

**HENTIESBAAI TOWN  
PLANNING  
AMENDMENT SCHEME  
NO. 13**

**MARCH 2013**



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# HENTIESBAAI MUNICIPALITY

## TOWN PLANNING AMENDMENT SCHEME

It is hereby certified that the *Hentiesbaai Municipality Amendment Scheme No. 13* as approved by the Minister of Urban and Rural Development in accordance with Section 26(1) of the Town Planning Ordinance (Ordinance 18 of 1954), read with Section 27(1) thereof is correct.

  
CHIEF: DIVISION PLANNING



*06/11/2015*  
DATE

GOVERNMENT GAZETTE

15 JUNE 2015

### MINISTRY OF URBAN AND RURAL DEVELOPMENT

No. 114

2015

#### HENTIESBAAI TOWN PLANNING AMENDMENT SCHEME NO 13: TOWN PLANNING ORDINANCE, 1954

In terms of section 26(2) of the Town Planning Ordinance, 1954 (Ordinance No 18 of 1954), I give notice that I have under section 26(1) of that Ordinance read with section 27(1) thereof, approved the Hentiesbaai Town Planning Amendment Scheme No. 13 of the Hentiesbaai Municipality.

**S. SHANINGWA**  
MINISTER OF URBAN AND  
RURAL DEVELOPMENT

Windhoek, 2 June 2015

**PREPARED BY:**



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Windhoek

**PREPARED FOR:**



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P.O. Box 61  
Henties Bay

**MINISTRY OF URBAN AND RURAL DEVELOPMENT**

No. 113

2015

**HENTIESBAAI TOWN PLANNING AMENDMENT SCHEME NO. 12:  
TOWN PLANNING ORDINANCE, 1954**

In terms of section 26(2) of the Town Planning Ordinance, 1954 (Ordinance No. 18 of 1954), I give notice that I have under subsection (1) of that section read with section 27(1) of that Ordinance, approved the Hentiesbaai Town Planning Amendment Scheme No. 12 of the Municipality of Hentiesbaai.

**S. SHANINGWA**  
**MINISTER OF URBAN AND RURAL DEVELOPMENT**

Windhoek, 2 June 2015

**MINISTRY OF URBAN AND RURAL DEVELOPMENT**

No. 114

2015

**HENTIESBAAI TOWN PLANNING AMENDMENT SCHEME NO. 13:  
TOWN PLANNING ORDINANCE, 1954**

In terms of section 26(2) of the Town Planning Ordinance, 1954 (Ordinance No. 18 of 1954), I give notice that I have under subsection (1) of that section read with section 27(1) of that Ordinance, approved the Hentiesbaai Town Planning Amendment Scheme No. 13 of the Municipality of Hentiesbaai.

**S. SHANINGWA**  
**MINISTER OF URBAN AND RURAL DEVELOPMENT**

Windhoek, 2 June 2015

**MINISTRY OF URBAN AND RURAL DEVELOPMENT**

No. 115

2015

**SWAKOPMUND TOWN PLANNING AMENDMENT SCHEME NO. 55:  
TOWN PLANNING ORDINANCE, 1954**

In terms of section 26(2) of the Town Planning Ordinance, 1954 (Ordinance No. 18 of 1954), I give notice that I have under subsection (1) of that section read with section 27(1) of that Ordinance, approved the Swakopmund Town Planning Amendment Scheme No. 55 of the Municipality of Swakopmund.

**S. SHANINGWA**  
**MINISTER OF URBAN AND RURAL DEVELOPMENT**

Windhoek, 2 June 2015



Republic of Namibia

## Ministry of Urban and Rural Development

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Our Ref.:17/4/1/H1  
Your Ref.:

Date: 3 June 2015

The Managing Director  
Stubenrauch Planning Consultants  
P. O. Box 11869  
WINDHOEK

ATTENTION: MR. G. STUBENRAUCH

### ITEM NO. 06/2015: HENTIESBAAI – APPROVAL OF THE HENTIESBAAI TOWN PLANNING AMENDMENT SCHEME NO. 13

With reference to your above-mentioned application, you are hereby informed that the Minister of Urban and Rural Development has, on 2 June 2015, approved the Hentiesbaai Town Planning Amendment Scheme No. 13 in terms of Section 26(1) of the Town Planning Ordinance, 1954 (Ordinance 18 of 1954), as amended and that the name of the town be corrected in the Town Planning Scheme to read “Hentiesbaai”.

