use of land or buildings for the operation of a service for the benefit of the public providing for the transportation of goods or passengers by rail, air, sea, road or pipeline and any uses ancillary thereto or which are directly related or incidental to the service of the interest of the commuting public, including communication networks, stations, harbours, transportation amenities and facilities, warehouses, container parks, workshops, offices, shops, recreational, business and residential uses"

'Use Right', in relation to land, means the right to utilise that land in accordance with the zoning thereof, including any departure.

'Warehousing' means the storage of goods and/or the sale of goods for resale by the purchaser.

'Workshop' means an activity which is not a noxious use and which is carried out for gain or reward and in which:-

- (a) a movable article or part of such an article is made, manufactured, produced, built, assembled, compiled, processed, treated, adapted, repaired, renovated, rebuilt, altered, ornamented, painted (including spray painting), polished, finished, cleaned, dyed, washed, broken up, disassembled, sorted, packed or put into a container, chilled, frozen or stored in cold storage;
- (b) livestock (including poultry) are slaughtered;
- (c) electricity is generated;
- (d) any activity is carried out which is connected with or incidental to any one or more of the activities mentioned in paragraphs (a) to (c);

and which occupies a floor area of 100 m² or less, but does not include a public garage.

'Zone' when used as a verb, means to set apart the land for a particular zoning.

'Zoning or Zone' when used as a noun, means a category of directions setting out the purpose for which land may be used and the land use restrictions applicable in respect of the said category of directions, as determined by relevant Scheme regulations.

'Zoning Map' means -

- (a) a zoning map framed in terms of section 10 of the Ordinance; or
- (b) a map framed in terms of regulation 8(2) of the regulations made under Section 60 of the Township Ordinance, 1934 (Ordinance 33 of 1934), and published by Provincial Notice 460 of 1937.

'Zoning Scheme' means the Port Elizabeth Zoning Scheme consisting of Scheme regulations and a register, with or without a zoning map.

PART III - USE OF LAND AND BUILDINGS

3.0 Use of Land and Buildings.

3.1 Intent

The purpose of this part of the regulations is to determine use zones and uses which may be carried on in those zones and to determine the conditions applicable to them.

3.2 Use Zones

3.2.1 The uses which:-

- a) are primary uses;
- b) are secondary uses;
- c) are prohibited uses;

in each of the Use Zones are shown in Columns 2, 3 and 4 respectively of Table A.

3.2.2 For the purpose of these regulations the term 'use' includes the use of the land and the erection of a building.

3.2.3 No person shall use or cause or allow to be used any building or portion of a building for a purpose other than that for which it has been erected, unless such use conforms with the provisions of this part of the regulations and any necessary consent of the Council has first been obtained for such new use or purpose.

3.2.4 Notwithstanding the provisions of this Part of the Scheme, the Council may grant a departure authorising the temporary use of land for a purpose for which no provision has been made in this Part of the Scheme.

3.3 Uses Always subject to Council's Special Consent

Notwithstanding the provisions of this Part of the Scheme, the Council may grant its Special Consent to any of the following uses in any Use Zone and no such use may be commenced without such Special Consent having first been granted:-

- 1. refuse tipping
- 2. sewage disposal excluding conservancy and septic tanks
- 3. cemeteries
- 4. extractive uses
- 5. the making of bricks, tiles and concrete or cement products
- 6. land filling and reclamation

provided that in the case of uses 1 and 6 above, where the Council is of the opinion that no adjacent property will be detrimentally affected, the Council may grant its consent without the applicant being required to comply with the provisions of Regulation 3.18.1.

3.4 Spoilation of land

No person shall spoil or waste land or use land so as to destroy or impair its suitability for use for the purpose for which it is zoned, provided that the Council may consent to the deposit on any land of waste materials and refuse.

3.5 Agricultural Use

3.5.1 Notwithstanding anything contained in this part of the regulations, any land may be used for agricultural purposes provided that where such land is less than 4 ha in extent, it may only be so used with the Special Consent of the Council.

3.5.2 On any land used for agricultural purposes, the Council may consent to the retail sale of produce of such land and of goods related to such products.

3.6 Conversion of a building

In this part of the regulations, the term 'erection of a building' includes the conversion of the building to a new use, whether or not involving the structural alteration thereof, and the Council shall prohibit the use of a building where such use would conflict with the provisions of the Zoning Scheme. Before the new use is exercised, irrespective of whether structural alterations are involved or not, plans showing the change of use shall be submitted to the City Engineer for approval.

3.7 Buildings in more than one Use Zone

Where different parts of a building are situated in different Use Zones, the erection and use of each part shall conform with the provisions of the Use Zone into which such part falls.

3.8 Zoning of closed streets and public places

Where any street or part of a street or public place is closed and consolidated with an abutting property, such piece of land shall be deemed to fall into the same Use Zone and Sub-Zone as that of the abutting land.

3.9 Buildings on land zoned 'Transportation 1'

3.9.1 Any existing building situated in the Use Zone Transportation 1 may be maintained, altered or extended with the consent of the Council; provided that no compensation shall be payable by the Council in respect of such alterations or extensions.

3.9.2 Save with the consent of the Council, no person shall erect a building or execute works, or make excavations on land zoned Transportation other than buildings, works or excavations required for, or incidental to, the purpose for which the land is zoned, provided that nothing herein contained shall be deemed to absolve any person from due compliance with the provisions of the Council's regulations insofar as they are not in conflict herewith.

3.10 Exemption from restrictions

Without prejudice to any of the powers of the Council under any other law or to the remaining provisions of these regulations, nothing in the provisions of this Part of the scheme shall be construed as prohibiting or restricting, or enabling the Council to prohibit or restrict the occasional use of a Place of Public Worship, Place of Instruction or Institution as a Place of Amusement or Place of Assembly.

3.11 Practise of a profession or occupation from home

3.11.1 Notwithstanding the provisions of this part of the Scheme, it shall be permissible at the pleasure of the Council, for not more than one resident of a dwelling unit to practise a profession or occupation from such dwelling unit; provided that such profession or occupation, which for the purposes of this subregulation excludes a shop, industry or noxious use:-

(i) is clearly secondary to the use of the dwelling unit for dwelling purposes and does not change the residential character of the dwelling unit or erf in any manner when seen from the outside of the property;

(ii) does not, in the opinion of the Council, interfere with the amenity of the area by virtue of noise, vibration, odour, smoke or fumes emission, or unsightly conditions;

(iii) creates no interference with radio or television reception in the immediate vicinity of the dwelling unit;

(iv) does not include the employment, or taking into partnership, of more than two persons on the premises of the dwelling unit; provided that the assembly of persons on the premises for employment elsewhere shall constitute the employment, or taking into partnership, of such persons on the premises of the dwelling unit;

(v) does not involve the public display of goods, whether in a window or otherwise, or the exhibition of any sign other than a notice or sign not exceeding 0,08 square metre in area, ordinarily exhibited on dwelling houses to indicate the name and profession or occupation of the resident;

(vi) occupies no more than a minor part of the floor area of the buildings on the erf;

(vii) does not involve the regular parking or storing on the premises of any vehicle used for the transporting of goods, materials or passengers for hire or reward, other than the vehicle required for the personal use of the resident in connection with the practise of his profession or occupation;

(viii) does not create a volume of traffic inconsistent with the level of traffic on the street on which the dwelling unit is located;

(ix) does not absolve the resident from complying with the Council's by-law or other regulations.

3.11.2 The Council shall, by notice served on the resident, have the right to impose conditions in addition to those contained in the proviso to subregulation 3.11.1 if, in its sole discretion, it deems the imposition of such additional conditions to be necessary.

