

# ANNEXURE A OF THE NORTH SCHEME



ADOPTION DATE: (TO BE COFIRMED)

EFFECTIVE DATE: (TO BE CONFIRMED)

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**1.1 TITLE**

This Scheme shall be known as Annexure A of the North Scheme.

**1.2 RESPONSIBLE AUTHORITY**

The Municipality shall be the only authority responsible for enforcing and carrying into effect the provisions of the Scheme.

**1.3 REFERENCE TO A MAP**

The Scheme Map comprises of a series of maps reflecting those areas that fall under Annexure A of the North Scheme within the region including mapping of the Durban Metropolitan Open Space System Controlled Area for the region.

**1.4 PURPOSE OF THE SCHEME**

1.4.1 Annexure A of the North Scheme Regulations and Maps form part of the Land Use Management System which applies to all Erven within the boundary of the eThekweni Municipality (North Region) developed in terms of the Less Formal Township Establishment Act, 1991 (Act 113 of 1991), Black Communities Development Act 1984 (Act 4 of 1984) and Black Administration Act, 1927 (Act 38 of 1927).

1.4.2 The purpose of the Scheme is to:

- (i) enable the comprehensive management of all erven (both private and public sector) within the Municipality;
- (ii) to promote and implement the applicable planning and development legislation and principles as adopted by the relevant National, Provincial and Municipal spheres of government from time to time; and
- (iii) to promote and implement the Vision and Strategies of the Integrated Development Plan in the realization of quality environments
- (v) to manage land-use rights, to provide facilitation over use rights, to manage urban growth and development, and to manage conservation of the natural environment, in order to:
  - (a) Achieve co-ordinated and harmonious development in a way that will efficiently promote public safety, health, order, convenience and to protect the general welfare of the inhabitants of the Municipality;
  - (b) Promote integrated and sustainable development through-out the area of jurisdiction;
  - (c) Promote sustainable environmental management, conserve and protect environmentally sensitive areas;

- (d) Promote all forms of development and growth through sound Planning principles that would support a mix of land-uses managed in an appropriate manner.

- 1.4.3 Any application submitted prior to the adoption of this Scheme shall be assessed and finalised under the provisions of such former regulations, except if the applicant has in writing informed the Municipality that he / she withdraws such application.
- 1.4.4 Where the lawful utilization of land at the commencement of this Scheme does not comply with the zones of this Scheme, including the approval of an application under 1.4.3 above, the utilization shall be deemed not to constitute an offence.
- 1.4.5 If any provision of this Scheme is deemed invalid by any court of law, such provision shall be severed from this Scheme, but shall not affect the validity of the remaining provisions.

## **1.5 AREA OF THE SCHEME**

Annexure A of the North Scheme applies to all erven within the jurisdiction of the North Region of the eThekweni Municipality (Northern Region) as shown on the associated Scheme Maps referenced NS LEFTEA.

## **1.6 EFFECTIVE DATE (to be confirmed)**

The Effective Date of this Scheme is the

## **1.7 AMENDMENT TO THE SCHEME**

The Municipality shall comply with the provisions as set out in the KwaZulu-Natal Planning and Development Act, 2008, (Act No. 06 of 2008) or any subsequent replacement legislation.

## **1.8 INSPECTION OF THE SCHEME**

- 1.8.1 The Scheme (Regulations and Maps) are public documents and open for inspection by the general public at any reasonable time.
- 1.8.2 A register of all applications and decisions on the Scheme Regulations and Maps shall be kept and shall be available for inspection by any person or persons at any reasonable time.

## **1.9 STATUS OF THE SCHEME**

- 1.9.1 A Scheme is binding on the Municipality, all other persons and organs of state, except in the event of a conflict with the provisions of an Integrated Development Plan that was adopted prior to the Scheme or amendment to the Scheme.
- 1.9.2 The provisions of the Integrated Development Plan will prevail over the provisions of a Scheme in the event of a conflict with the provisions of an Integrated Development Plan that was adopted prior to the Scheme or amendment to the Scheme
- 1.9.3 The provisions of a Scheme that were adopted prior to the adoption of an Integrated Development Plan prevail in the event of a conflict with the provisions of the Integrated Development Plan.

- 1.9.4 A Municipality or any other organ of state may not approve a proposal to subdivide or consolidate land that is in conflict with the provisions of a Scheme.
- 1.9.5 A proposal to subdivide or consolidate land that is in conflict with the provisions of a Scheme is invalid.
- 1.9.6 Any part of a Scheme that applied to land that has been incorporated into another municipality in the Province as a result of the redetermination of a municipal boundary by the Demarcation Board in terms of the Local Government; Municipal Demarcation Act, 1998 (Act No. 27 of 1998), must be treated as a Scheme of the receiving Municipality.
- 1.9.7 This Scheme replaces the previous regulations within the Northern Region to which it applies. The legal status of an existing building or structure that has been lawfully erected before the effective date of the adoption, replacement or amendment of this Scheme in terms of Chapter 1, Section 16 of the KwaZulu-Natal Planning and Development Act, 2008 (No. 06 of 2008) or any subsequent replacement legislation is not affected by the adoption, replacement or amendment of this Scheme.
- 1.9.8 Land that was being used lawfully before the effective date for the adoption, replacement or amendment of a Scheme contemplated in Chapter 1, Section 16 of the KwaZulu-Natal Planning and Development Act, 2008 (No. 06 of 2008) or any subsequent replacement legislation for a purpose that does not conform to the Scheme, may continue to be used for that purpose. Any extension to buildings or structures on land contemplated in this sub-section must comply with the Scheme.

## **1.10 USE OF BUILDINGS AND LAND**

- 1.10.1 The types of buildings and land uses contemplated for this Scheme are defined in Section 2 of these clauses.
- 1.10.2 The extent and location of the various zones shall be as set out on the adopted Scheme Maps. Within each land use zone the defined buildings and land use activities contemplated are separated into three categories:
- (i) **Primary:** land may be used or buildings may be erected and used with the Approval the Municipality
  - (ii) **Special Consent:** land may be used or buildings may be erected and used only with the Special Consent of the Municipality.
  - (iii) **Precluded:** those buildings and land uses which are expressly prohibited.
- 1.10.3 In approving any application the Municipality shall take into consideration the nature of the proposed use in relation to the character of the area and impose whatever conditions it considers necessary to protect the amenities of the neighborhood, subject to the right of appeal as is contemplated in terms of the KwaZulu-Natal Planning and Development, 2008 (Act No. 06 of 2008) or any subsequent replacement legislation. Any proposed use or development shall conform to the uses listed in these clauses for each land use zone. In this regard attention is drawn to the offences and penalties contemplated in terms of the KwaZulu-Natal Planning and Development, 2008 (Act No. 06 of 2008) or any subsequent replacement legislation.

- 1.10.4 Any decision, order or authorization given by the Planning and Development Appeal Tribunal in terms of the KwaZulu-Natal Planning and Development Act, 2008 (Act No. 06 of 2008) or any alternative Planning and Development Appeal Tribunal set up in terms of an amendment or subsequent replacement legislation, shall be deemed to be a valid authority granted by the Municipality, and as such, shall be construed as being in accordance with the duly adopted provisions of the Scheme.
- 1.10.5 Except with the prior approval of the Municipality, no person shall bring onto any premises of a Dwelling Unit or cause or allow being present thereon any public motor vehicles or trade vehicle, heavy or extra heavy vehicle for a period exceeding two hours, except for bona fide purposes of delivering or supplying goods or services to such premises. For the purposes of this clause, the expressions "public motor vehicle", "trade vehicle", "heavy and extra heavy vehicle" shall have the meanings assigned thereto by the Road Traffic Ordinance, 1966, Ordinance No. 21 of 1966 together with any schedule thereto, regulation made hereunder and amendment thereof.

## **1.11. EXISTING USE RIGHTS**

- 1.11.1 The building types shall be defined as set out Section 2 of this Scheme. The extent and location of the various zones shall be as set out in the corresponding Annexure A of the North Scheme.
- 1.11.2 An existing building or an existing use of land which is not in conformity with the provisions of this Scheme relating to the erection and use of buildings and the use of land, may be maintained and may be used for their existing purposes, provided that such existing building or land use was approved in terms of the regulations applicable to it prior to the adoption of this Scheme or if such existing building or use of land enjoyed an existing use right status at the date of the adoption of the regulations applicable to it. Any such non-conforming existing building or use of land may be increased on the Erf by an amount not greater than 20 per cent of its total floor area or area as the case may be, at the said date of adoption, provided further, that the completed building or use is in conformity with the other provisions of the Scheme, relating to the zone in which such building or use is situated. Notwithstanding the provisions of this sub-clause, the above additional floor area or area allowance may be increased, provided that the prior written consent of the registered owner of each adjoining property, and such other properties as the Municipality may direct, has first been obtained. Where such written consent is not forthcoming, the applicant shall, in seeking the consent, be required to apply for Special Consent. Thereafter no further increases shall be permitted.
- 1.11.3 Any existing building may be demolished and replaced by a new building on the same Erf and the existing use may continue in the new building provided, however, that the proposed new building shall contain no greater cubic content than the existing building provided also that the new building is in conformity with the other provisions of the Scheme. Any such new building shall be commenced, at least to the extent of completing the foundations of the new buildings, within a period of 18 months after the date upon which the demolition of the existing building is completed. Any failure to commence re- building within this period of 18 months shall be deemed to terminate the existing use.
- 1.11.4 Any alteration or addition or change which materially alters the character of an existing building or use of land shall automatically remove such building or use of land from the category of "existing building" or "existing use".

## 1.12 EXEMPTIONS

### 1.12.1 Nothing in the Scheme shall prohibit or restrict:

- (i) The Winning of minerals and sand by underground or surface work without first obtaining the Special Consent from the Municipality.
- (ii) The use of a Place of Instruction or an Institution as a Place of Public Entertainment; provided that such use is restricted to not more than 21 days in each calendar year, and provided further that the written authority of the Municipality has been applied for and obtained. Such authority shall be granted by the Municipality if it is satisfied that the amenities of the neighborhood are not interfered with in any way.
- (iii) The use of a Dwelling Unit as a Boarding House for not more than four persons.
- (v) The installation of 5 limited payout machines (up to a maximum of 40 machines) which may be freely permitted on premises that are licensed to serve alcohol and where the playing of limited payout machines on the site will form a secondary activity to the main activity of the site. The installation of more than 5 machines (up to a maximum of 40 machines) will only be permitted on premises where the zone permits the use of a Place of Public Entertainment.
- (vi) A Bed and Breakfast Establishment, , Home Business, Tuck Shop / Spaza Shop and Medical Office may only be permitted from a Dwelling Unit.