Approval was also granted that the Local Authority be informed –

- Not to restrict the height of any building in the Town Planning Scheme; and
- That the Ministry of Urban and Rural Development is in the process to develop a national policy on densifying urban areas.

The Government Notice will be promulgated in the Government Gazette of 15 June 2015.

Yours sincerely

**Nghidhqua Daniel**  
PERMANENT SECRETARY

# HENTIESBAAI TOWN PLANNING AMENDMENT SCHEME NO. 13

## MARCH 2013



# HENTIESBAAI TOWN PLANNING AMENDMENT SCHEME NO. 13

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# HENTIESBAAI TOWN PLANNING AMENDMENT SCHEME NO. 13 REGULATIONS

## PART I

### CLAUSE 1: INTERPRETATION OF TERMS

In this scheme the following words and expressions have the respective meanings;

#### A

“**ACCOMMODATION ESTABLISHMENT**” means any premises in or on which the business of providing accommodation with or without meals against payment to tourists is or is intended to be conducted within a municipal area as referred to in the definitions of ‘accommodation establishment’ in the Namibian Tourism Board Act, 2000 (Act 21 of 2000), as amended.

	TERM (as per the Namibian Tourism Board Act, 2000 (Act 21 of 2000) and its Regulations as promulgated in the Government Gazette of 14 July 2004	NUMBER OF ROOMS
<b>URBAN CONTEXT</b>		
A	Backpackers hotel	At least 2 bedrooms
B	Bed and breakfast establishment	At least 2, but not more than 5 bedrooms
C	Guest house (formerly referred to a Pension)	At least 5 but not more than 10 bedrooms
D	Hotel pension	At least 10 but not more than 20 bedrooms
E	Hotel	At least 20 bedrooms
<b>URBAN &amp; TOWNLANDS CONTEXT</b>		
F	Campsite	
G	Camping and caravan park	
H	Rest camp	At least 4 accommodation units
I	Self-catering accommodation establishment	
<b>TOWNLANDS CONTEXT</b>		
J	Guest farm	At least 5 bedrooms
K	Lodges	At least 5 bedrooms
L	Resorts	At least 40 bedrooms
M	Permanent tented camps and tented lodges	At least 4 accommodation units



**“ADVERTISE/ADVERTISEMENT”** refers to the advertisement procedure in terms of Clause 7 of this scheme with regards to the notification and advertisement of a change of land use, rezoning and consent use.

**“ADJACENT ERF OWNER”** is the person registered in the Deeds Registry as the owner of the land abutting on or sharing a common point of intersection with a certain property. The registered person also includes the liquidator of a company or legal representative acting with the authority conferred upon him by law.

**“AGRICULTURAL BUILDING”** means a building designed and/or used in connection with, and which would ordinarily be incidental to or reasonably necessary in connection with the use of the site as agricultural land and includes one main dwelling unit and labourer and staff accommodation facilities, but do not include more than five dwelling units in total.

**“AGRICULTURAL LAND / USE”**: Arable, meadow or pasture land, market gardens, poultry and pig farms or game farms, land used for beekeeping, nursery gardens, plantations and orchards, or similar uses, and may include one main dwelling unit and labourer and staff accommodation facilities, but not more than five dwelling units; but does not include:

- (a) land occupied as a park together with a house thereon; or
- (b) land used as a garden other than as aforesaid; or
- (c) land kept or reserved for the purpose of sports, athletics or recreation or used as a racecourse
- (d) An Agricultural Industry and feedlots, except with consent of Council.

**Further provided** that on agricultural land larger than 25 hectares activities such as hunting, drilling of boreholes, gathering of firewood and other activities incidental to normal agricultural practices may be permitted.

**“AGRICULTURAL INDUSTRY”** means an enterprise or concern for the processing of agricultural products on a farming unit owing to the nature, perishableness and fragility of such agricultural product and includes inter alia, farm pack stores, but does not include service trade or the large scale processing of meat or any industry which, in the opinion of Council is a noxious industry.