3.11.3 Any non-compliance with any condition contained in subregulation 3.11.1 or imposed in terms of subregulation 3.11.2 shall constitute a contravention of these regulations.

3.11.4 The Council may upon application consent to the use by any resident of a dwelling unit for a shop; provided that:-

(i) such activity shall be subject to the proviso to subregulation 3.11.1;

(ii) any person intending to apply to the Council for its consent in terms of this regulation shall, before making such application, serve written notice on the occupants of adjoining properties either by registered post or by hand and shall submit, together with his application, proof of such service or posting;

(iii) the notice required to be served by this subregulation shall give full details of the shop which the applicant proposes to establish on the erf and shall state that any objection shall be lodged with the Council within a period of two weeks of the date of serving or posting of the notice;

(iv) the consent of the Council granted in terms of this regulation shall attach to the applicant personally and not to the premises on which the business is conducted. [Amended TPA 1106 (Amended 2) 10.7.92]

3.11.5 Regulation 3.11.1 shall be construed as including any use other than a noxious use, and provisos (iv), (v) and (vii) thereto and the provisions of regulation 3.11.4 shall not apply to any Residential 4 erf. [Introduced TPA 1106 (Amended 3) 2.10.92]

3.12 Erection of a second dwelling unit

Notwithstanding the provisions of any regulation in this Scheme, in respect of any Residential I erf on which a dwelling house has been erected:

3.12.1. A second dwelling unit of an area not exceeding 50 m² (flatlet) may be created. Such dwelling unit shall be designed to be in keeping with the main dwelling in form and materials.

3.12.2 The Council may consent to the erection of a second dwelling unit exceeding 50 m² on condition that:

(a) The applicant shall present, in a form acceptable to the Council, details of the siting and design of the second unit.

(b) The granting of the Council's Consent shall not imply that any subsequent application for cadastral subdivision will be granted. Minimum erf sizes for subdivision as provided for in this Scheme shall continue to be applicable.

(c) At least one parking bay other than that serving the primary unit shall exist or be provided on the site of a proposed second dwelling unit for purposes of or exclusive use by residents of that unit.

(d) No more than two road accesses per residential erf shall be permitted. Where it is impossible to save a street tree for purposes of giving the most convenient access to a second unit, it must be removed and replaced at the cost of the applicant.

(e) Any persons intending to apply to the Council for its consent in terms of this regulation shall, before making such application, serve written notice on the occupants of adjoining properties either by registered post or by hand and shall submit, together with his application, proof of such service. Notwithstanding the provisions of any regulation in this Scheme, the Council may, in respect of any Residential 1 erf on which a dwelling house has been erected:

3.12.3 Deleted by TPA 1106 (Amended 2) 10.7.92.

3.13 Predominant use of Buildings

Where a building is used, or a proposed building is designed, for more than one use, it shall be treated for the purposes of Part III, and regulation 6 (Coverage) and 13 (Parking) as being used or designed partly for each of these uses, but for the purposes of the other provisions of these regulations, it shall be treated as being used or designed only for its predominant use and the Council may, and shall, if the person having control of, or proposing to erect, the building makes an application for that purpose decide which is the predominant use.

The Council shall forthwith give notice of any decision under this regulation to the applicant, and the person so notified, if aggrieved by the decision, may request the Council to review its decision in terms of regulation 19.

3.14 Protection of existing buildings

Any building which was lawfully erected in terms of any prior town planning scheme or amendment shall be deemed to have been lawfully erected in terms of this Scheme.

3.15 Noxious Use

3.15.1 Notwithstanding the provisions of Table A no Noxious Use may be established in the Use Zone Industrial 3 without the prior consent of the Council.

3.15.2 Upon the production of a certificate from the Medical Officer of Health, in consultation with the Inspector of Factories, that the process it is intended to employ in the conduct of the use will not cause nuisance or danger to health, the Council may consent to the erection and use of buildings for such Noxious Use in Use Zone Industrial 2.

3.16 Builders Yards

In the Use Zone Industrial 2, any Builder's Yard shall be enclosed by a wall not less than 2 m in height along all boundaries of the erf.

3.17 Conditions imposed in Consent or Special Consent of the Council

- 3.17.1 Any provision in this Scheme empowering the Council to grant its consent or Special Consent shall include the power to refuse consent and, if consent is granted, the power to impose any condition which the Council may deem fit.
- 3.17.2 A condition as contemplated in sub-regulation 3.17.1 shall have the same force and effect as if it were a regulation of this Scheme.
- 3.17.3 Every consent or Special Consent granted by the Council in terms of this Scheme shall be subject to termination by the Council if any breach of a condition upon which such consent was granted is not remedied in compliance with a notice served by the Council upon the owner or occupier of the site concerned, which notice shall require that the breach be remedied within a specific period.
- 3.17.4 If the rights obtained by virtue of the grant by the Council of its consent or Special Consent to a use are not exercised within twelve months of the grant of such consent or, the rights having been exercised, the use permitted thereunder is interrupted for a continuous period of eighteen months, the consent or Special Consent shall ipso facto lapse.

3.18 Special Consent of the Council

- 3.18.1 Except where otherwise specified any person intending to make application to the Council for its Special Consent for a use, whether partially or wholly for any purpose requiring its Special Consent in terms of this Scheme shall before making application -
1. Publish an advertisement in both an Afrikaans and English newspaper circulating in the area, giving notice of his intention to make such application and shall lodge with the Council proof of such publication together with the application;
 2. Serve written notice of the proposal either by registered post or by hand on the adjoining/affected property owners whether the property is developed or not, provided that where the written notice is served by hand, a copy of the notice so served signed by the adjoining/affected owner acknowledging that he has received the notice shall be lodged with the Council in proof of such service.
- 3.18.2 The notice, as prescribed by Council from time to time, shall state that any person having any objection to the proposed use may lodge such objection together with the grounds thereof with the Council in writing within fourteen days after the date of the last advertisement and shall further state where the plans, if any, may be inspected.
- 3.18.3 On receipt of any objection referred to in Regulation 3.18.2 the Council shall, without delay, refer the objection to the applicant for his comments.
- 3.18.4 The Council shall take into consideration any objections which have been received within the said period of fourteen days and the applicant's comments on the objections and shall within seventy (70) days after receipt of the applicant's comments on any objection, notify the applicant and the persons, if any, from whom objections were received of its decision.