### 1.12.2 Bed And Breakfast Establishment

- (i) Intention of the Scheme

The Intention of the Scheme is to allow the owner or occupier of the Dwelling Unit to let a maximum of ten bedrooms for accommodation purposes. The primary use of the Erf shall remain residential in nature and the Bed and Breakfast Establishment activity shall, in the opinion of the Municipality, not negatively impact on the Neighborhood. Land uses such as conference facilities, wedding venues and beauty related land uses shall not be permitted.

- (ii) Nothing in the Scheme shall prohibit or restrict the running of a Bed and Breakfast Establishment from a Dwelling Unit provided that:
  - (a) The Bed and Breakfast Establishment shall only be operated with the Special Consent of the Municipality; provided that the Head: Development Planning Management and Environment may waive compliance with the formal Special Consent procedure if the written consent of the registered owner of each adjoining property and such other properties as the Head: Development Planning Management and Environment may direct, is first obtained and furnished to the Municipality;
  - (b) Uses ancillary to the Bed and Breakfast establishment shall only be considered with the Special Consent of the Municipality.
  - (c) There shall at all times be either the owner or manager onsite who shall be responsible for the management of the establishment.



- (d) The building shall, in the opinion of the Municipality, conform to the appearance and definition of a Dwelling Unit; so that upon cessation of the use, the building shall be capable of reverting to the use as a Dwelling Unit.
  - (e) Parking for all guests shall be at one bay per room, and parking for the vehicles of the manager or owner shall be provided on-site to the satisfaction of the Head: Development Planning Management and Environment;
  - (f) No external advertising shall be permitted on the Erf other than a maximum of one non-illuminated sign on each road frontage and each sign shall not exceed 0,20 m<sup>2</sup> in area. Any signage larger than the 0.20 m<sup>2</sup> will require an application to be made to the Signage Department.
  - (g) If the use is discontinued for the period of greater than 18 months the Dwelling Unit, insofar as it may have been altered for that purpose, must be restored to its original state to the satisfaction of the Head: Development Planning Management and Environment.”
  - (h) After affording the applicant the opportunity of being heard, the Municipality may at any time impose any further conditions it deems reasonably necessary in order to preserve the residential amenity of the area, or it may withdraw the Special Consent if, in its opinion, the amenities of the neighborhood are being adversely affected by the activities;
- (iii) In considering such an application for a Bed and Breakfast Establishment, the Municipality shall take into consideration the following:-
- (a) the scale of the operation in relation to the character of the area;
  - (b) the suitability of the premises concerned for the proposed use;
  - (c) the availability of on-site parking for motor vehicles; and
  - (d) any, other matters which would, in its opinion, interfere with the amenities of the neighbourhood.

### 1.12.3 HOME BUSINESS

- (i) Intention of the Scheme

The Intention of the Scheme is to allow the owner / occupier of Dwelling Unit to contribute to the Local Economy of the Municipality. It may include a Child Minder Service. Land Uses that may be considered shall not in the opinion of the Municipality negatively impact on the neighborhood. Industrial Uses such as Panel Beating/Spray Painting/ Motor related uses as well as Engineering land uses such as Burglar Guard Manufacture will not be allowed.

- (ii) The operation of a Home Business shall comply with the following conditions, to the extent that they may be applicable:

- (a) The Home Business activity shall only be operated with the Special Consent of the Municipality; provided that the Head: Development Planning Management and Environment may waive compliance with the formal Special Consent procedure if the written consent of the registered owner of each adjoining property and such other properties as the Head: Development Planning Management and Environment may direct, is first obtained and furnished to the Municipality;
- (b) The area to be utilized for the Home Business shall not exceed 40% or a maximum of 40m<sup>2</sup>, inclusive of storage areas, (whichever is the lesser) of the existing area of a Dwelling Unit on an Erf and the predominant use shall remain residential;
- (c) The Dwelling Unit in which the Home Business is carried on must remain residential in appearance and character, and must at all times comply with the definition of "Dwelling Unit";
- (d) On-site parking and loading facilities shall be provided to the satisfaction of the Head: Development Planning and Management;
- (e) The hours of operation shall be to the satisfaction of the Head: Development Planning Management and Environment;
- (f) The Home Business must only be operated by a person who is the bona fide resident of the Dwelling Unit, and such person may not be assisted in the Home business more than two people;
- (g) No external advertising shall be permitted on the site except for one non-illuminated sign on each road frontage, and each sign shall not exceed 0,20 m<sup>2</sup> in area; Any signage larger than the 0.20 m<sup>2</sup> will require an application to be made to the Signage Department.
- (h) Storage of goods and equipment shall be within the area designated for that purpose on the plan which is to accompany the application for Special Consent, detailing the area to be used for the business as well as any portion of that area in which goods or equipment will be stored;
- (i) Only one light delivery vehicle may be used for the delivery to dispatch goods or supplies;
- (j) After affording the applicant the opportunity of being heard, the Municipality may at any time impose any further conditions it deems reasonably necessary in order to preserve the residential amenity of the area, or it may withdraw the Special Consent if, in its opinion, the amenities of the neighborhood are being adversely affected by the activities of the Home Business;
- (k) If the use is discontinued for the period of greater than 18 months the Dwelling Unit, insofar as it may have been altered for that purpose, must be restored to its original state to the satisfaction of the Head: Development Planning Management and Environment."

#### 1.12.4 TUCK SHOP / SPAZA SHOP

(i) Intention of the Scheme

The Intention of Scheme is to allow the owner / occupier of a Dwelling Unit to sell goods required for essential day to day needs of the neighborhood, in residential areas that are not adequately serviced by such a facility. The sale of goods is to take place through a window, doorway or hatchway. Such use shall not detract from the residential character of the neighborhood, aesthetically or impact wise.

(ii) The operation of the Tuck Shop / Spaza Shop shall comply with the following conditions, to the extent that they may be applicable:

- (a) A Tuck Shop / Spaza Shop activity shall only be operated with the Special Consent of the Municipality; provided that the Head: Development Planning Management and Environment may waive compliance with the formal Special Consent procedure if the written consent of the registered owner of each adjoining property and such other properties as the Head: Development Planning Management and Environment may direct, is first obtained and furnished to the Municipality;
- (b) the area to be utilized for the Tuck Shop / Spaza Shop shall not exceed 20m<sup>2</sup> inclusive of storage areas of the area of the Dwelling Unit and the Dwelling Unit must remain residential in appearance and character, and must at all times comply with the definition of "Dwelling Unit"
- (c) no external advertising shall be permitted on the site except for one non-illuminated sign on each road frontage, and each sign shall not exceed 0,20m<sup>2</sup> in area; Any signage larger than the 0.20 m<sup>2</sup> will require an application to be made to the Signage Department.
- (d) Entertainment facilities shall not be permitted within a Tuck Shop / Spaza Shop;
- (e) A Tuck Shop / Spaza Shop shall not involve the sale of Alcohol or any other goods which in the opinion of the Head: Development Planning and Environmental Management are unnecessary for the day to day needs.
- (f) A Tuck Shop / Spaza Shop must be operated in accordance with all relevant By-laws and other legislation of the Municipality, particularly the Fire Regulations.
- (g) The hours of operation shall be to the satisfaction of the Head: Development Planning and Environmental Management;
- (h) The storage of goods and equipment shall be within the area designated for that purpose on the plan which is to accompany the application detailing the area to be used for the business as well as any portion of that area in which goods or equipment will be stored;
- (i) Only one light delivery vehicle may be used for the delivery to dispatch goods or supplies;

- (j) After affording the applicant the opportunity of being heard, the Municipality may any time impose any further condition it deems reasonable necessary in order to preserve the residential amenity of the area, or it may withdraw the Special Consent if, in its opinion, the amenities of the neighborhood are being adversely affected by the activities of the Tuck Shop / Spaza Shop;
- (k) The owner / occupier operating the Tuck Shop / Spaza Shop maybe assisted by not more than one other person;
- (l) In assessing any application, consideration shall be given to ensure that the location of the Tuck Shop / Spaza Shop does not compromise the principle of sound planning practice.
- (m) If the use is discontinued for the period of greater than 18 months the Dwelling Unit, insofar as it may have been altered for that purpose, must be restored to its original state to the satisfaction of the Head: Development Planning Management and Environment.”

#### 1.12.5 **MEDICAL OFFICE**

- (i) Intention of the Scheme

The Intention of the Scheme is to allow the occupier / owner of a Dwelling Unit to convert the whole or any portion of a Dwelling Unit to a Medical Office for conducting the profession or occupation of a medical practitioner, dentist, veterinarian, traditional healer and such other profession or occupation of a like or allied nature. A Medical Office may only be permitted with Special Consent of the Municipality subject to the following conditions:-

- (a) The building shall be designed so as to harmonise with and in its external appearance, conform to the existing residential development.
- (b) A minimum of 25 % of the site area, including the parking area, shall be landscaped and maintained to the satisfaction of the Head: Development Planning and Management.
- (c) Not more than six persons including practitioners and staff shall practice or be employed in that portion of the premises to which the Municipality’s Special Consent relates.
- (d) No external advertising shall be permitted on the site other than a maximum of one non-illuminated sign on each road frontage and each sign shall not exceed 0,20m<sup>2</sup> in area. Any signage larger than 0,20m<sup>2</sup> will require an application to the Signage Department.
- (e) A veterinary clinic may include; the boarding of animals for short term care resulting from medical treatment only, a grooming parlour and a retail outlet restricted to the sale of veterinary and animal maintenance products considered ancillary to the veterinary practice.