**“AREA OF ERF”** The surveyed area of such erf, farm portion or part of the Townlands, taking into account any prescribed line and resurveyed areas, but excludes the area which:

- (a) has been encroached upon by the public by using such portion as a street or part of a street, and which in the opinion of the Council should continue to be used as a street or part of a street; or
- (b) is reserved for street purposes in terms of any other law; or
- (c) has been expropriated in terms of any law.

**“AQUACULTURE”** or aquafarming is the cultivation of aquatic or marine organisms in ponds or in the open ocean, an enclosed section of the ocean, or in tanks, ponds or raceways which are filled with seawater, under controlled conditions and include algaculture (the production of kelp/seaweed and other algae) and farming with fish,

prawns oysters, shrimps, shellfish and the growing of cultured pearls and which is registered in terms of the Aquaculture Act 2002, (Act 18 of 2002) and the Agricultural Bank of Namibia Act, 2003 (Act 5 of 2003); and can include the development of infrastructure and facilities required for the farming and ranching of aquatic organisms for commercial purposes.

**"AUTHORITY"** refers to the Government of the Republic of Namibia at the given time as elected by the people of Namibia according to the Constitution of Namibia.

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## B

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**"BACKPACKERS HOTEL"** comprises a dormitory hostel or any other facility in which accommodation is provided primarily to backpackers. In the case of a facility other than a dormitory or hostel it has at least two bedrooms available for accommodation by guests and meets the requirements as stipulated in the Namibian Tourism Board Act, 2000 (Act 21 of 2000), as amended.

**"BASEMENT"** means that portion of a building of which the finished floor level is at least two (2) metres below, and the ceiling not more than one (1) metre above, a level halfway between the highest and lowest natural levels of the ground immediately contiguous to the building. (FIGURE 1 TO BE INSERTED HERE)

**"BEACH ACTIVITIES"** means such activities which are conducted above the high water mark and surveyed by a Land Surveyor in terms of the Land Surveyor Act and shall include those activities relating to sun bathing, swimming, strolling, loitering, pre-arranged sporting activities within prior demarcated areas such as beach volley ball, cricket, beach rugby, soccer, soft-and baseball, ring tennis, badminton, tennis, jukskei and shall exclude access by private petrol-, diesel or animal driven vehicles or machinery on the demarcated beach area. Activities relating to the walking of domestic pets shall be restricted to contain such domestic pets on leashes by competent handlers or owners thereof. Beach angling and barbeque functions shall be restricted to special demarcated areas determined from time to time.

**"BEACH AREA"** means any land which has been reserved in terms of this scheme for use of the public for exclusive beach activities. Any public facilities and amenities related to beach activities may only be constructed with the approval of Council.

Further provided that no beach area, or any part thereof, shall be closed or used for the development of residential or any other land use which can be considered to be a building related to "beach activities".

Beach Area may not be considered as a "public open space" and may not be closed in terms of the Local Authorities Act, 1992 (Act 23 of 1992).

**"BED AND BREAKFAST ESTABLISHMENT"** provides accommodation and meals to transient guest either within or on the premises of a private dwelling where the owner or any other person in charge of the establishment lives. It has at least two, but not more than five, bedrooms available for the accommodation of guests and provides at least breakfast to guests, either served or on a self-catering basis and meet the requirements as stipulated in the Namibian Tourism Board Act, 2000 (Act

21 of 2000), as amended. The dominant use of the dwelling to remain single residential of nature.

**“BETTERMENT FEE”** Betterment is charged when changes in development potential are granted and an erf's value increases as per the Council's betterment fee policy; for example, when a residential site is granted a rezoning from “Residential” to “Business”.

**“BLOCK OF FLATS”** means a building containing three or more dwelling units and can include penthouses, together with such outbuildings as are ordinarily used therewith; provided that in those zones where flats are permissible, fewer than three dwelling units shall also be permissible, with the consent of the Council, in a building approved for other purposes than flats.

**“BOUNDARY”** in relation to a land unit means one of the cadastral lines separating such land unit from another land unit or from a public street or road.