TABLE 'A' - USE ZONES

1 Use Zones	2 Primary uses (Uses permitted)	3 Secondary uses (Uses permitted with the Special Consent of the Council)	4 Prohibited uses
Residential 1	Dwelling houses	Places of Public Worship Places of Assembly Places of Instruction Institutions Special Uses Guest Houses [Introduced TPA 1106 (Amended 3) 2.10.92]	Uses other than those mentioned in Columns 2 and 3
Residential 2	Dwelling units	Places of Public Worship Place of Assembly Places of Instruction Institutions Special Uses Guest Houses [Introduced TPA 1106 (Amended 2) 2.10.92]	Uses other than those mentioned in Columns 2 and 3
Residential 3	Dwelling units Residential Buildings Guest Houses [Introduced TPA 1106 (Amended 3) 2.10.92]	Licensed Hotels Medical Uses Places of Amusement Places of Public Worship Places of Assembly Places of Instruction Institutions Special Uses Parking	Uses other than those mentioned in Columns 2 and 3
Residential 4 [Introduced TPA 1106 (Amended 3) 2.10.92]	Dwelling units	Uses other than those mentioned in columns 2 and 4	Noxious uses Sex Shop, Brothel (TPA 1106 (A6))
Business 1	Shops, Business Purposes Places of Public Worship Places of Assembly Places of Instruction Dwelling units Residential Buildings Public Garages Warehousing Funeral Parlours Parking Licensed Hotels Guest Houses [Introduced TPA 1106 (Amended 3) 2.10.92]	Uses other than those mentioned in Columns 2 and 4 Sex Shop, Brothel (TPA 1106 (A6))	Noxious Uses
Business 2	Shops Business purposes Dwelling units Parking	Uses other than those mentioned in Columns 2 and 4 Sex Shop, Brothel (TPA 1106 (A6))	Industries Noxious Uses
Business 3	Offices Medical uses Dwelling units Residential Buildings	Restaurants for on-site consumption of food	Uses other than those mentioned in Columns 2 and 3
Industrial 1 [Deleted TPA 1106 (Amended 2) 10.7.92]			
Industrial 2	Funeral Parlours Industries Business purposes Public Garages Parking Warehousing, Shops Workshops Builders Yards Noxious uses subject to Regulation 3.15.2	Uses other than those mentioned in Columns 2 and 4 Sex Shop, Brothel (TPA 1106 (A6))	Uses other than those mentioned in Columns 2 and 3
Industrial 3	Noxious Uses subject to Regulation 3.15.1	Industries, Workshops Special Uses	Uses other than those mentioned in Columns 2 and 3
Community 1	Institutions Places of Public Worship Places of Assembly Places of Instruction	Dwelling units Funeral Parlours Special Uses	Uses other than those mentioned in Columns 2 and 3
Community 2	Places of Instruction Places of Public Worship	Institutions, Places of Assembly, Dwelling units, Special Uses	Uses other than those mentioned in Columns 2 and 3
Community 3	Public Authority Purposes	Special Uses	Uses other than those mentioned in Columns 2 and 3
Special Purposes	Uses as specified in the applicable zoning scheme	Uses as specified in the applicable zoning scheme	Uses other than those mentioned in Columns 2 and 3
Undetermined	Dwelling houses	-	Uses other than those

	Agricultural purposes		mentioned in Columns 2 and 3
Transportation 1	Streets and public Transportation	Shops, Business purposes Special Uses	Uses other than those mentioned in Columns 2 and 3
Transportation 2	Railways, Harbour,Airport	Shops, Business purposes Special Uses	Uses other than those mentioned in Columns 2 and 3
Public Open Space	Public Open Space	Shops, Business purposes Special Uses	Uses other than those mentioned in Columns 2 and 3
Private Open Space	Private Open Space	Special Uses	Uses other than those mentioned in Columns 2 and 3
Parking	Parking	Special Uses	Uses other than those mentioned in Columns 2 and 3

PART IV - DEVELOPMENT PARAMETERS

4. Intent

The purpose of this part of the regulations is to determine the density of development, the maximum coverage of buildings, the maximum height of buildings, the minimum building lines along streets and the minimum side and rear spaces between buildings and boundaries.

4.1 The Council may grant a departure authorising an alteration of a development parameter imposed in terms of this Part of the Scheme.

4.2 Subject to the provisions of regulation 5.3.1(v), any Residential Zone 3 erf which has not been placed in a subzone shall, for the purposes of this part of the regulation, be deemed to be in subzone C. [Inserted TPA 1106 (Amended 2) 10.7.92]

5.0 Density

5.1 Density in Use Zone Residential 1 Subject to the provisions of regulation 3.12, not more than one dwelling house may be erected on an erf in this use zone.

5.2 Density in Use Zone Residential 2

The number of dwelling units which may be erected on a Residential Zone 2 erf shall not exceed 20 dwelling units per hectare; provided that if the gross density of the surrounding Residential Zone 1 erven, multiplied by a factor of 3, results in a figure greater than 20 dwelling units per hectare, such higher density shall be applicable subject to a maximum density of 40 dwelling units per hectare.

5.3 Density in Use Zone Residential 3

5.3.1 No residential building or multiple dwelling shall be erected on an erf in Use Zone Residential 3, which falls into Sub-Zones A, B, C, D, E, F, H and J so as to exceed the number of habitable rooms set out in the accompanying Population Density Control graph; provided that

- (i) No erf with a net area which, after deduction of any land required for public open space or streets, is less than 800 m² in Korsten Sub-zone H, 1 500 m² in the Park Drive area in Sub-zone D and 900 m² elsewhere shall be used for the erection of a Residential Building or a Multiple Dwelling;
- (ii) the area of a habitable room shall not exceed that set out in Table 'B';
- (iii) in any building other than a purely residential building or multiple dwelling, the floor area shall be calculated by determining the permitted number of habitable rooms from the Population Density Graph and then converting to floor area by multiplying the number of habitable rooms by 40 m². The floor area so derived shall not be exceeded for such building;
- (iv) a balcony which existed prior to 22 November 1985 may be enclosed without being regarded as a habitable room if
 - a) prior approval is obtained from the City Engineer for such enclosure, due regard being had for the whole facade of the building and
 - b) similar materials are used for all enclosures on such facade;
- (v) where a floor space index is indicated on the map or has been specified in a rezoning, such floor space index shall supercede the density as determined from the Population Density Control Graph. (Introduced by TPA 1106 (Amended 2) 10.7.92)

5.3.2 Residential buildings or multiple dwellings erected on an erf in Sub-zone F shall not be subject to the provisions of this regulation but shall be controlled for purposes of density by the provisions of regulation 6 (coverage) and 7 (height).

5.3.3 Deleted by TPA 1106 (Amended 2) 10.7.92.

POPULATION DENSITY CONTROL GRAPH

SHOWING NUMBER OF HABITABLE ROOMS PERMITTED RELATIVE TO AREA OF SITE

Table 'B'						
Maximum area of habitable rooms						
Number of habitable rooms in dwelling unit	Maximum area of first habitable room		Maximum area of second habitable room		Maximum area of third habitable room	
		With the Consent of Council		With the Consent of Council		With the Consent of Council
	M ²	M ²	M ²	M ²	M ²	M ²
1	30	35	-	-	-	-
2	30	35	20	25	-	-
3	30	35	25	30	20	25
4	30	35	25	30	20	25
5	30	35	30	35	20	25

5.4 Density in Use Zones other than Use Zones Residential 1, Residential 2 and Residential 3

5.4.1 No building shall be erected on those erven where a Floor Space Index is shown on the Map or as specified in a condition imposed in a rezoning so as to exceed that Floor Space Index, provided that:-

- (i) multiple dwellings shall not be erected on erven the net area of which, after deduction of any area required for streets or public open space, is less than 900 m²;
- (ii) for buildings erected on an erf in Newton Park between 2nd and 4th Avenues as shown on Plan H7D-R-45 filed in the offices of the City Engineer, the land given up for parking areas either by transfer to the Council or by registration of a servitude in favour of the Council, may be included for purposes of calculating the maximum floor area.
- (iii) any erf zoned for Business Zone 1 or Business Zone 2 and for which no floor space index has been specified shall be deemed to have a floor space index of 1.0. [Introduced TPA 1106 (Amended 2) 10.7.92]

5.4.2 In the portion of the Area bounded by Kempston Road, Durban Road, Cottrell Street, Casely Street, Kay Street, Dudley Street, Lynn Street, Perl Road and Juta Road zoned Industrial 2, no building of any kind shall be erected unless the erf upon which such building is proposed to be erected is of an area not less than 500 m².