- (f) Medical offices are for the provision of health services and may include laboratories associated therewith, but which do not provide overnight care or serve as a base for an ambulance service. Medical offices are operated by doctors, dentists, chiropractors, homeopaths, traditional healers, or such similar practitioners.

### **1.13 APPLICATIONS**

1.13.1 At any time after the Effective Date no person shall:

- (i) erect a new building, or alter or add to an existing building or carry out any other proposed work, or
- (ii) develop or use any land, or use any building or structure for any purpose different from the purpose for which it was being developed or used on such date, or
- (iii) use any building or structure erected after such date for a purpose or in a manner different from the purpose for which it was erected:-

Until the applicant has first applied in writing to the Municipality for authority to do so and the Municipality has granted its written authority thereto either with or without conditions;

- a) provided that any Approval granted by the Municipality shall remain valid for a period in accordance with the prevailing legislation granting of such authority; and
- b) where any building or work referred to in any such Approval has not been substantially commenced within the said period or where an appeal has been lodged, within a period as specified in accordance with the prevailing legislation from the date of notification of the outcome of such appeal, or where there has been an interruption in the development of the building or land for a continuous period in accordance with the prevailing legislation, the said Approval shall automatically be considered to have lapsed and building operations or use of land shall not be commenced or recommenced unless new Approval has first been applied for and obtained.

### **1.14 POWERS OF ENTRY AND INSPECTION**

1.14.1 The Municipality shall be entitled, through its duly authorized officers, to enter into and upon any premises within its area of jurisdiction at any reasonable time for the purpose of carrying out any inspection necessary for the proper administration and enforcement of the provisions of the Scheme.

1.14.2 No person shall in any way hinder, obstruct or interfere with any duly authorized officer of the Municipality in the execution of their duties and functions in terms of this Scheme, nor shall any person cause or allow any hindrance or obstruction to, or interference with, such officer.

## **1.15 SERVING OF NOTICES**

Any notice required or authorized to be served in terms of the Scheme, shall be served in terms of the KwaZulu-Natal Planning and Development Act, 2008 (No. 06 of 2008) or in terms of any subsequent replacement legislation.

## **1.16 OFFENCES**

1.16.1 Any person who:

- (i) contravenes or fails to comply with any condition set out in terms of any provision of this Scheme, or
- (ii) contravenes or fails to comply with any requirements set out in a notice issued and served in terms of this Scheme, or
- (iii) knowingly makes a false statement in connection with any provision of this Scheme shall be guilty of an offence.

## **1.17 SIGNAGE, HOARDING AND ADVERTISING BOARDS**

1.17.1 No signage or advertisements shall be displayed or any hoarding permitted without the Approval of the Municipality. Any person proposing to erect any sign, advertisement or hoarding shall submit drawings of such signage or advertisement or hoarding for approval. No hoarding or advertisement shall be permitted which is likely to cause injury to the amenity of the neighborhood. Nameplates not exceeding 0.20 m<sup>2</sup> in extent are not considered to fall under this heading. This clause does not apply to casual advertisements for entertainments, property for sale, auctions to be held on the premises or meetings, provided they are not, in the opinion of the Municipality, unduly ostentatious, and do not interfere with pedestrian or vehicular access or visibility.

1.17.2 A plan indicating maximum, minimum and partial control areas for the entire jurisdiction of the Municipality is administered by the Signage Department. All outdoor advertising shall be in accordance with the South African Manual for Outdoor Advertising (SAMOA), the Municipality's signage policy and associated plans.

## **1.18 DURBAN METROPOLITAN OPEN SPACE SYSTEM CONTROLLED AREA (D'MOSS CONTROLLED AREA)**

1.18.1 The Durban Metropolitan Open Space System Controlled Area is a layer of the Scheme and enforceable by the Environmental Planning and Climate Protection Department.

1.18.2 No person shall, within a D'MOSS Controlled Area, as defined in Section 2 of this Scheme, develop any land, or excavate or level any site, or remove any natural vegetation from, or erect any structure of any nature whatsoever, dump on or in or carry out any work upon such site without having first obtained the prior approval of the Environmental Planning and Climate Protection Department.

## **1.19 CONSOLIDATION OF LAND**

Consolidation of land is where two or more Erven are combined together to form one new Erf, with boundaries to be approved by the Surveyor-General and the new properties to be registered with the Registrar of Deeds. The process to initiate the Consolidation of land shall be in terms of the KwaZulu-Natal Planning and Development Act, 2008 (No. 06 of 2008) or any subsequent replacement legislation.

## **1.20 SUBDIVISION OF LAND**

The Subdivision of land is when an Erf is divided into more than one Erven. It requires new cadastral boundaries which must be approved by the Surveyor-General, as well as the registration of newly created Erven with the Registrar of Deeds. The process to initiate the Subdivision of land shall be in terms of the KwaZulu-Natal Planning and Development Act, 2008 (No. 06 of 2008) or any subsequent replacement legislation.

## **1.21 REZONING OF LAND**

Means a process whereby the current zoning as indicated on the Scheme Map and the corresponding controls relating thereto in the Scheme regulations are amended in terms of the KwaZulu-Natal Planning and Development Act, 2008 (No. 06 of 2008) or any subsequent replacement legislation.

## **1.22 RELAXATION**

Relaxation of Space About Buildings is required when any building/s are proposed in advance of the distances as stipulated in the Scheme. Consideration of each application shall be in the context of its location and the provisions that set the criteria for allowing a Relaxation under Section 3 of this Scheme.

## **1.23 SPECIAL CONSENT**

1.23.1 The Special Consent of the Municipality is required when:

- (i) the use that is proposed falls within the Special Consent column of the Development Facilitation Table of this Scheme;
- (ii) the use proposed is a Special Building; and in the case of land or buildings which is used in conflict with any provisions of this Scheme;
- (iii) or when a use that is proposed is a precluded use in terms of the Development Facilitation Table or any proposal that is in conflict with any provisions of this Scheme. It should be noted that the Municipality is bound to refuse such application.

1.23.2 In considering any Special Consent in (i) above, the Municipality shall take into consideration the impact of the proposed use on the surrounding area and may impose any conditions it deems necessary to protect the amenities of the area.

## **1.24 TITLE DEED CONDITIONS**

Any Title Deed conditions imposed upon any erf shall prevail over the Scheme.

	<b>SECTION 2: DEFINITIONS</b>	
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	<b>GENERAL DEFINITIONS</b>	
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**Amenity:** means a natural or created feature or aspect that enhances a particular property, place or area from the perspective of its aesthetic or social quality, or visual appeal, which makes it more attractive or satisfying to the human being.

**Appeal Tribunal:** means the KwaZulu-Natal Planning and Development Appeals Tribunal as established in terms Section 100 (1) of the KwaZulu-Natal Planning and Development Act, 2008, No.6 of 2008.

**Approval:** means the written approval of the Municipality.

**Balcony:** means a floor projecting outside a building at a level higher than that of the ground floor, enclosed only by low walls or railings, or by main containing walls of rooms abutting such projecting floor, and includes a roof, if any, over such floor and pillars supporting such roof.

**Basement:** means the lowest part of any building which part is constructed with more than 50% of its volume below ground level. Ground level shall mean natural ground level, without any additional earthworks, as it existed prior to the conception of the building or development in question provided that it is used exclusively for the parking of motor vehicles and service installations.

**Bed and Breakfast Establishment:** means a Dwelling Unit wherein a maximum of ten bedrooms may be used for the purpose of temporary accommodation of guests without impairing the amenity of the adjoining properties.

**Building:** means any structure of a movable or an immovable nature for whatever purpose used, including any tank, swimming pool, or radio mast, telecommunications mast, and any wall, or close boarded fence more than 3 metres in height at any point, but excluding any wire mesh fence, open fence, post, steps, pier, fountain, fish pond, pergola, or other garden ornamentation.

**Building Line:** means a line parallel to a fixed distance from any street, a public right of way or road reserve.

**Canteen:** means a building or part thereof used for the preparation and serving of food and allied products, to staff which is ancillary to a business or organization.

**Child-minder Service:** means an undertaking involving the custody and care of a maximum of six children apart from their parents during the whole or part of the day on all or any days of the week.

**Conference Facility:** A building or portion of a building ancillary to the primary use of the site, used for conferences, seminars and meetings and may include offices for the administration of such centre.



**Convenience Shop:** means part of a building used in conjunction with a Fuelling and Service Station used primarily for the sale of convenience goods and which is subservient to that of a Fuelling and Service Station. Motor spares and accessories as well as promotional goods supplied by the oil companies may also be sold. The maximum floor area shall not exceed 200 square metres in extent, which shall include the convenience shop, storage areas associated therewith, refrigeration areas and food preparation areas.

**Coverage:** means the proportion of an Erf covered by buildings with an impermeable roof, as seen vertically from the air measured from outer face of exterior walls, expressed as a percentage. Thus 25 % Coverage means that only one quarter of the Erf may be covered.

**D'MOSS Controlled Area:** means any area demarcated upon the map by the overprinting of a green hatched patterns (or by a green layer on the GIS), where, by reasons of the natural biodiversity, the existence of flora and fauna, topography, or the environmental goods and services provided or other like reasons, development or building may be prohibited, restricted or permitted upon such conditions as may be specified having regard to the nature of the said area;

**Day:** means a calendar day, and when any number of days is prescribed, it must be calculated by excluding the first day and including the last day. However, if the last day falls on a Saturday, Sunday or a public holiday the number of days must be calculated by excluding the first day and also the Saturday, Sunday or public holiday.

**Erf:** means any piece of land which has been allotted an individual description in the records of the Surveyor-General and includes a remainder and also any group of Subdivisions tied by a notarial Deed in Restraint of Free Alienation.

**Erf Area:** means the area of an Erf less the area of any Public Right of Way, road servitude, new road reservation or road widening reservation to which the Erf may be subject, but shall include any registered servitude for overhead and/or underground services.

**Existing Use Rights:** In relation to any building or land, a continuous use of that building or land after the effective date for the purpose for which it was designed and lawfully authorized by the Municipality at that date.