**“BOUNDARY WALL”** means a wall erected directly on the inside of an erf boundary as indicated on a building plan approved by the Municipality of Hentiesbaai.

**“BOTTLE STORE”** means a shop in which mainly alcoholic beverages are sold to the retail trade for off-site consumption and includes an off-sales facility, which is under the same management as a hotel, but does not include a shebeen.

**“BUILDING”** means, in addition to the meaning assigned thereto in Section 1 of the Local Authorities Act, 1992 (Act 23 of 1992), any temporary or permanent structure or erection irrespective of its size or appearance, but does not include a caravan, mobile home or any other structure which, in the opinion of the Council may be injurious with respect to the general amenity and appearance of the neighbourhood, or which may be of such nature that it may be of health or personal risk.

**“BUILDING LINE”** An imaginary line on a land unit, as prescribed by this scheme, usually parallel to and at a specified distance from an erf boundary, and between which boundary and the building line no buildings may be erected without the consent of the adjacent erf owner and the Council.

**“BUILDING RESTRICTED AREA”** An area wherein no building, except that permitted by the scheme, may be erected.

**“BUILDING YARD”** means any land, together with ancillary and subordinate buildings on the same land, used for the storage of building materials or other similar used goods or preparation for resale of any used material.

**“BULK FACTOR”** The relationship between the floor area ratio prescribed for a specific zone in these Regulations and the net area of the site, or the net area of that portion of the site on which the ratio is applicable: Provided that where a site falls in an area where two or more ratios are applicable, the permissible floor area ratio of the whole erf shall be the sum of the floor area ratio for each portion of the site within the specific zone.

**“BUSINESS BUILDING”** A building used for business purposes and includes shops, offices, banks, restaurants, professional chambers and buildings designed for similar uses, but does not include a place of assembly, a place of entertainment, an institution, service station, industrial building, noxious industry, or vegetable or animal market or pet shop.

**“BUSINESS USE”** means the use of land or buildings for retail buying or selling of commodities, merchandise, articles, or goods offered or kept for sale at retail or on a rental basis, and includes the storage of limited quantities of merchandise or goods on the premises, sufficient only to service the shop or shopping centre, inclusive of office use, but does not include any wholesale business or business supply use or the manufacturing or packaging of goods or produce.

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**“CAMP SITE”** means a property or part of a property, which is utilised for the erection of tents or the parking of caravans and includes ablution, cooking, barbecue and other facilities, which together with the amenity of the site, serve as features of attraction and meets the requirements as stipulated in the Namibian Tourism Board Act, 2000 (Act 21 of 2000).

**“CAMPING AND CARAVAN PARK”** comprises an area of land containing pitches for the parking of caravans, either those of guest or on-site caravans provided by the establishment for hire by guests, or containing pitches as well as camping site for the erection of tents, awnings or other temporary structures for guest camping without a caravan and meets the requirements as stipulated in the Namibian Tourism Board Act, 2000 (Act 21 of 2000), as amended and can include a kiosk.

**“CAR WASH”** means a place where vehicles are washed and cleaned and may include a permanent or temporary structure erected to the satisfaction of Council. The Council may impose conditions to the use, e.g. the drainage of water.

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

**“COMPETENT AUTHORITY”** The Minister of <sup>Urban</sup> ~~Regional and Local Government, Housing and Rural Development.~~ α

**“CONSENT USE”** means the purposes as specified in Table B shown under column 4, for which land may be used in addition to the primary rights with the consent of the Council, subject to the provision of Clause 7 hereof. Should a building be constructed, the building design should be in line with the Primary Use of the specific property.

**“CONSERVATION AREA”** means an area of natural beauty, importance or sensitivity that in the opinion of the Council or Minister needs to be preserved.

**“CONSTRUCTION”** in respect of a building means:

- (a) the alteration, subdivision, transformation or addition to a building, and

- (b) the reconstruction or reparation of a building which has totally or partially been destroyed or demolished and construct has a corresponding meaning.

**“CONVENTION CENTRE”** means a large building or group of buildings designed for conventions, exhibitions, industrial shows and similar activities and can include conference rooms and a restaurant.