6 Coverage

6.1 For the purposes of this regulation, the area of any land required for streets or public places shall not be included in the area of the erf.

6.2 No building shall be erected so as to exceed the coverage specified in Table "C"; provided that

- (i) dwelling houses erected in any Use Zone other than in Use Zone Residential 4 shall comply with the coverage restrictions applicable to Use Zone Residential 1; [Amended TPA 1106 (Amended 3) 2.10.92]
- (ii) multiple dwellings and residential buildings erected in any Use Zone shall comply with the coverage restrictions applicable to Use Zone Residential 3 Sub-zone A, B, C, D, E, G and J;
- (iii) in Use Zone Residential 3, covered parking shall not be taken into account on condition that:-
 - (a) the exclusion shall not exceed 16,67% of the site area; [Sub-paragraph (a) amended TPA 1106 (Amended 2) 10.7.92]

[Sub-paragraphs (b) and (c) deleted TPA 1106 (Amended 2) 10.7.92]

- (b) the conversion of any covered parking in any existing Residential 3 development built to a coverage of 33-1/3% or less shall be aesthetically compatible with its surrounds and sited, designed and constructed to the satisfaction of the Council as shall the replacement of parking so converted and any additional on-site parking so required. [Amended TPA 1106 (Amended 2) 10.7.92]

Table 'C'

Coverage in various Use Zones

Use Zone (1)	Sub Zone (2)	Uses (3)	Erf Size (4)	Coverage % (5)
Residential 1	Whole of area	All	500 ² and less 501 ² - 1000 ² 1001 ² or greater	70 60 50
Residential 2	Whole of area	All		70
Residential 3	ABCDEGJ H F	Buildings other than dwelling houses		33½ 60 70
Residential 4 [Introduced TPA 1106 (Amended 3) 2.10.92]	Whole of area	All		80
Business 1	Whole of area	Uses other than dwelling units and residential buildings		100
Business 2 Business 3	Whole of area	Uses other than dwelling units		50
[Industrial 1 – deleted TPA 1106 (Amended 2) 10.7.92] Industrial 2 Industrial 3	Whole of area	All primary uses		100
Community 1 Community 2	Whole of area	All primary uses		50
Special Purposes	Whole of area			As specified in relevant Amendment Scheme
Undetermined	Whole of area	Buildings for Agricultural purposes		50
		All other Buildings		As determined by Council
All other use zones	Whole of area	All		As determined by Council

7. Height

7.1 In the Allotment areas of Mount Pleasant, Lorraine, Charlo and Theescombe, Mangold Park, Fairview and Walmer, no building shall be erected so as to exceed 3 storeys excluding basements or 12 m in height whichever is the lower, provided that:-

- (i) height shall be measured from ground level to the height of the highest building;
- (ii) where the floor or ceiling of a storey is not level, or has different levels, the mean level shall be taken.

7.2 Notwithstanding the provisions of regulation 7.1 above no building within the Area erected in Use Zones Residential 1, Residential 2 and Residential 4 may exceed a height of 2 storeys. [Amended TPA 1106 (Amended 3) 2.10.92]

7.3 In order to perpetuate the view of the sea from the Donkin Memorial, the following height restrictions shall apply:-

7.3.1 In the area bounded by the centre lines of Russell Road, Main Street, Whites Road and Chapel Street, no building shall exceed a height of 31,75 m above the kerb level in Main Street at a point where a line drawn at right angles to Main Street from the centre of the building intersects the kerb on the west side of Main Street.

- 7.3.2 In the area bounded by Market Square and the centre line of Main Street, Griffin Street and a line midway between Main Street and Strand Street or Victoria Quay, the face of a building fronting onto Main Street shall not exceed a height of 31,75 m above the kerb level in Main Street at a point where a line drawn at right angles to Main Street from the centre of the building intersects the kerb on the east side of Main Street; provided that the top of the building shall either slope or be stepped down from Main Street face at a gradient of 1 in 15.
- 7.3.3 In the area bounded by the centre line of Griffin Street, Strand Street or Victoria Quay, Market Square and a line midway between Strand Street or Victoria Quay and Main Street, the face of a building fronting onto Strand Street or Victoria Quay shall not exceed a height of 31,75 m above the kerb level in Strand Street or Victoria Quay at a point where a line drawn at right angles to Strand Street or Victoria Quay from the centre of the building intersects the kerb on the west side of Strand Street or Victoria Quay; provided that the top of the building shall either slope or be stepped up from the Strand Street or Victoria Quay face at a gradient of 1 in 15.
- 7.3.4 No portion of a building fronting onto the side streets or lanes in the areas mentioned in regulations 7.3.1, 7.3.2 and 7.3.3 shall rise above the heights or grades laid down in these regulations.
- 7.4 No building in Humewood Township shall be built to a height above the back of pavement level of the street to north-east side greater than indicated below:-

In the blocks bounded by:-

1. Cyprus Avenue, Beach Road, La Roche Drive and Humewood Road: 21,25 m
2. Cyprus Avenue, Humewood Road, La Roche Drive and Windermere Road: 19,75 m
3. Driftsands Drive, Windermere Road, Bok Street and Killarney Road: 15,25 m
4. Ayliff Street, Windermere Road, Erf 499 and Ferndale Road: 15,25 m

8. Street building lines and space about buildings

- 8.1 Subject to the provisions of Regulation 1.6.2 no building or any structure or any portion thereof except boundary walls and fences shall be erected closer to the street, side or rear boundaries of an erf than the distances set out in Table D provided that:-
- (i) nothing in these regulations shall be deemed to excuse compliance with the provisions of Section T3 of the National Building Regulations;
 - (ii) the Council may consent to the erection of a building closer to the boundary than the specified distance if, on account of the levels of the site, or of adjoining land, or the propinquity of buildings already in front of the building line, or any other special circumstances, compliance therewith would seriously hamper the development of the site provided that, subject to the provisions of regulation 8.5, private garages may be erected within the street building line and/or side spaces, subject to:-
 1. the width of the garage measured along the street boundary, not exceeding 7,0 m;
 2. the written consent of the owners of abutting erven in the case of a side space, and of abutting and opposite owners in the case of a street building line, being obtained;
 3. gates and/or doors to control access to/egress from the garage not opening over the boundary lane, and
 4. the design of the garage being aesthetically acceptable to the Council; [Amended TPA 1106 (Amended 2) 10.7.92]
 - (iii) where a building line is shown on the Map such building line shall prevail over the building line specified in Table D;
 - (iv) the Council may consent to the erection of a wall, swimming pool, reservoir, summerhouse, hothouse, pergola, tennis court, any garden structure, gatehouses, electricity substations and refuse storage rooms within the area between the street boundary and the street building line; [Amended TPA 1106 (Amended 2) 10.7.92]