**Floor Area:** means the sum of a building at each floor level, and including wall thickness but excluding:

- any basement used exclusively for the parking of motor vehicles and service installations,
- private garages, carports and covered parking
- in the case of fuelling and service stations, the areas covered by canopies,
- staircases, lift shafts / lift motor rooms,
- corridors that are open to the elements on at least one side,
- port coheres,
- balconies, patios, verandas, porches and similar type of structures that are roofed but open to the elements on at least one side.

**Frontage:** means the length of the boundary of an Erf which fronts onto an existing or proposed road.

**Height:** Except where otherwise stated, means the number of storeys permitted in a building.

**Home Business:** means the operation of a single non-impacting occupational activity in or in conjunction with a Dwelling Unit providing that the dominant use of the property concerned shall remain for the living accommodation of the occupants, and the property complies with the requirements contained in the Scheme Clauses for a Home Business.

**Household:** means a group of people who live together which may consist of one family, together with or without their domestic staff and with a maximum of four boarders.

**Mezzanine:** is an intermediate floor in a building, the area of which does not exceed 25% of floor below it.

**Municipality:** means the eThekweni Municipality.

**Occupant:** in relation to any building, structure and, includes any person occupying such building, structure or land or legally entitled to occupy it, or anybody having the charge or management thereof and includes the agent of such a person who is absent from the area or whose whereabouts are unknown.

**Ordinance:** means the Town Planning Ordinance No. 27 of 1949, as amended.

**Owner:** means the registered owner of the land which shall include the holder of a long term lease or the holder of a land tenure right such as a permission to occupy certificate, deed of grant, leasehold, or initial ownership.

**Panhandle Site:** means a site with access being obtained via a handle-shaped access-way which shall not be less than 3 metres in width for the entire length.

**Planning and Development Act (PDA):** means the KwaZulu-Natal Planning and Development Act, 2008(Act No.06 of 2008)

**Rear Space:** means the area between a line parallel to the rear boundary.

**Sandwinning:** means any operation or activity for the purpose of winning of sand on, in, or under the earth, water, or any residue deposit, whether by underground or open working or otherwise, and may include activities directly associated with the winning process.

**Scheme:** means a land use management tool used by a Municipality to manage the development which occurs within its area of jurisdiction. It comprises a set of maps and associated regulations which guide and manage land use practices.

**Side Space:** means the area between a line parallel to the side boundary.

**Storey (s):** means that part of a building which is situated between two floors, or if there is no floor above it, the underside of the ceiling. Such storey shall not exceed 4.5 metres in height for residential purposes and 5.5 meters for non-residential purposes in height save that:

- spaces provided for lifts, elevators and similar rooms or architectural features and which are in proportion to the building shall not constitute a storey or floor,

- in the event of a storey being higher than the height as indicated above, it shall be counted as two storeys,
- a mezzanine shall not count as a storey,
- a basement shall not count as a storey and
- a roof which may contain or support any room shall count as a storey.

**Street Boundary:** means that boundary of a property which is contiguous to a public street or public right of way or road reserve, whether existing, or for new street purposes.

**Tuck Shop / Spaza Shop:** means a portion of a Dwelling Unit used for the sale of day to day convenience goods where the goods are sold through a window, doorway or hatchway.

**Zone:** means the area shown on the map by distinctive colouring, hatching, or edging, or in some other distinctive manner for the purpose of indicating the restrictions imposed by this Scheme on the erection and use of buildings or structures, or the use of land.

	<b>LAND USE DEFINITIONS</b>	
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**Agricultural Activity:** premises used for the intensive production in any form whatsoever of poultry, game, birds, livestock, vegetables, timber production, fruit and allied products and includes any preparation, processing and or sale of these commodities and may include an abattoir.

**Agricultural Land:** means a portion land used solely for the growing of vegetables, trees, crops or flowers and activities and buildings related thereto.

**Base Telecommunications Transmission Station:** means any structure designed and used for the accommodation of equipment used in the transmitting or receiving of electronic communications signals and includes a telecommunications mast but shall exclude television receiving equipment with a diameter of 1.5 metres or less.

**Builders Yard:** means a premises which is used for the storage or sale of building material and equipment.

**Business Purposes:** means a use of a building and or land for offices, showrooms, restaurant / fast food outlets or any other business or commercial purposes other than for a Place of Instruction, any Industry, a Nightclub, Builder's Yard or a Scrap Yard.

**Car Wash:** means a premises fitted with equipment for the purpose of washing motor vehicles for gain and may include a valet service.

**Cemetery/Crematorium:** means a premises designed for the inhumation of corpses and or where the deceased are burned to ash and includes facilities for associated religious and administrative functions.

**Crèche:** means a premises used for the care of seven (7) or more infants or young children during the day time in the absence of their parents or guardians.

**Dwelling Unit:** means an interconnected suite of rooms, designed for human habitation.

**Fuelling and Service Station:** means a premises designed for the sale of petroleum, oil and other fuels, lubricants and accessories used in connection with motor vehicles and includes an office/s and storeroom/s for use in connection therewith, together with facilities for the servicing and maintenance of motor vehicles and may also include a Convenience Shop not exceeding 200 m<sup>2</sup> and a caretakers accommodation.

**Funeral Parlour:** means a premises used for or intended to be used for the preparation and temporary storage of corpses for burial or cremation and may include uses ancillary thereto, but excludes a Mortuary.

**Government / Municipal:** means a premises used by or on behalf of the Government or Municipality for the purpose of carrying out of government or municipal functions.

**Health and Beauty Clinic:** Premises used for cosmetic and holistic treatment for men and woman.

**Hotel:** means a facility offering lodging accommodation to the general public and providing additional services such as restaurants and fast food outlets, meeting rooms, entertainment and recreational facilities.

**Industry:** means a premises used for manufacture, production, adaption, extraction, alteration, renovation, repair, processing or servicing of any article or material and shall include the use thereof: as a factory as defined in the applicable legislation, storage warehouse, for the stacking, storing or preparation for resale of scrap material.

**Institution:** means a premises designed or primarily used as a charitable institution, hospital, nursing home, sanatorium, clinic or any other institution, whether public or private and includes other land-uses considered to be ordinarily ancillary thereto.

**Mortuary:** means a building or part thereof where corpses are stored and exposed for identification and autopsies are performed but excluded a Funeral Parlour.

**Motor Garage:** means a premises used for the major servicing and repair of vehicles; these include the overhauling, rebuilding and testing of engines, panel beating and spray painting. The following ancillary uses may also be permitted; these include the display and sale of vehicles, the washing and cleaning of vehicles and the sale of motor vehicle spares and accessories.

**Motor Vehicle Test Centre:** Premises used for the testing of vehicles for compliance with the Certificate of Roadworthiness.

**Motor Workshop:** means a premises used for the general repair and servicing of light motor vehicles, including auto-electrical repairs, the fitting and sales of fitted motor spares and accessories, auto valet services, storage and may also include an office, storeroom and display and sale of vehicles or towing broken down vehicles but excludes a Motor Garage.

**Nightclub:** a premises used wherein music is played and dancing occurs, and may include events and fashion shows and the sale of beverages and food for consumption within the premises.

**Noxious Industry:** means any industry or trade that by reason of fumes, gases, vapours, dust, smell, noise, vibration or other causes, is deemed by the Municipality to become dangerous or harmful to the health, welfare and amenity of the public.

**Parkade:** premises used for the parking of motor vehicles for reward.

**Place of Instruction:** means a premises designed or primarily used as a school, technical college, lecture hall, institute or other educational facility and includes a crèche, convent or monastery, a public library, an art gallery, museum and gymnasium.

**Place of Public Entertainment:** Premises used for public entertainment and includes but not restricted to an aquarium, a theatre, cinema, music hall, concert hall, amusement arcade, skating rink, race track, commercial exhibition, hall, billiard room, fun fair, bingo hall and casino but does not include a night club.

**Place of Public Worship:** premises used for public devotion and may include uses ancillary thereto.

**Public Open Space:** means a premises reserved as open areas for the use and enjoyment of the public, including landscaped gardens, zoological gardens, picnic areas and the conservation of sensitive vegetation and similar such uses where land is in the ownership of the Municipality.

**Residential Building:** means a premises designed or used primarily for human habitation which may include two or more Dwelling Units.

**Scrap Yard:** means a premises used for the storage of used vehicles, parts of used machinery, scrap metals, used pipes, used building materials, waste materials, or similar goods or for all such goods and any combination of such goods or for the dismantling of discarded vehicles or other machines.

**Social Hall:** means a premises designed and used primarily for social assemblies, gatherings, meetings or recreational purposes.

**Special Building:** any other type of building or use not specifically referred to in this set of definitions.

**Sport & Recreation:** means a premises used for a sports ground, playing field, golf course, athletic track, swimming pool, tennis court, squash court or other similar recreational buildings or use.

## SECTION 3: SPACE ABOUT BUILDINGS

### 3.1 BUILDING LINES:

- 3.1.1 Except where otherwise stated, all Erven within any Zone shall be subject to a 3.0 metre Building Line.
- 3.1.2 Where a building line is laid down no building other than boundary/retaining walls, fences (this excludes wire mesh fences) pergolas or architectural and garden features not exceeding 3.0m in height shall be erected between the building line and the street line. The construction of boundary/retaining walls and fences (this excludes wire mesh fences) in excess of three metres shall be permitted subject to the Special Consent of Municipality being applied for and obtained. Such Special Consent will only be required where the boundary/retaining wall or fence (excluding wire mesh) is higher than three metres as seen from the affected neighbors' property.
- 3.1.3 The Municipality may permit in any zone any building to be erected closer to any boundary than the distance specified in this clause if on account of the siting of existing buildings, shape, size, levels, topography, environmentally sensitive areas, servitudes, the enforcement of this clause will, in the opinion of the Municipality, render the development of the Erf unreasonably difficult. In considering any application under this sub – clause the Municipality shall have due regard to any possible detrimental effects on adjoining properties and may impose conditions when considering the application. In the case of Boundary/Retaining Walls exceeding 3.0.metres in height the Municipality may consider safety and security reasons and the need to retain embankments.
- 3.1.4 The Municipality, upon application to it, may grant its approval for the relaxation of any building line if it is satisfied that such relaxation will ultimately enhance the appearance of the street and contribute to the public amenity.
- 3.1.5 Notwithstanding the foregoing provisions, the Municipality may exempt an applicant from applying for Special Consent if it is satisfied that no interference with the amenities of the neighborhood, existing, or as contemplated by this Scheme, will result; provided that the prior written consent of the registered owner of all the affected properties, and such other properties as may directed by the Municipality has first been obtained. Where such written consent is not forthcoming, the applicant shall, in seeking the relaxation, be required to apply for the Special Consent of the Municipality.
- 3.1.6 Cognisance shall be taken in all cases of the building line restriction imposed in terms of the National and or Provincial Roads Authority and in such circumstances the building restriction line may not be relaxed by the Municipality without the approval of the National and or Provincial Roads Authority.
- 3.1.7 Where road widening is proposed or where any road servitude exists, the building line restrictions is to take into account any such proposed road widening or road servitude, meaning the building line restriction shall be measured from the inner edge of the proposed road widening or road servitude.
- 3.1.8 Notwithstanding the provisions of the above clauses in the case of swimming pools, the building line shall be 1 metre; provided that where a pool is to be constructed so that any portion of it is within the building line, such pool shall be screened to the satisfaction of the Municipality.