**“COUNCIL”** The Municipal Council of Hentiesbaai.

**“COUNCIL APPROVAL”** means formal approval obtained by Council Resolution.

**“COVERAGE”** The total percentage of the site area that may be covered by:

- (a) a verandah, terrace, stairs or similar structure, and
- (b) buildings measured over the outside wall and covered by a roof or projection, provided that the area covered by a maximum eaves projection of one (1) metre shall be excluded for the purposes of determining the maximum permissible coverage.

**“CRECHE”** means a building or land, excluding a hostel, which is maintained and used, whether for profit or not, for the admittance, protection and temporary or partial care of 15 or more children away from their parents, provided that the services are primarily day-care and educational and not medical and further provided that such a building is subject to registration in terms of the Child Care Act, 1983 (Act 74 of 1983), as amended.

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**“DATE OF PROCLAMATION”** Refers to the date on which the Minister in terms of Section 26(2) of Ordinance 18 of 1954 (as amended) published the proclamation of **this** scheme in the Government Gazette.

**“DAY CARE CENTER”** means a building or land, excluding a hostel, which is maintained and used, whether for profit or not, for the admittance, protection and temporary or partial care of 15 or less children away from their parents, provided that the services are primarily day-care and educational and not medical, and further provided that such a building is subject to registration in terms of the Child Care Act 74 (1983), as amended.

**“DENSITY ZONING”** refers to Table E and the Density Map included in this scheme, restricting erven in terms of the minimum erf size permitted or number of dwelling units that may be erected on the erf, provided that on an erf zoned “Residential” or “Informal Residential”, the erection of more than one dwelling unit may only be erected with the consent of the Council and subject to adherence of Clause 7 of the scheme.

**“DEVELOPMENT PLAN”** A plan drawn to a scale of 1:500 or such other scale as may be approved by the Local Authority Council and which reflects at least the following:

- (i) the positioning, height and coverage of all buildings;
- (ii) open spaces, children's playgrounds, (if included in the proposed development) as well as a site embellishment and landscaping;
- (iii) entrances and exits from the property and any proposed subdivision thereof;
- (iv) subdivision lines if the property is to be subdivided;
- (v) accesses to buildings and parking areas;
- (vi) building restriction area (if any), e.g. building lines;
- (vii) parking areas and, where required by the Local Authority, motor and pedestrian traffic system;
- (viii) aesthetic treatment of all elevations;
- (ix) any other aspect which is considered necessary by the local authority in any particular situation; such as sewage plans, water and electricity reticulation.
- (x) 1:100 year flood line if applicable.

**“DRIVE-IN CAFÉ”** Any land or building used for café or restaurant from which food and refreshments are served to patrons who remain seated in a motor vehicle parked in the vicinity of such café or restaurant.

**“DRIVING SCHOOL”** means a registered business enterprise where learners are trained and equipped with the skills required to obtain a license permitting a person to drive a motorcycle or motor vehicle.

**“DUPLEX FLATS”** A suite of rooms forming a complete dwelling unit situated on two floors, having an internal staircase giving access to each upper floor, designed in a group of two or more such units, each having direct access to its own adjoining garden at ground level, with a **vertical** dividing line between dwelling units with a maximum height of two storeys.

**“DWELLING UNIT”** means a dwelling consisting of one primary unit with or without an outbuilding or an entertainment area, where **the primary unit consists of mutually adjacent interleading rooms with not more than one kitchen and with at least a bathroom with toilet facilities and where the primary unit is designed for occupation by a single household**, and may, subject to the provisions of this scheme or any law or regulation, be with or without a supplementary dwelling unit. Not more than one building together with such outbuildings as are ordinarily used in connection therewith, shall be erected on any erf zoned “Residential” without Council approval and further provided that the density zoning as referred to in **Table E be adhered to**; and further provided that the approval is subject to Clause 7 of this scheme.

**Further provided that in this context**

An “**Outbuilding**” means, rooms with a floor area not exceeding 80m<sup>2</sup> being separated or detached from the main building (or primary unit) and designed or destined to be used for one or more of the following purposes:

- a) parking place (a maximum of four independent covered parking places to 80m<sup>2</sup> maximum);
- b) servant's room (maximum 20m<sup>2</sup>);
- c) a servant's bathroom (toilet, washbasin and shower to a maximum of 5m<sup>2</sup>);
- d) a store for use in reasonable connection with the dwelling (limited to a maximum floor area of 25m<sup>2</sup>).