- (v) for the purpose of this regulation, a lane less than 11 m in width shall not be considered to be a street and the side and rear spaces shall be applicable to the boundary of an erf abutting such lane.
- 8.2 On any erf on which a dwelling house is erected, carports (i.e. roofed car shelters which are not enclosed on more than two sides), may, with prior approval in terms of the Council's Building By-laws, be erected within street building lines and side spaces, subject to the following conditions:- [Amended TPA 1106 (Amended 2) 10.7.92]
- (a) the roofed area shall not extend along the street boundary for a distance of more than 6 m;
 - (b) the roofed area shall not be enclosed by walls or any other structures of solid material on more than one side;
 - (c) the written consent of the registered owner of the abutting site in the case of a side or rear setback, and both the abutting and opposite sites in the case of a street setback, shall be obtained. Should such consent not be obtained, the proposal shall follow the procedure of a Departure;
 - (d) gates and/or doors to control access to/from carports shall not be allowed to protrude or open over the street boundary.
- 8.3 For the purpose of this regulation, the height of a building shall be measured from ground level to the height of the highest ceiling in the building.
- 8.4 No building, fence or boundary wall shall be erected on erven at the junction of any streets intersecting at an angle less than 130° unless such buildings are set back from the intersection for a distance such that the base of the isosceles triangle cut off from the intersection shall be tangential to a circle of not less than 5 m radius having its centre at not less than that distance from the street boundaries of the erf; provided that:-
- (a) the cut-off distance measured from the point of intersection of the erf boundaries need not exceed 6 m;
 - (b) the cut-off shall apply only to the ground floor of buildings;
 - (c) a column (or columns) may be erected within the cut-off corner on condition that it is contained within a circle not exceeding 1,0 m in diameter and is at least 1,25 m away from the base of the cut-off corner.
- 8.5 Notwithstanding the provisions of Table D, but subject to the provisions of regulation 1.6.2 no building shall be erected closer than 5,0 m to the statutory boundary of an erf abutting a proclaimed main road. [Amended TPA 1106 (Amended 2) 10.7.92]

Table D - Building lines and Side and Rear Spaces

PART V - SUBDIVISION OF LAND

9.1 Applications to subdivide land

- 9.1.1 An application to subdivide land shall be submitted to the Council for approval either by the Council where the Council is empowered in terms of the Ordinance to approve applications for subdivision, or by the Administrator in any other case.

9.2 Areas of subdivision

- 9.2.1 Any subdivision which is to be used for the purpose of erecting a dwelling house, other than in Use Zone Residential 2 and Residential 4, shall not be smaller than 500 m² in allotment areas Malabar, Gelvandale, Bethelsdorp, Bloemendal and Korsten and 600 m² in the rest of the Area provided that:- [Amended TPA 1106 (Amended 3) 2.10.92]

- (i) where a minimum area of land per dwelling house is shown on the Map such minimum requirement shall prevail over the areas as stipulated in this regulation;
- (ii) where there are existing detached dwelling houses, other than a second dwelling unit erected in terms of Regulation 3.12, so situated that the achievement of the minimum area is impossible, the Council may consent to a relaxation of the minimum area;
- (iii) the boundaries of existing erven of an average size less than the minimum area may, with the consent of the Council, be rearranged, on condition that the number of subdivisions so created is not greater than the original number and that no new subdivision is smaller than 300 m² or the smallest of the previously existing erven, whichever is the greater;
- (iv) where attached dwelling units, other than a second dwelling unit erected in terms of Regulation 3.12, exist on one erf, the Council may consent to sub-division to less than the minimum area on condition that each individual dwelling unit shall, after subdivision, be capable of functioning as an independent erf with access to a public street.

- 9.2.2 Any subdivision of an erf at the intersection of two streets shall be splayed in accordance with the recommendations set out in paragraph 8 of Part A, Table A6 of the Guidelines for the Provision of Engineering Services for Residential Townships as issued by the former Department of Community Development, in 1983.

- 9.2.3 For the purposes of this regulation, the area of any splay at the corner of two intersecting streets and the area of any land given off for the purpose of widening of existing streets shall be included for the purpose of determining the area of the subdivision.

9.3 Provision of Open Space

- 9.3.1 Subject to the provisions of regulation 9.3.2:-

- 9.3.1.1 The owner of an erf zoned for Residential 1 purposes, shall, on subdivision thereof, provide, free of charge, open space in a ratio of 72 m² in respect of every portion of the subdivided erf in excess of two which is of an area of 500 m² or more, and in the ratio of 96 m² in respect of every portion of the subdivided erf in excess of two which is of an area of 250 m² or less; provided that for any portion of the subdivided erf of an area between 500 m² and 250 m² the amount of open space to be provided shall be determined on a pro rata basis.

- 9.3.1.2 When an erf is created for residential purposes where more than one dwelling unit is permitted, whether by subdivision or rezoning, the owner shall provide, free of charge, open space in the ratio of 54 m² in respect of every dwelling unit in excess of six, or 14 m² in respect of every habitable room in excess of twenty-four, which may be erected on the erf.

- 9.3.2 The provisions of regulation 9.3.1 shall be subject to the following:-

- 9.3.2.1 When, in the opinion of the Council, a lesser amount of open space is to be provided than that required to be provided in terms of regulation 9.3.1, the developer shall pay to the Council a levy for the difference between the amount of open space actually provided and that required to be provided.

- 9.3.2.2 When the Council requires the provision of open space in excess of the amount required to be provided in terms of regulation 9.3.1 the Council shall compensate the developer for such excess.

9.3.2.3 The levy to be paid by the developer in terms of paragraph 9.3.2.1 above shall be payable as follows:-

(i) in the case of Residential 1 erven, on transfer of each subdivided portion and shall be calculated in accordance with the following formula:-

$$\frac{Y(X-2) - Z}{(X-2)} \times \frac{R}{A}$$

Where X = total number of subdivided portions.

Y = Area of open space per Residential 1 portion of the subdivided erf in m² required in terms of regulation 9.3.1.1 above.

Z = Total area of open space actually provided in m².

A = Area of the subdivided portion in m².

R = Sale price of the subdivided portion.

provided that if there is no sale price or if, in the opinion of the Council, the sale price is less than the market value, R shall be the market value of the subdivided portion. (ii) In the case of an erf for residential purposes where more than one dwelling unit is permitted:-

(a) Where such erf is not to be further subdivided, before building plan approval, and shall be calculated in accordance with one of the following formulae, whichever one is applicable:-

$$[14(X-24) - Y] \times R \div A$$

Where X = Number of habitable rooms which may be erected on the erf.

Y = Amount of open space actually provided in m².

A = Area of the erf in m².

R = Market value of the erf.

or
$$\frac{[54(X-6) - Y] \times R}{A}$$

Where X = Number of dwelling units which may be erected on the erf.

Y = Amount of open space actually provided in m².

A = Area of the erf in m².

R = Market value of the erf.

(b) Where such erf is to be further sub-divided, on transfer of each sub-divided portion, and shall be calculated in accordance with the following formula:-

$$\frac{[54(X-6) - Y] \times R}{A}$$

Where X = Number of subdivided portions of the erf.

Y = Amount of open space actually provided in m².

A = Area of the subdivided portion in m².

R = Market value of the sub-divided portion.