## **3.2. SIDE AND REAR SPACE**

- 3.2.1 Except where otherwise stated, all Erven within any Zone shall be subject to a 2.0 metre side and rear space.
- 3.2.2 Where a side or rear space is laid down no building other than boundary/retaining walls, fences (this excludes wire mesh fences) not exceeding 3.0m in height, pergolas or architectural and garden features shall be erected between the side or rear space and the boundary not exceeding 3.0m in height. The construction of boundary/retaining walls and fences in excess of three metres may be permitted subject to the Special Consent of Municipality being applied for and obtained. Such Special Consent will only be required where the boundary/retaining wall or fence excluding wire mesh is higher than three metres as seen from the affected neighbours' property.
- 3.2.4 The Municipality may permit in any zone any building to be erected closer to any boundary than the distance specified in this clause if on account of the siting of existing buildings, shape, size, levels, topography, environmentally sensitive areas, servitudes, the enforcement of this clause will, in the opinion of the Municipality, render the development of the Erf unreasonably difficult. In considering any application under this sub – clause the Municipality shall have due regard to any possible detrimental effects on adjoining properties and may impose conditions when considering the application. In the case of Boundary/Retaining Walls the Municipality may consider safety and security reasons and the need to retain embankments for walls exceeding 3.0 m in height.
- 3.2.5 Notwithstanding the foregoing provisions, the Municipality may exempt an applicant from applying for Special Consent if it is satisfied that no interference with the amenities of the neighborhood, existing, or as contemplated by this Scheme, will result; provided that the prior written consent of the registered owner of all the affected properties, and such other properties as may be directed by the Municipality has first been obtained. Where such written consent is not forthcoming, the applicant shall, in seeking the relaxation, be required to apply for the Special Consent of the Municipality.
- 3.2.6 Where two or more adjacent properties are joined by means of a notarial deed in restraint of free alienation, the side and rear space requirements applicable to the common boundaries between such properties as set out above shall automatically lapse. This does not absolve any developer from taking into account particular conditions of title applicable to the relevant boundaries.
- 3.2.7 No building shall be erected nearer than 8 metres of a railway reserve boundary.



**4.1 MINIMUM ERF SIZES**

- 4.1.1 The Municipality may permit a subdivision of land which is less than the minimum prescribed in any zone provided that any such tolerance shall not exceed 10 % of the minimum prescribed area.
- 4.1.2 The Municipality may increase the minimum Erf sizes specified in this Clause where, in the opinion of the Municipality, the method used for disposal of sewerage warrants such increase or such Erf is considered physically difficult to develop.
- 4.1.3 The area of the pan handle in a pan handle erf is included in the erf area.
- 4.1.4 The depth of an erf in relation to the frontage shall not exceed a ratio of 4:1 unless where otherwise approved by the Municipality. An erf of irregular shape shall in normal circumstances be capable of containing within its boundaries a rectangle not exceeding the said ratio of 4:1 which shall have an area not less than 50 % of the minimum prescribed area.
- 4.1.5 Where the area of an erf situated at the corner of two streets is reduced by the splaying of the street corner where such splay is required as a condition of approval of a subdivision of such erf, the area of the erf for the purpose of an erf control shall be deemed to exclude the area of the splay.
- 4.1.6 If by the execution or proposed execution of public works a part of an erf will be materially separated from the rest of the erf any part of such erf may be subdivided provided that the portion of such erf created by the subdivision is not less than 75% of the minimum area referred to in the erf control table.

**4.2 MINIMUM FRONTAGE REQUIREMENTS**

- 4.2.1 Except where otherwise stated in this clause or where written exemption is obtained from Municipality, the minimum frontage for all erven shall be 6.0 metres and the access width for pan handle shaped erven shall be a minimum of 3.0 metres throughout its length, which shall not exceed 65 metres. Where a subdivision is of an irregular shape or occurs in a cul-de-sac or similar type of street layout, the frontage on the street may, with the authority of the Municipality, be less than 6.0 metres provided that the proportion of the Erf is in conformity with the ratio provisions set out above.

## SECTION 5: FLOOR AREA AND COVERAGE

### 5.1. FLOOR AREA

5.1.1 In calculating floor area of any development, the following shall be excluded:

- (i) any basement used exclusively for the parking of motor vehicles and service installations;
- (ii) private garages, covered parking and carports;
- (iii) in the case of Fuelling and Service Stations, the areas covered by canopies,
- (v) staircases, lift shafts and lift motor rooms;
- (iv) corridors that are open to the elements on at least one side;
- (vi) port coheres,
- (vii) balconies, patios, verandahs, porches, and similar type of structures those that are roofed but open to the elements on at least one side.

### 5.2 COVERAGE

5.2.1 In calculating the coverage of any development, the following shall be excluded:

- (i) permeable carports;
- (ii) pergolas;
- (iii) slatted timer decks;
- (iv) swimming pools;
- (v) tennis courts
- (vi) roof overhangs not exceeding 1.0 metres, should roof overhangs exceed 1.0 metres then full extent of the roof overhang shall be included in Coverage.

**SECTION 6 : RESERVATION OF LAND**

<b>RESERVATION OF LAND</b>		
<b>USE FOR WHICH LAND IS RESERVED</b>	<b>COLOUR NOTATION</b>	<b>REMARKS</b>
Road	White	Land reserved for roads.
Water Works	Grey with 'WW' inserted	Reserved for water supply Authority
Public Open Space	Green	<ol style="list-style-type: none"><li>1. This land is preserved as open space for the use and enjoyment of the Public, once such area is under Municipal ownership.</li><li>2. Works as described in the Local Authorities Ordinance No. 25 of 1974, Section (14-20) and 27 are permitted and may include public parks and gardens, recreational grounds, zoological gardens and similar such uses.</li></ol>

**SECTION 7: DEVELOPMENT FACILITATION TABLE**

**ZONE: AGRICULTURE**

**SCHEME INTENTION:** To provide, preserve, use land or buildings for Agricultural activity. Uses ancillary to agricultural purposes are permitted at the discretion of the Municipality.

**MAP REFERENCE:**

**COLOUR NOTATION:** Light Green

PRIMARY	SPECIAL CONSENT	PRECLUDED
<ul style="list-style-type: none"> <li>• Agricultural Activity</li> <li>• Agricultural Land</li> <li>• Dwelling Unit</li> <li>• Public Open Space</li> </ul>	<ul style="list-style-type: none"> <li>• Base Telecommunications Transmission Station</li> <li>• Cemetery/Crematorium</li> <li>• Crèche</li> <li>• Health and Beauty Clinic</li> <li>• Institution</li> <li>• Place of Public Worship</li> <li>• Special Building</li> </ul>	<ul style="list-style-type: none"> <li>• Builders Yard</li> <li>• Business Purposes</li> <li>• Car Wash</li> <li>• Fuelling and Service Station</li> <li>• Funeral Parlour</li> <li>• Government /Municipal</li> <li>• Hotel</li> <li>• Industry</li> <li>• Mortuary</li> <li>• Motor Garage</li> <li>• Motor Vehicle Test Centre</li> <li>• Motor Workshop</li> <li>• Nightclub</li> <li>• Noxious Industry</li> <li>• Parkade</li> <li>• Place of Public Entertainment</li> <li>• Place of Instruction</li> <li>• Residential Building</li> <li>• Scrap Yard</li> <li>• Social Hall</li> <li>• Sport &amp; Recreation</li> </ul>

**ADDITIONAL CONTROLS**

• Not Applicable.

**DEVELOPMENT PARAMETERS**

SPACE ABOUT BUILDINGS		DWELLING UNITS PER HECTARE	MINIMUM ERF SIZE	HEIGHT IN STOREYS	COVERAGE	FLOOR AREA RATIO
BUILDING LINE	SIDE & REAR SPACE					
1.5 m	1.5 m	Not Applicable	Not Applicable	2	50 %	1.0

**ZONE: BUSINESS**

**SCHEME INTENTION:** To provide, preserve, use land or buildings for a wide range of recreational, entertainment, residential, shopping and business or economically related activities in such a way that the site contributes the creation of a harmonious well balanced environment.

**MAP REFERENCE:**

**COLOUR NOTATION:** Blue

PRIMARY	SPECIAL CONSENT	PRECLUDED
<ul style="list-style-type: none"> <li>• Business Purposes</li> <li>• Car Wash</li> <li>• Crèche</li> <li>• Dwelling Unit</li> <li>• Fuelling and Service Station</li> <li>• Health and Beauty Clinic</li> <li>• Hotel</li> <li>• Parkade</li> <li>• Place of Public Entertainment</li> <li>• Place of Instruction</li> <li>• Public Open Space</li> <li>• Residential Building</li> <li>• Sport &amp; Recreation</li> </ul>	<ul style="list-style-type: none"> <li>• Agricultural Activity</li> <li>• Agricultural Land</li> <li>• Base Telecommunications Transmission Station.</li> <li>• Builders Yard</li> <li>• Funeral Parlour</li> <li>• Government /Municipal</li> <li>• Institution</li> <li>• Mortuary</li> <li>• Motor Vehicle Test Centre</li> <li>• Motor Workshop</li> <li>• Nightclub</li> <li>• Place of Public Worship</li> <li>• Scrap Yard</li> <li>• Social Hall</li> <li>• Special Building</li> </ul>	<ul style="list-style-type: none"> <li>• Cemetery/Crematorium</li> <li>• Industry</li> <li>• Motor Garage</li> <li>• Noxious Industry</li> </ul>

**ADDITIONAL CONTROLS**

- Not Applicable.