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

An "Entertainment area" means a covered or roofed area which may be adjacent to the main building but without an internal connection (door) or physically detached from the main building with a total floor area not exceeding 60m<sup>2</sup> and designed or destined to be used for entertainment purposes only, and may include one toilet.

A "Supplementary Dwelling Unit" means a dwelling, designed for occupation by a single household, which shall not exceed half of the floor area of the main building (primary unit) or 120m<sup>2</sup>, whichever is the lesser, which is auxiliary to the said primary unit and is owned therewith as a single indivisible property unit by one and the same owner and which shall, for the purpose of the scheme, be considered an integral part of the dwelling unit with which it is owned.

Further provided that subject to the approval by Council, an "outbuilding" and "entertainment area" may exceed these provisions.

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## E

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**"ENGINEERING REPORT"** as compiled by a professional and registered Namibian structural engineer on infrastructure for the provision of water, electricity, sewerage, stormwater disposal, streets, roads and pedestrian walkways, floodlines and buildings structures where required, or any other engineering issues as may be required by Council, further provided that such report certifies that the foundations and structure to be erected are suitable and sound and that the natural storm water run-off is not obstructed in any way which may be detrimental to the surrounding properties.

**"ENDOWMENT"** An endowment is charged to distribute in a fair manner, costs for the future provision of communal and bulk services over the various properties that stand to gain the benefit as per Section 19(5) of the Township and Division of Land Ordinance, 1963 (Ordinance 11 of 1963) as amended. An endowment can be in the form of land, money or structures. Endowments can be charged for any public service, but are usually important for things such as roads, parks, institutional sites (schools, cemeteries, etc.), government offices, and service corridors.

**"ENVIRONMENTAL IMPACT ASSESSMENT"** means the process of identifying, predicting and evaluating the effects of proposed activities on the environment (natural and built), as determined by the Environmental Management Act, 2007 (Act 7 of 2007) and can include:

- Information about the risks and consequences of the activity;
- Possible alternatives;
- Mitigation steps which can be taken to minimise the impact of the activity

**"ERECTION"** In relation to a building, boundary walls and fences and includes:

- (a) the erection of any new building, boundary wall or fence;
- (b) the alteration, subdivision or conversion of, or addition to a building, and

- (c) the re-erection or repair of a building which has been completely or partially destroyed or demolished, and "erect" has a corresponding meaning.

**"ERF"** Every piece of land in an approved township capable of being registered in the Deeds Registry and may include a servitude or lease right.

**"EXISTING BUILDING"** A building erected before the material date (see "Date of Proclamation") and also a building:

- (a) erected in accordance with a contract concluded before the said date, or
- (b) the erection of which was commenced before but completed after the said date in accordance with an approved plan, or
- (c) erected, in accordance with any consent granted by the Council before the material date.

**"EXISTING USE"** In relation to any building or land, a continuous use of the building or land for any lawful purpose for which it was being used at the material date or, in the case of a new building erected before such date, and which was not being used at that date, a continuous use of such building for any purpose for which it was designed, or where after the material date the Council has authorized the use of a building or land for any purpose, a continuous use of that building or land for the purpose authorized: Provided that the interruption of such existing use of a building or land for a period of eighteen consecutive months, after material date shall be deemed a cessation of the continuous use.

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## F

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**"FARM STALL"** means a building or structure, which does not exceed 100m<sup>2</sup> in floor space, including storage facilities, where a farmer sells products produced and processed on his property. If such farm stall is situated on a proclaimed road approval from Roads Authority is to be obtained.

**"FLOOR AREA"** The total floor area of all the floors and basements of all the buildings erected on an erf, measured across the external walls and may in no instance exceed the floor area ratio as defined in this scheme: Provided that:

- (a) any floor area, which included the basement floor area, used by the residents of the residential accommodation for purpose of parking shall be excluded for the purpose of determining the maximum floor area of the building, and
- (b) the area of all balconies, verandas or staircases above the ground floor, whether it be covered by a roof, slab or any other covering shall be included: Provided that where such balconies or verandas are provided for the benefit of all the occupants of the building, the area shall be excluded.