9.3.2.4 The compensation to be paid by the Council in terms of regulation 9.3.2.2 shall be calculated in accordance with the applicable formula set out in Regulation 9.3.2.3 provided that "R" shall be the market value of the land and shall be payable as follows:-

- (i) in the case of Residential 1 subdivisions, at the time of confirmation of the sub-division;
- (ii) in the case of an erf for residential purposes where more than one dwelling unit is permitted, on transfer of the open space to the Council or, where the erf is to be further subdivided, on confirmation of the subdivision.
- 9.3.3 For the purpose of this regulation only land which, in the opinion of the Council, is suitable for purposes of sport, play or recreation shall count towards the provision of Open Space.
- 9.4 Areas within floodlines
- 9.4.1 The Council may require the plan accompanying an application for permission to subdivide an erf to show:-
- (1) the 100 year flood line along each bank of any water-course having a catchment area in excess of 100 hectares; and
- (2) the 100 year flood line of any low-lying landlocked area having a catchment area in excess of 100 hectares.
- 9.4.2 For the purpose of this regulation:-
- (1) A watercourse is a channel, natural or otherwise, along which stormwater can drain naturally, whether or not its conformation has been changed by artificial means, and includes any river, stream or spruit.
- (2) The 100 year flood line is the line along each bank of a watercourse or around a low-lying landlocked area joining all points that indicate the maximum floodwater level that is likely to be reached on an average of once every 100 years based on the existing and foreseeable future development of the catchment area.
- 9.4.3 Any modification made to the conformation of a watercourse which has the effect of altering the existing 100 year flood lines must have the prior approval of the Council which may impose such conditions as it thinks appropriate.
- 9.4.4 All hydrological and/or hydraulic information that is required to be provided by the applicant in terms of this regulation shall be applied by a registered Professional Engineer experienced in such matters and the relevant calculations shall be made available to the City Engineer on his request.
- 9.4.5 The Council may prohibit the erection of buildings or structures or may impose such conditions as it deems appropriate with regard to the use of land and the erection of buildings or structures within the 100 year flood line.
- 9.5 Urban aesthetics on limited access roads
- 9.5.1 Any subdivision of an erf which has a street boundary across which no vehicular access is permitted shall be subject to the following conditions:-
1. Any security wall or fence erected on such boundary shall conform with a design or designs prepared by the City Engineer and shall be erected to his satisfaction.
2. Any outbuilding erected on such subdivision shall be aesthetically integrated with the main building so as to read as a single complex.

PART VI - GENERAL AMENITY AND CONVENIENCE

10. External appearance of buildings
- 10.1 A person intending to erect a building in any use zone other than Residential 4 (in this clause referred to as the "building owner") shall furnish the Council with distinct, legible drawings or other sufficient indication of the external appearance of the proposed building, and with a description of the materials to be used in its construction, all of which are hereafter in this clause referred to as "the particulars".
[Amended TPA 1106 (Amended 3) 2.10.92]
- 10.2 The Council shall within sixty days from the submission to it of particulars under this clause -

approve the particulars; or if it considers that, having regard to the character of the locality or of the buildings erected or proposed to be erected therein, the building would disfigure the locality by reason of its external appearance, disapprove the particulars, and shall forthwith give notice of its decision to the building owner and of the reasons for its decision.

11. Outline Site Development Plan

11.1 A person intending to erect dwelling units on an erf in the Use Zone Residential 2 or Residential 3 or, in the discretion of the Council, for a proposed development of any kind in any other Use Zone, shall submit, for acceptance by the Council, an outline site development plan which shall:-

1. Be to a scale of not less than 1 in 200 or, if the development proposed is so extensive as to require a smaller scale, to a scale of 1 in 500;

2. Show the following matters:-

(i) the siting of all buildings and parking areas;

(ii) a general indication of external finishes to be used in buildings and paving;

(iii) the contours of the site at a vertical interval of 1,0 m; or where the gradient is flatter than 1 in 50, a vertical interval of 0,5 m;

(iv) the vehicle and pedestrian access and circulation;

(v) the position of all services and, if applicable, any servitudes to be registered;

(vi) the proposed method of disposing of stormwater;

(vii) the phasing of the construction;

(viii) the area of the site and the number of dwelling units per gross hectare;

(ix) if the site is to be subdivided, the proposed subdivision lines;

(x) the extent and position of any Open Space to be provided;

(xi) height, coverage and, on a Residential 3 erf, the total floor space of all buildings;

provided that the Council may exempt an applicant from complying with any of the requirements of this regulation.

11.2 No building plan shall be approved and no construction work shall be commenced until the site development plan has been accepted by Council. The erection of a building for the commencement of construction work before the acceptance of the site development plan, or, if the plan has been accepted, otherwise than in accordance therewith shall be a contravention of the Scheme; provided that the Council may consent to an amendment of the plan.

12. Control of Environmental Areas

12.1 The Council may by notice in the Press declare any part of the Area, which in its opinion is of special historic, architectural, aesthetic or environmental interest or merit to be an Environmental Area.

12.2 In declaring any area to be an Environmental Area, the Council may impose such requirements as it deems necessary to protect any building, use or feature within such Environmental Area, whether man-made or natural, and no such building, use or feature shall be erected, demolished or altered without the consent of the Council; provided that the Council may require the owner to advertise his intentions and may specify the method and form such advertisement shall take.

12.3 In granting its consent in terms of regulation 12.2, the Council may impose such conditions as it deems fit relating to alteration, demolition and maintenance.

12.4 Before declaring any area to be an Environmental Area, the Council shall advertise its intention to do so. Any person who has any interest in such area may object or submit recommendations in respect of the proposed declaration and the Council shall take such objections and recommendations into account in reaching a decision.

13. Provision of parking space

13.1 The owner of an erf shall, on the erection of a building, provide on his erf at his own cost sufficient parking spaces, the minimum number of which shall be in accordance with the standards recommended by the Department of Transport in its Report No. PG 3/85 as amended from time to time; provided that the term "Gross Leasable Area" or "G.L.A." as used in Report PG 3/85 shall have the same meaning as ascribed to the term "Floor Area" as defined in these regulations provided further that where cinemas form part of a shopping or office development with a total floor area in excess of 5 000 square metres, the parking spaces to be provided for the cinemas shall be calculated at a ratio of 0,05 parking spaces per cinema seat. [Amended TPA 1106 (Amended 2) 10.7.92]

13.2.1 In the event of the owner being unable to provide the on-site parking required in sub-regulations 13.1 or 13.3 on account of topographic or other physical constraints, he shall either:-

(a) pay to the Council a financial contribution in lieu thereof, the amount of which is to be calculated on the following basis:-

$$30 P (V + C)$$

Where

"P" represents the number of parking bays that the owner is required to provide but which he is unable to provide;

"V" represents the estimated market value at the time the contribution is to be paid of the land on which the parking should have been provided expressed in Rands per square metre;

"C" represents the cost per m² of constructing a single parking bay as determined by the Council at its sole discretion from time to time;

or

(b) provide the number of parking bays required in sub-regulation 13.1 on another erf in the vicinity of the erf to be developed, subject to:-

(i) the two erven being notorially tied to prevent either being alienated independently of the other; and

(ii) the other erf being appropriately zoned.

13.3 The provisions of sub-regulation 13.1 shall not apply in the following cases:-

13.3.1 In the Central Business District as bounded by Strand Street, Strand Street extension, Baakens Street extension, Baakens Street, Whites Road, Chapel Street, Evatt Street, Evatt Street/Main Street link, Main Street, James Street and Victoria Quay extending from James Street to Griffin Street but the following provisions shall apply:-

(a) On the erection of a building on any erf, except those mentioned in paragraph (b) below, parking shall be provided on the erf in extent not less than 10% of the actual floor area of the building excluding any floor area used for parking;

(b) no parking need be provided on erven less than 500 m² in area or on erven to which the sole access is from South Union Street, North Union Street, Main Street, Strand Street and Victoria Quay.

13.3.2 To an erf if, within a period of 5 years from 17 February 1989, it is developed, altered, extended or redeveloped for a purpose permitted by the zoning applicable on that date, in which case the provisions of Annexure A shall apply.

13.3.3 To dwelling units erected in terms of regulation 3.12.1.

13.3.4 All erven in Residential 4. [Introducing TPA 1106 (Amended 3) 2.10.92]

13.3.5 Where an existing building is renovated, altered, converted, or repaired for a purpose permitted by the zoning of the erf applicable on 17 February 1989, provided that –

(i) in each case the on-site parking situation shall be improved as far as is practically possible to the satisfaction of the City Engineer;

(ii) this concession shall not apply to any floor area in excess of the existing floor area.