**DEVELOPMENT PARAMETERS**

SPACE ABOUT BUILDINGS		DWELLING UNITS PER HECTARE	MINIMUM ERF SIZE	HEIGHT IN STOREYS	COVERAGE	FLOOR AREA RATIO
BUILDING LINE	SIDE & REAR SPACE					
2.0 m	2.0 m	Not Applicable	500 m <sup>2</sup>	2	50 %	1.0

**ZONE: COMMUNITY FACILITY**

**SCHEME INTENTION:** To provide, preserve, use land or buildings for the civic and social requirements of the community in such a way that contributes to the creation of a harmonious well balanced environment.

**MAP REFERENCE:**

**COLOUR NOTATION:** Orange cross hatch

PRIMARY	SPECIAL CONSENT	PRECLUDED
<ul style="list-style-type: none"> <li>• Crèche</li> <li>• Dwelling Unit*</li> <li>• Government /Municipal</li> <li>• Institution</li> <li>• Place of Instruction</li> <li>• Place of Public Worship</li> <li>• Public Open Space</li> <li>• Social Hall</li> <li>• Sport &amp; Recreation</li> </ul>	<ul style="list-style-type: none"> <li>• Agricultural Land</li> <li>• Base Telecommunications Transmission Station</li> <li>• Cemetery/Crematorium</li> <li>• Funeral Parlour</li> <li>• Mortuary</li> <li>• Special Building</li> </ul>	<ul style="list-style-type: none"> <li>• Agricultural Activity</li> <li>• Builders Yard</li> <li>• Business Purposes</li> <li>• Car Wash</li> <li>• Fuelling and Service Station</li> <li>• Health and Beauty Clinic</li> <li>• Hotel</li> <li>• Industry</li> <li>• Motor Garage</li> <li>• Motor Vehicle Test Centre</li> <li>• Motor Workshop</li> <li>• Nightclub</li> <li>• Noxious Industry</li> <li>• Parkade</li> <li>• Place of Public Entertainment</li> <li>• Residential Building</li> <li>• Scrap Yard</li> </ul>

**ADDITIONAL CONTROLS**

- Dwelling Unit: one dwelling Unit maybe permitted for a manager, foreman or a caretaker.

**DEVELOPMENT PARAMETERS**

SPACE ABOUT BUILDINGS		DWELLING UNITS PER HECTARE	MINIMUM ERF SIZE	HEIGHT IN STOREYS	COVERAGE	FLOOR AREA RATIO
BUILDING LINE	SIDE & REAR SPACE					
2.0 m	2.0 m	Not Applicable	500 m <sup>2</sup>	3	75 %	2.0

**ZONE: MIXED USE**

**SCHEME INTENTION:** To provide, preserve, use land or buildings to accommodate a wide range of recreational, entertainment, tourist, residential, shopping and business or commercially related activities, in such a way that the uses contribute towards the creation of a dynamic, harmonious and well balanced Zone of the highest aesthetic, landscaping and urban design quality.

**MAP REFERENCE:**

**COLOUR NOTATION:** Blue Cross-Hatch

PRIMARY	SPECIAL CONSENT	PRECLUDED
<ul style="list-style-type: none"> <li>• Agricultural Land</li> <li>• Business Purposes</li> <li>• Car Wash</li> <li>• Crèche</li> <li>• Dwelling Unit</li> <li>• Health and Beauty Clinic</li> <li>• Hotel</li> <li>• Parkade</li> <li>• Place of Instruction</li> <li>• Place of Public Entertainment</li> <li>• Place of Public Worship</li> <li>• Public Open Space</li> <li>• Residential Building</li> <li>• Sport &amp; Recreation</li> </ul>	<ul style="list-style-type: none"> <li>• Agricultural Activity</li> <li>• Base Telecommunications Transmission Station</li> <li>• Builders Yard</li> <li>• Fuelling and Service Station</li> <li>• Funeral Parlour</li> <li>• Government /Municipal Institution</li> <li>• Motor Vehicle Test Centre</li> <li>• Motor Workshop</li> <li>• Nightclub</li> <li>• Social Hall</li> <li>• Special Building</li> </ul>	<ul style="list-style-type: none"> <li>• Cemetery/Crematorium</li> <li>• Industry</li> <li>• Mortuary</li> <li>• Motor Garage</li> <li>• Noxious Industry</li> <li>• Scrap Yard</li> </ul>

**ADDITIONAL CONTROLS**

- Not Applicable.

**DEVELOPMENT PARAMETERS**

SPACE ABOUT BUILDINGS		DWELLING UNITS PER HECTARE	MINIMUM ERF SIZE	HEIGHT IN STOREYS	COVERAGE	FLOOR AREA RATIO
BUILDING LINE	SIDE & REAR SPACE					
2.0 m	2.0 m	Not Applicable	500 m <sup>2</sup>	2	75 %	1.5

**ZONE: RESIDENTIAL**

**SCHEME INTENTION:** To provide, preserve, use land or buildings for residential purposes and ancillary uses. Protection of the quality and character of residential neighborhood and the well-being of its residents. Limiting multiple uses of buildings to minimize adverse impact on the residential environment. Business that comply with residential amenity such as a Bed and Breakfast Establishment, Guest House Establishment and Home Business at the discretion of the Municipality.

**MAP REFERENCE:**

**COLOUR NOTATION:** Yellow

PRIMARY	SPECIAL CONSENT	PRECLUDED
<ul style="list-style-type: none"> <li>• Agricultural Land</li> <li>• Dwelling Unit</li> <li>• Public Open Space</li> </ul>	<ul style="list-style-type: none"> <li>• Base Telecommunication Transmission Station</li> <li>• Crèche</li> <li>• Health and Beauty Clinic</li> <li>• Institution</li> <li>• Place of Instruction</li> <li>• Place of Public Worship</li> <li>• Residential Building</li> <li>• Special Building</li> </ul>	<ul style="list-style-type: none"> <li>• Agricultural Activity</li> <li>• Builders Yard</li> <li>• Business Purposes</li> <li>• Car Wash</li> <li>• Cemetery/Crematorium</li> <li>• Fuelling and Service Station</li> <li>• Funeral Parlour</li> <li>• Government /Municipal</li> <li>• Hotel</li> <li>• Industry</li> <li>• Mortuary</li> <li>• Motor Garage</li> <li>• Motor Vehicle Test Centre</li> <li>• Motor Workshop</li> <li>• Nightclub</li> <li>• Noxious Industry</li> <li>• Parkade</li> <li>• Place of Public Entertainment</li> <li>• Scrap Yard</li> <li>• Social Hall</li> <li>• Sport &amp; Recreation</li> </ul>

**ADDITIONAL CONTROLS**

- Not Applicable

**DEVELOPMENT PARAMETERS**

SPACE ABOUT BUILDINGS			DWELLING UNITS PER HECTARE	MINIMUM ERF SIZE	HEIGHT IN STOREYS	COVERAGE	FLOOR AREA RATIO
BUILDING LINE	SIDE SPACE	REAR SPACE					
1.5 m	Aggregate of 1.5 m		Not Applicable	180 m <sup>2</sup>	2	75 %	1.5



**ZONE: UNDETERMINED**

**SCHEME INTENTION:** To provide, preserve, use land or buildings for Agricultural land. Uses ancillary to agricultural land are permitted at the discretion of the eThekweni Municipality.

**MAP REFERENCE:**

**COLOUR NOTATION:** Blue Dots

PRIMARY	SPECIAL CONSENT	PRECLUDED
<ul style="list-style-type: none"> <li>• Agricultural Land</li> <li>• Dwelling Unit</li> <li>• Public Open space</li> </ul>	<ul style="list-style-type: none"> <li>• Base Telecommunication Transmission Station</li> <li>• Crèche</li> <li>• Health and Beauty Clinic</li> <li>• Institution</li> <li>• Place of Instruction</li> <li>• Place of Public Worship</li> <li>• Social Hall</li> <li>• Special Building</li> </ul>	<ul style="list-style-type: none"> <li>• Agricultural Activity</li> <li>• Builders Yard</li> <li>• Business Purposes</li> <li>• Car Wash</li> <li>• Cemetery/Crematorium</li> <li>• Fuelling and Service Station</li> <li>• Funeral Parlour</li> <li>• Government /Municipal</li> <li>• Hotel</li> <li>• Industry</li> <li>• Mortuary</li> <li>• Motor Garage</li> <li>• Motor Vehicle Test Centre</li> <li>• Motor Workshop</li> <li>• Nightclub</li> <li>• Noxious Industry</li> <li>• Parkade</li> <li>• Place of Public Entertainment</li> <li>• Residential Building</li> <li>• Scrap Yard</li> <li>• Social Hall</li> <li>• Sport &amp; Recreation</li> </ul>

**ADDITIONAL CONTROLS**

• Not Applicable.

**DEVELOPMENT PARAMETERS**

SPACE ABOUT BUILDINGS		DWELLING UNITS PER HECTARE	MINIMUM ERF SIZE	HEIGHT IN STOREYS	COVERAGE	FLOOR AREA RATIO
BUILDING LINE	SIDE & REAR SPACE					
1.5 m	1.5 m	Not Applicable	Not Applicable	2	50 %	1.0

## SECTION 8 : PARKING AND LOADING STANDARDS

### 8.1 PARKING AND LOADING STANDARDS

#### 8.1.1 Acronyms:

- PFA : PROPOSED FLOOR AREA
- DPEM : Development Planning, Environment and Management
- ETA : eThekweni Traffic Authority

LAND USE	PARKING	LOADING
Agricultural Activity	To satisfaction of Head: DPEM	To satisfaction of Head: ETA
Builders Yard	2 bays per 100m <sup>2</sup>	To satisfaction of Head: ETA
Business Purposes	2 bays per 100m <sup>2</sup> PFA	To satisfaction of Head: ETA
Car Wash	2 bays per work-bay and 2 bays / 100 m <sup>2</sup> of PFA for ancillary uses	To satisfaction of Head: ETA
Crèche	To satisfaction of Head: DPEM	To satisfaction of Head: ETA
Dwelling Unit	1 bay per Dwelling Unit	To satisfaction of Head: ETA
Fuelling and Service Station	2 bays per 100m <sup>2</sup> PFA	To satisfaction of Head: ETA
Funeral Parlour	2 bays per 100m <sup>2</sup> PFA	To satisfaction of Head: ETA
Government / Municipal	To satisfaction of Head: DPEM	To satisfaction of Head: ETA
Health and Beauty Clinic	2 bays per 100m <sup>2</sup> PFA	To satisfaction of Head: ETA
Hotel	1 bay per 5 rooms and 2 bays / 100 m <sup>2</sup> of PFA for ancillary uses	To satisfaction of Head: ETA
Industry	1 bay per 100m <sup>2</sup> PFA	To satisfaction of Head: ETA
Institution	To satisfaction of Head: DPEM	To satisfaction of Head: ETA
Mortuary	To satisfaction of Head: DPEM	To satisfaction of Head: ETA
Motor Garage	2 bays per work-bay and 2 bays / 100 m <sup>2</sup> of PFA for ancillary uses	To satisfaction of Head: ETA

LAND USE	PARKING	LOADING
Motor Vehicle Test Centre	2 bays per work-bay and 2 bays / 100 m <sup>2</sup> of PFA for ancillary uses	To satisfaction of Head: ETA
Motor Workshop	2 bays per work-bay and 2 bays / 100 m <sup>2</sup> of PFA for ancillary uses	To satisfaction of Head: ETA
Nightclub	To satisfaction of Head: DPEM	To satisfaction of Head: ETA
Place of Instruction	To satisfaction of Head: DPEM	To satisfaction of Head: ETA
Place of Public Entertainment	To satisfaction of Head: DPEM	To satisfaction of Head: ETA
Place of Public Worship	1 bay per 10 seats or 10 bays per 100m <sup>2</sup> whichever is the greater (excluding foyers, kitchens, public walkways, administration offices, boardrooms and ablutions)	To satisfaction of Head: ETA
Residential Building	1 bay for every 2 Dwelling Unit	To satisfaction of Head: ETA
Scrap Yard	1 bay per 100m <sup>2</sup> PFA	To satisfaction of Head: ETA
Social Hall	To satisfaction of Head: DPEM	To satisfaction of Head: ETA
Special Building	To satisfaction of Head: DPEM	To satisfaction of Head: ETA
Sport & Recreation	To satisfaction of Head: DPEM	To satisfaction of Head: ETA

## **9.1 BASE TELECOMMUNICATIONS TRANSMISSION STATION (CELLULAR MASTS)**

### **9.1.1 INTENTION OF THE SCHEME**

- (i) The Municipality, in considering proposals for the location of Base Telecommunications Transmission Stations, shall be mindful of the need for the development of an effective and efficient communications system within the eThekweni Municipal area. In this regard, The Municipality shall give fair consideration to the requirements of the Service Providers to develop an effective and efficient communications system, and to the protection of the community in which such installations are to occur.
- (ii) The installation of a Base Telecommunications Transmission Stations shall be undertaken in such a manner that their impact upon the environment is minimized. The Base Telecommunications Transmission Station shall be as unobtrusive as possible through the choice of materials, colour, depth of silhouette, height, and design which shall complement the aesthetics of the surrounding built and natural environment thereby minimizing the impact upon the environment.
- (iii) In considering the appropriate location of a Base Telecommunications Transmission Station, the applicant should be conscious of sites of historic, cultural and architectural importance. Cognisance must also be taken of the impacts installations may have upon open spaces, coastal regions and prominent ridges

### **9.1.2 Locational Provisions**

- (i) Due consideration must be given to the impact of Base Telecommunications Transmission Station on other developments and natural features, whether existing or contemplated by the Scheme and their location in relation to view corridors.
- (ii) In the selection of a site for Base Telecommunications Transmission Station, consideration shall be given to the locational context of the proposed installation in respect of aesthetic suitability and environmental intrusion.
- (iii) Antennae shall be installed on existing structures or existing masts.
- (iv) The principle of multiple use of telecommunications masts by network providers, shall applied provided that a motivation for exemption from sharing may only be considered on the following basis:
  - (a) that no existing Base Telecommunications Transmission Station or suitable alternative structures are located within the geographic antenna placement area required to the meet the applicant's requirements;
  - (b) that the existing Base Telecommunications Transmission Station is not of sufficient height or structural strength to meet the applicant's engineering requirements;

- (c) that consideration shall be given to alternative sites where the cumulative RF emissions would exceed the maximum levels permitted should additional transmission be attached to a mast or where the RF exclusion zone cannot be achieved;
  - (d) that there will be electromagnetic interference resulting from more than one antenna positioned on a single telecommunications mast.
- (i) Permission to share an existing Base Telecommunications Transmission Station shall not be unreasonably withheld by the owner of that Base Telecommunications Transmission Station.
  - (ii) Every applicant seeking to locate a new Base Telecommunications Transmission Station or modify such Base Telecommunications Transmission Station, shall provide the Municipality with an inventory of the existing Base Telecommunications Transmission Station inclusive of the sites for which authority is being sought, within a 1000 metre radius of the Erf on which it is intended to erect a Base Telecommunications Transmission station.
  - (iii) When a cellular mast requires replacement, it shall be replaced with a mast designed to accommodate multiple carriers.
  - (iv) No Base Telecommunications Transmission Station shall be erected on an Erf, which in the opinion of Municipality, has been identified as containing a building or structure of architectural, cultural, historic, or artistic importance, nor in an area set aside for conservation purposes, whether natural, physical or social, provided that the Municipality may, by Consent, relax this provision if it can be shown that the erection of a Base Telecommunications Transmission Station, shall not detract from the architectural, cultural, historic, artistic, natural, physical or social value of the site.
  - (v) Where possible, the equipment room forming part of the Base Telecommunications Transmission Station shall be sited to the rear of an Erf.

### **9.1.3 Visual Attributes**

- (i) Visual amenity and visual aspects relating to the Base Telecommunications Transmission Station shall be at the discretion of the Municipality.
- (ii) Consideration shall be given to the context of the Erf in relation to its surrounding environment when determining the height of the mast and selecting the type of camouflage appropriate to the area.
- (iii) A rooftop antenna shall not protrude more than 6.00 metres above the highest point of the building or structure onto which it is erected, provided that the Municipality may, by Special Consent, relax this requirement. For the purposes of this sub-clause, lift motor rooms, air-conditioning plant and equipment rooms above the uppermost slab or roof of the building, shall be regarded as being the highest point of the building.
- (iv) All forms of visible lighting on telecommunications masts shall be reduced to the minimum requirements for security as laid down by the South African Civil Aviation Authority with due regard for adjacent land uses.

- (v) No advertising shall be permitted on telecommunications masts, provided that where an antenna is to be installed on existing or proposed advertising structures, such advertising shall be to the satisfaction of the Municipality.
- (vi) The equipment room shall be screened in such a manner that it shall be inconspicuous from public view by using landscaping or materials and colors consistent with the surrounding environment. All screening shall in any event be to the satisfaction of the Municipality.

#### **9.1.4 Safety**

- (i) The cellular network provider or network providers shall at all times comply with the requirements of the Department of National Health and the International Commission on Non-Ionizing Radiation Protection with respect to safety standards.
- (ii) The application for the installation of a Base Telecommunications Transmission Station shall be accompanied by a notice of appointment of a certified engineer approved by the Municipality.
- (iii) Reasonable measures shall be taken to restrict access to rooftop installations, other than for maintenance purposes.
- (iv) Every cellular network provider shall, on an annual basis, submit a report in which the applicant demonstrates that, where authority has been granted by the Municipality, there is full compliance with the standards as determined by the International Commission on Non-Ionizing Radiation Protection.
- (v) All telecommunications masts shall comply with the standards as laid down by the South African Civil Aviation Authority.
- (vi) Access to the Base Telecommunications Transmission Station installation shall be controlled to the satisfaction of the Municipality.

#### **9.1.5 Environmental Issues**

- (i) Applications for Base Telecommunications Transmission Stations within sensitive areas, as determined by the National Environmental Management Act No. 107 of 1998 and the Environmental Conservation Act No. 73 of 1989, as amended from time to time, are required to follow the procedure as laid down in the Environmental Impact Assessment Regulations.
- (ii) Where necessary, an Environmental Management Plan providing guidelines relative to Erf preparation, the construction phase and maintenance of the Base Telecommunications Transmission Station, inclusive of mitigating impacts on all facets of the environment, including the biophysical and social environment shall be submitted as part of the application to erect a Base Telecommunications Transmission Station.
- (iii) The applicant shall ensure that the Erf and areas around the Erf disturbed by construction are rehabilitated appropriately and to the satisfaction of the Municipality.
- (iv) The cellular network provider or network providers shall decommission and remove a Base Telecommunications Transmission Station should:

- (a) the Base Telecommunications Transmission Station constitutes a danger to persons or property as determined by the Municipality;
  - (b) the Base Telecommunications Transmission Station becomes redundant in the event of changing technology;
  - (c) the Base Telecommunications Transmission Station is not operated for a period exceeding 18 months; and
  - (d) any other similar circumstances rendering the Base Telecommunications Transmission Station redundant.
- (v) The site shall be restored to its original condition and to the satisfaction of the Municipality.
  - (vi) Where there are two or more cellular network providers using a single mast, this provision shall not become effective until all cellular providers cease using the mast.
  - (vii) The site and Base Telecommunications Transmission Station shall be maintained to the satisfaction of the Municipality.