13.4 In the Zones Business 1 and Industrial 2, the provisions of sub-regulations 13.1 and 13.2 may be waived or relaxed for buildings erected on erven smaller than 500 m² in area or for buildings erected on erven which have a street frontage of less than 15 m and where not more than 50% of the permitted floor area is built.

13.5 The parking spaces provided in terms of this regulation shall not be used for any purpose other than for parking of motor vehicles in working order.

13.6 The Council may require the owner of an erf to provide, on the erection of a building, a lesser number of parking spaces than is required in terms of regulation 13.1, in which event the owner of the erf shall pay to the Council a financial contribution calculated in terms of regulation 13.2(a) for the number of parking spaces by which his obligation in terms of regulation 13.1 is reduced.

13.7 On those erven in Newton Park between 2nd Avenue and 4th Avenue where, in terms of TPA 10 and as shown on Plan H7D-R-45 filed in the offices of the City Engineer, parking has already been provided either by transfer of land to the Council or by registration of a servitude in favour of the Council, such parking may be included as part of the parking required in terms of this regulation.

14. Design of Parking Areas

14.1 Any parking space or spaces provided in terms of regulation 13 need not necessarily be under cover but if forming part of an area not built upon shall be paved and provided with an entrance from or exit to a street upon which the building abuts. Furthermore, the whole of such area shall be satisfactorily maintained and, if required by Council, marked out for the parking of motor vehicles and designed in such a manner that any individual vehicle can conveniently be parked or removed without disturbing other parked vehicles unless provision is made and maintained for mechanical or manual parking by the building proprietors. Such provision of on-site parking facilities shall be to the satisfaction of the Council who may at its discretion require the provision of more than one vehicle entrance and exit to such parking garage or parking area.

14.2 Deleted by TPA 1106 (Amended 2) 10.7.92.

15. Loading Bays

- 15.1 On the erection of a building intended for use as a shop, workshop, industry, noxious use, warehouse or business purposes, sufficient and adequate bays for purposes of loading, unloading and fuelling of vehicles used in the transport of goods to and from the building shall be provided on the same erf to the satisfaction of the Council.
- 15.2 No loading bay shall be less than 24 m² in area nor shall its length be less than 6 m nor its width be less than 3 m.
- 15.3 The siting, design, access to and egress from the loading bays shall be to the satisfaction of the Council and all such bays shall be demarcated "Loading and Unloading Only".
- 15.4 Neither the owner nor any occupant of a building shall permit any vehicle transporting goods to and from the building to be loaded, unloaded or fuelled in the street except in designated loading bays.
- 15.5 The provisions of this regulation may be relaxed or waived by the Council where its application is not considered to be practicable by reason of the nature or situation of the erf.
- 15.6 The provisions of regulations 13.3.1(b), 13.3.2 and 13.4 shall mutatis mutandis apply to the provision of loading bays in terms of this regulation.

PART VII - MISCELLANEOUS

16. Previous consents, departures, floor space indices and density restrictions

Any consent, departure, floor space index or density restriction approved in respect of a specific erf in terms of any law or scheme withdrawn or amended in terms of this Scheme shall continue to apply in respect of that particular erf. [Amended TPA 1106 (Amended 2) 10.7.92]

17. Permissions prior to approval of the Scheme

Nothing in this Scheme shall prevent the erection of a building or the carrying out of works in accordance with the terms of any permission granted by the Council prior to the date referred to in Regulation 1.1.

Any building erected in contravention of a refusal or a conditional consent by the Council and any use of a building which does not conform with the provisions of this Scheme will be a contravention of the Scheme.

18. Conditional Approvals

Where permission to erect any building, execute any work or do any other act or thing has been granted under any withdrawn scheme or this scheme, the conditions, other than conditions relating to coverage, height, building lines and parking and all conditions imposed in the Special Purpose Zone, shall have the same force and effect and shall be regarded as part of this Scheme. [Amended TPA 1106 (Amended 2) 10.7.92]

19. Review of Council's decision

19.1 An applicant or an objector aggrieved by a decision of the Council on any matter in terms of this Scheme may, within a period of fourteen days of the date on which the applicant and the objector are notified of the decision, lodge with the Town Clerk a request for the Council to review such decision.

19.2 In the event of an objection having been lodged, no approval granted in terms of this Scheme shall take effect until the Council has reviewed its decision as provided for in sub-regulation 19.1; provided that if no request is lodged as provided for in sub-regulation 19.1, the approval shall take effect twenty-one (21) days after the date on which the applicant is notified of the Council's decision.

20. Keeping of Registers

The Council shall keep, so as to be available for inspection at all reasonable times by any person interested, a record of consents granted by it under any provision of this Scheme, and of any conditions imposed or agreed between the Council and the applicant in connection therewith.

21. Service of Notices

21.1 Whenever any notice, order, demand or other document is by this Scheme authorised or required to be served on any person, it shall be deemed to have been effectively and sufficiently served on such person -

21.1.1 When it has been delivered to him personally; or

21.1.2 when it has been left with a person apparently over the age of 16 years, at his place of residence or business in the Republic; or

21.1.3 when it has been posted by registered mail, properly stamped and addressed, to his last known residential or business address in the Republic; or

21.1.4 if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided in paragraphs 21.1.1, 21.1.2 or 21.1.3; or

21.1.5 if his address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.

21.2 When any notice, order, demand or other document as aforesaid is authorised or required to be served on any person on account of his being or having been the owner or occupier of, or his holding some other right in respect of immovable property, it shall not be necessary to name him, but it shall be sufficient if he is described therein as the owner, occupier or holder of such right, as the case may be.

22. Short Title

This Scheme shall be known as the Port Elizabeth Zoning Scheme, 1989, as amended.

ANNEXURE A

Parking provisions which shall apply for a period of 5 years from 17 February 1989 to existing undeveloped or partially developed erven which are developed, altered or extended for a purpose permitted by the zoning application on that date:-

(A) In Allotment Areas Algoa Park, Amsterdamhoek, Bethelsdorp, Bloemendal, Central, Cotswold, Fernglen, Framesby, Gelvandale, Humewood, Hunters Retreat, Malabar, Kabega Park, Korsten, Mill Park, Mount Road, New Brighton, Newton Park, North End, Parsons Vlei, Redhouse, Schoenmakerskop, South End, Summerstrand, Sunridge Park, Swartkops, Wells Estate, Westering:-

1. Any new Residential Building or residential premises which form part of business premises shall contain or make provision on the same erf for one garage or definite parking space for each flat in the building.

2. Any new shop or business premises or a combination of new and existing buildings on the same or consolidated erf or where an existing building is materially altered shall contain or make provision on the same erf for a parking garage or parking area, in extent not less than 10% of the actual floor area of the building. In assessing such actual floor area, there shall not be taken into consideration the floor space in any basement or other floor space provided for the parking of motor vehicles.

3. Any new industrial building or portion of a building used for industrial purposes, or a combination of new and existing buildings on the same or consolidated erf or where an existing building is materially altered, shall contain or have attached thereto a parking area or open space, or both combined, in area at least 15 per cent of the floor area of the said industrial building or portion of building used for industrial purposes.

4. In the case of a suburban cinema, the percentage of parking area shall be increased to provide parking accommodation for motor vehicles in the ratio of one parking space per ten seats contained in the cinema : provided that the cinema shall be deemed to be a suburban cinema if it is situated within a zone wherein the F.S.I. is less than 1,5 or in any sub-zone except Sub-zone A. Where a suburban cinema is incorporated in a business or civic centre or scheme which includes a communal parking area, the abovementioned parking requirements shall not be applicable.