#### **9.1.6 Planning Approval Procedure:**

- (i) An application for the erection of and use of land for a Base Telecommunications Transmission Station shall be made in accordance with the requirements of the National Building Regulations and Standards Act No. 103 of 1977, the Town Planning Ordinance and the provisions of this Scheme. The submission of an application shall be preceded by consultation between the applicant or its agent and the Municipality in order to facilitate the processing of the application in an efficient and effective manner.
- (ii) An application for the erection of a telecommunications mast and associated equipment and antenna shall be accompanied by the following documents:
  - (a) An application form and the prescribed fee.
  - (b) The prescribed number of copies of plans, of which two are in color, indicating the location of the structure within the Erf, all existing structures on the Erf, adjoining properties and their associated structures, the elevation of the proposed structure, and any services present, proposed security measures for controlling access to the Erf concerned (particularly the fencing of the base station) and landscaping.
  - (c) A locality plan indicating the location of existing telecommunications masts within a radius of 1 000 metres from the position of the proposed mast.
  - (d) All copies of plans shall be drawn at an appropriate and legible scale.
  - (e) A radio plan indicating the Coverage achieved within a 1 000 metre radius of the Erf.

- (f) A copy of the Record of Decision relating to the application from the Department of Agriculture and Environmental Affairs, failing which an environmental scoping report, or a letter of exemption from the Department of Agriculture and Environmental Affairs.
- (g) A certificate of approval from the South African Civil Aviation Authority.
- (h) In the case where multiple uses cannot be achieved, a letter of motivation giving reasons for the inability to co-late.
- (i) A letter of consent from the registered owner of the property granting consent for the application to be submitted to the Municipality.
- (j) Title Deeds where legislation requires their submission.
- (k) Photographs which present an indication of the impact of the proposed structure as viewed from key points around the Erf.

An application in terms of sub-clause 7.1.6 (ii) is deemed to be an application submitted in terms of the applicable legislation, which requires the Consent of the Municipality.

(iii) An application for the installation of telecommunication equipment and antennae on an approved building or structure shall be accompanied by the following documents:

- (a) An application form and the prescribed fee.
- (b) The prescribed number of copies of a plan, of which two are in color, indicating the location of the equipment and antennae within the site, existing structure on the site, adjoining properties and their associated structures, the elevation of the structure, any services present, proposed security measures for controlling access to the equipment, antennae and landscaping to the satisfaction of the Municipality.
- (c) A copy of the Record of Decision relating to the application site from the Department of Agriculture and Environmental Affairs, failing which an environmental scoping report, or letter of exemption from the Department of Agriculture and Environmental Affairs.
- (d) A letter of consent from the owner of the property granting consent for the application to be submitted to the Municipality.
- (e) In the case of land to be leased from the Municipality, a copy of a letter of consent from the relevant Department.
- (f) Photographs which present an indication of the impact of the proposed structure as viewed from key points around the Erf.
- (g) Title Deeds where legislation requires their submission.

An application submitted in terms of sub-clause 7.1.6 (iii) is deemed to be an application submitted in terms of the applicable legislation.



- (iv) An application for the increase in height of an approved telecommunication mast or for antenna erected at a greater height than the height that has been previously approved, or for an increase in the footprint of the Base Telecommunications Transmission Station shall require:
  - (a) In the case of a mast, a Consent application as set out in sub-clause 7.1.6 (ii) hereof; and
  - (b) In the case of antennae, the submission of a Building Plan application as set out in sub-clause 9.1.6 (iii) hereof.
- (v) The replacement of telecommunication masts, equipment and antennae on approved structures, shall be deemed to be regarded as maintenance and provided that there is no material change to the telecommunications mast, equipment and antennae on approved structures, no application shall be required.

## **9.1.7 GENERAL REQUIREMENTS FOR THE SCOPING REPORT TO ERECT BASE TELECOMMUNICATIONS TRANSMISSION STATIONS (CELLULAR MASTS)**

### **9.1.7.1 APPLICANTS DETAILS:**

- (i) Name;
- (ii) Postal Address;
- (iii) Physical Address;
- (iv) Consultants Name;
- (v) Consultants Postal Address.

### **9.1.7.2 PROJECT DESCRIPTION:**

- (i) Details of the proposed structure, including ancillary uses;
- (ii) Physical address of the property;
- (iii) Property Description;
- (iv) Site "code name".

### **9.1.7.3 SITE DESCRIPTION:**

- (i) General description of the biophysical environment (land form, flora and fauna) on the Erf and surroundings (including the location of Red Data Species, the percentage and description of indigenous vegetation on the Erf);
- (ii) Description of specific environment elements that will be affected by the activity and description of these impacts;
- (iii) Description of mitigating measures to be implemented;
- (iv) Description of alternatives where these were considered and motivation for the preferred option.

### **9.1.7.4 PUBLIC CONSULTATION:**

- (i) Indicate how the proposal was advertised (include a copy of the advertisement);
- (ii) Record any other public scoping undertaken (notification to adjacent owners, public meetings, etc)
- (iii) Record of any public comments received from interested and affected parties.

#### **9.1.7.5 COMPLIANCE WITH GENERAL EXEMPTION:**

- (i) State whether the Erf affects or may affect any sensitive area as described in the General Exemption letter received from the Department of Agriculture and Environmental Affairs;
- (ii) State whether the structure is to be constructed in terms of the General Exemption or, if application in terms of Regulation is required.

#### **9.1.7.6 MAPPING:**

- (i) Erf layout plan indicating the location of the proposed infrastructure in relation to all existing infrastructure and large trees;
- (ii) Erf location plan indicating the surrounding land uses.

#### **NOTE:**

- (a) In addition to the above, the standard Environmental Management Plan for construction and operation of the Erf, as described in the Letter of Exemption, must be submitted for approval.
- (b) The abovementioned documents must be submitted to the Municipality as part of the application.

## **9.2 DESIGN OF A FUELLING AND SERVICE STATION**

- 9.2.1 The layout of a Fuelling and Service Station including the siting of pumps, buildings and vehicular ingress or egress shall be to the satisfaction of the Municipality.
- 9.2.2 A Fuelling and Service Station having direct vehicular access to a major arterial road proposed arterial road shall not be permitted, unless approved in specific terms by the Municipality.
- 9.2.3 The following pre-requisites and conditions shall be observed whenever it is proposed to erect a new, or extend an existing Fuelling and Service Station:-
- (i) No vehicular entrance and exit to a Fuelling and Service Station shall be within 150 metres of a freeway interchange, 60 metres from an intersection with a road in the opinion of the Municipality is a major road or 20 metres from an intersection from any other road, unless approved in specific terms by the Municipality.
  - (ii) The frontage of a Fuelling and Service Station Erf shall not be less than 36 metres in length, unless approved in specific terms by the Municipality.
  - (iii) Dwarf walls or permanent structures to the satisfaction of the Municipality shall be erected on the street frontage of the Erf so as to confine the movement of vehicles into or out of the Fuelling and Service Station to authorised ingress and egress points.
  - (iv) No Fuelling and Service Station shall be established upon an Erf unless, in the opinion of the Municipality, it has adequate depth so as to enable all activities to be carried on clear of the street or road. Filler points for underground tanks shall be positioned so as to make it possible for tanker vehicles to stand wholly within the curtilage of the Erf when re-charging the tanks and for such vehicles to enter or leave the Erf in a forward direction.
  - (v) No pump island shall be less than 5 metres from any boundary of the Erf and all traffic routes within the forecourt shall have a minimum width of 5 metres.
  - (vi) Any Fuelling and Service Station shall be sited and designed so as to satisfy the Municipality that traffic entering and leaving the Erf will not adversely affect movement of pedestrians or vehicles on any public road or place.

### 9.3 GAMBLING/GAMING

9.3.1. Means engaging in any activity whereby money or any other thing of value is staked on the unknown result of a future event at the risk of losing all or a portion of the money or valuable thing so staked for the sake of a return and is the generic term encompassing all forms of gaming and to bet as defined in the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957), but shall exclude;

- (i) Any lawful lottery; and (ii) Any recognized investment activity undertaken with a recognized financial institution and “gamble” shall have the same meaning;

9.3.2. Gambling Area means any area within licensed premises in which gambling takes place in terms of a license issued by the board in terms of the Gambling Act and gambling room’ or gambling premises’ shall have the same meaning. Gaming means playing any casino game, bingo or any gaming machine; Gaming equipment means any equipment, apparatus or components thereof which are used for gaming;

9.3.3. Gaming Machine means any electronic-mechanical or mechanical machine, apparatus or device, other than a roulette wheel, which is used for playing a game that commences upon the payment of any consideration whatsoever in any manner whatsoever or is available to play such a game, and the operation of which may, automatically or in any other manner whatsoever, deliver to the person playing or operating the machine, or any other person, money, goods, services or anything of value whatsoever or credit or any object or token to be exchanged for money, goods, services or anything of value whatsoever, and includes a machine, apparatus or device which is set in operation by another person upon the wagering of a stake: Provided that for the purposes of the Gambling Act a gaming machine shall not include;

- (i) Any machine, apparatus or device which provides as the only prize, reward or consideration for successfully playing the game concerned,
- (ii) A coin or token to enable the player, by inserting such coin or token in the machine, apparatus or device to play the game once again;
- (iii) The opportunity to play no more than ten further games immediately without the insertion of another coin or token;
- (iv) Any machine, apparatus or device which is deemed by regulation to be an amusement machine and which is registered with the Board in the manner prescribed and is in the possession of a person duly authorized by the Board to keep and make such amusement machine available in the manner prescribed.

9.3.4 A type “A” site operator whose primary business shall be as a bona fide sport club, a public bar, a licensed tavern or a licensed betting outlet and where the playing of limited payout machines on a site will form a secondary activity to the main activity of the site; the maximum number of limited payout machines that may be made available for play in or on type “A” licensed premises, is 5, and

9.3.5 A type “B” site operator whose primary business is of an entertainment nature, but excluding a sports club, public bar, licensed tavern or licensed betting outlet: Provided that the playing of limited payout machines on such site will form a secondary activity to the main activity of the site; the maximum number of limited payout machines that may be made available for play in or on type “A” licensed premises, is 40.