5. Any building in Column 1 of the following Table shall provide the amount of parking set out in Column 2.

1	2
Apartment Houses Boarding Houses	3 parking bays for every 5 bedrooms
Institutions Licensed Hotels Private Hotels Nursing Homes Licensed Clubs Residential Clubs Medical Chambers	20% of gross floor space
Places of Public Worship Places of Assembly (Other than suburban cinemas)	1 bay for every 20 seats
Warehouses (Other than wool warehouses which will be treated on their merits as departures according to the circumstances prevailing)	10% of gross floor area

(B) In Allotment Areas Theescombe, Walmer, Charlo, Mount Pleasant, Fairview, Lorraine, Mangold Park:-

1. On any erf used for Public Garage purposes 6 parking bays, excluding showroom or workshop area, shall be provided for every grease bay or wash bay, and the additional provisions as set out in Provincial Notice No. 871 of 1973 "Township Ordinance 1934 - Regulations relating to Public Garages" shall apply.

2. The provisions of the following Table shall apply:-

MINIMUM REQUIREMENTS FOR PARKING AREAS		
Building Types	Minimum Parking Spaces Required	For Each
Boarding House	1	Guest bedroom and resident family.
Residential Building		Dwelling Unit
Single Residential Dwelling	1	
Flats	5	4 Dwelling Units
Hotel, Motel	1	3 Guest Sleeping Rooms
Social Hall	1	6 Members
(non-Residential Club, Masonic Temple, etc.)		
Auditorium, Stadium, Theatre, Convention Hall, Public Place of Assembly or Amusement	1	8 Seats (Note bench capacity computed at 1 seat for each 0,6 m)
Bowling Lane	3	Lane
Business Centre Development	1	14 m ² nett floor area
Drive-in Restaurant or Stand	1	46,5 m ² of erf area
Funeral Parlour	1	9 m ² of Assembly Room area
Hospital, Sanitorium or Nursing Home	1	3 beds
Medical Office Building	1	14 m ² of nett floor area
Offices and Office Building	1	27,5 m ² of nett floor area
Public Library, Gallery, Museum	1	18,5 m ² of nett floor area
Retail Store, Shop, Bank	1	14 m ² of nett floor area
Industrial Building or Manufacturing Establishment	1	37 m ² of <u>gross</u> floor area
Primary School	1	½ Classroom
High School	1	¼ Classroom (in addition to parking area required for auditorium)
Restaurant or other Eating Place	1	5 Seats (Except when it is in a building which provides the required parking area)

P.N.871/1973

19 October 1973

The Administrator has In terms of Section 60 of the Townships Ordinance, 1934 (Ordinance 33 of 1934), and Section 165 of the Road Traffic Ordinance, 1966 (Ordinance 21 of 1966), made the subjoined regulations and, In terms of Section 57 bis of the said Townships Ordinance, has applied such regulations to all local authorities to which the provisions of Chapter 4 of that Ordinance are not generally applicable in terms thereof.

REGULATIONS RELATING TO PUBLIC GARAGES

1. In these regulations unless inconsistent with the context "boundary" In relation to a road means the boundary of the width of a road as fixed by or under any law;

"Intersection" means the area embraced within the prolongation of the lateral boundaries of two public roads Which join each other at, or approximately at right angles, or the area Which traffic travelling on different roads joining at any other angle may come into conflict;

"public garage" means trade or business in respect of Which a licence is required in terms of Item 27 of the First Schedule to the Registration and Licensing of Businesses Ordinance (Ordinance 15 of 1953, as amended) and shall include the trade or business of fueling motor vehicles for payment or reward;

"traffic Island" means any raised area in a roadway intended for the physical separation of traffic or for the exclusive use of pedestrians, or for both;

and any other word or expression to Which a meaning is assigned In the Divisional Council's Ordinance, 1952 (Ordinance 15 of 1952), as the meaning so assigned to it.

2. Notwithstanding any provisions of a town planning scheme no person shall erect a public garage which does not conform to the requirements hereafter set forth, except where the local authority on good cause shown and with the approval of the Administrator, authorised otherwise.
3. No engineering work which causes objectionable noise or in the course of Which obnoxious or harmful gases, fumes or odours are released, no spray-painting and no panelbeating shall be carried on at a public garage unless such garage is situated on land Which may be used for industrial purposes.
4. No motor vehicle fuel pump shall be erected within 3,5 m of the road boundary measured from the nearest edge of the base or island on which the pump is erected and no pumps for the supply of motor vehicle fuel to the public shall be erected on any premises with a continuous frontage of less than 30 m on the boundary of a public road or public roads.
5. The vehicular access and exit ways to and from the premises of a public garage shall, where they cross the road boundary, be not more than 10 m wide, and a wall at least 102 mm thick and 215 mm high shall be erected on the road boundary between the points of access and exit. The wall shall be continued along such boundary unless the premises are otherwise enclosed. The vehicular access and exit ways to and from motor vehicle fuel pumps at a public garage shall be restricted to one each for every continuous frontage of 30 m which the premises whereon such pumps are erected have on the boundary of a public road or public roads.
 - 6.1.1 In an urban area the vehicular access and exit ways to and from the premises of a public garage, where they cross the road boundary, shall –
 - 6.1.1 not be less than 30 m from the nearest point of –
 - 6.1.1.1 the intersection of a declared road, proclaimed road, prospective main road or any other road to which the provisions of Section 146 of the Divisional Councils Ordinance, 1952, (Ordinance No. 15 of 1952) apply, with any road of like status;
 - 6.1.1.2 an intersection where traffic is controlled, or is in terms of a town planning scheme proposed to be controlled, by a robot or traffic island;
 - 6.1.2 and not be less than 1,5 m from the lateral boundary of the premises
 - 6.1.3 and In the case of an intersection other than one referred to In paragraph 6.1.1.

- 6.1.3.1 if the corner at the intersection is not splayed, not be less than 10 m from such corner, or
- 6.1.3.2 if the corner at the intersection is splayed, not be less than 10 m from such corner or 5 m from the point where the line of splay meets the road boundary, whichever is the greater from the corner.
- 6.2 In Subregulation 6.1.2.1 "corner" means the corner formed by the road boundaries or the prolongation of the road boundaries bordering the premises of a public garage.
7. In an area other than an urban area the vehicular access and exit ways to and from the premises of a public garage shall, where they cross the road boundary, be not less than 500 m from the nearest point of –
- 7.1.1 the intersection of a declared road, proclaimed or prospective main road with any other road of like status;
- 7.1.2 an intersection where traffic is controlled, or is in terms of a town planning scheme proposed to be controlled, by a robot or traffic Island;
- 7.1.3 any vehicular access and exit ways where they cross the road boundary to and from motor vehicles fuel pumps on the premises of another public garage on the same side of the road.
8. Any part of the premises of a public garage which is used for the storage of disused motor vehicles or parts of motor vehicles, any other scrap whatsoever, or empty containers such as oil drums and packing cases or for the assembly, repair, painting or dismantling of motor vehicles shall, unless it is enclosed by buildings at least 2 m high, be enclosed with a suitable brick or concrete screen wall at least 2 m high.
9. At every public garage provision shall be made on the premises for an easily accessible and usable parking area, exclusive of showroom and workshop areas, to the extent of at least 120 m² for every grease bay or wash bay.
10. These regulations shall override any provisions of a town planning scheme or regulations insofar as they are in conflict with these regulations.
11. The regulations published under Provincial Notice 520 of 1971 are hereby repealed.