**"FLOOR AREA RATIO"** The ratio obtained when the floor area of a building/s is divided by the total area of the site on which the building/s is/are erected.

**"FUNERAL PARLOUR AND CHAPEL"** A building designed for the reception of human corpses prior to burial or cremation and may include a chapel, but excludes a workshop for the manufacture of coffins and fittings.



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**G**

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**“GAMBLING HOUSE”** A building or room which is exclusively used for entertainment and gambling purposes and which is registered in terms of the Gambling Act, 1985(Act 12 of 1985) as promulgated in Government Gazette issue No. 1118 and includes a casino or gambling house.

**“GARAGE”** means a building which is exclusively used for the storage of motor vehicles, and which is excluded from the definition of a main building or outbuilding; and where no business, trade or service, whether for payment or not, is conducted.

**“GENERAL INDUSTRIAL”** means a building or land used where any person or persons performs work in connection with:

- (a) the large scale manufacturing of any article or part of any article;
- (b) the altering, repairing, renovating, testing, ornamenting, painting, spraying, finishing, cleaning, dyeing, washing or breaking up of any article;
- (c) the sorting, assembling or packing (including washing or filling bottles or other containers) of articles;
- (d) the construction, reconstruction, assembling, repairing or breaking up of vehicles or part thereof (but excluding premises used for the purpose of housing vehicles where only minor adjustments are carried out);
- (e) the production and storage of gas in a holder of more than five hundred cubic meter storage capacity;
- (f) any other industrial use (noxious industries excluded) not included in the definition of a light industrial use: Provided that the provision of a dwelling unit and the sale of goods manufactured and produced on site or which are related to the main use may be permitted with the approval of Council.

**“GROUND FLOOR”** The lowest floor of a building not being a basement.

**“GUEST HOUSE”** provides accommodation and at least breakfast facilities to guests. It comprises of at least five bedrooms, but not more than 10 bedrooms for accommodation by guests and meets the requirements as stipulated in the Namibian Tourism Board Act, 2000 (Act 21 of 2000), as amended.

**“GUEST FARM”** means an establishment located on a farm or other rural area and within a natural environment where the owner or other person in control lives and comprises of at least 5 bedrooms for accommodation by guests and meets the requirements as stipulated in the Namibian Tourism Board Act, 2000 ( Act 21 of 2000), as amended.

**“GOVERNMENT”** refers to the Government of the Republic of Namibia at the given time as elected by the people of Namibia according to the Constitution of Namibia, and includes uses such as military training centres; police stations; correctional institutions/jails; road camps, etc.



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## H

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**“HEIGHT”** The height of a building measured from the mean natural ground level of the land on the erf or from above the basement floor level to the highest point of the roof. (FIGURE 2 TO BE INSERTED HERE)

**“HERITAGE BUILDING”** means a building or use included in Table D and which, in the opinion of the Council, is worth preserving in whole or in part.

**“HERITAGE CONSENT”** means the entering into of an agreement between the Council and the owner of a “heritage building” in terms of which agreement the owner undertakes to preserve the building or certain specified features of the building to the satisfaction of Council as *quid pro quo* for the granting of permission by Council to use such building and ground for an “office” or “business building”, provided that Council shall not enter into such agreement where it is expected that the use will have a detrimental effect on the neighbourhood.

**“HOLIDAY ACCOMMODATION/HOUSING”** means a harmoniously designed and built holiday development in a unique natural environment with an informal clustered layout which may include the provision of a caravan park, mobile homes or dwelling units, whether in private or public ownership, which comprises of a single enterprise and shall only be marketed by means of short term rental or time sharing, and may include a refreshment kiosk, but does not include a hotel.

**“HOME BASED SHOP”** means a shop, practiced from a dwelling unit, which is still primarily being used as a dwelling unit by one or more occupants of the dwelling unit concerned or outbuilding, with consent of Council, within normal trading hours, of which the floor area is not more than 30m<sup>2</sup> but excludes a shebeen or gambling house; further provided that the visual signs of trading, including advertisement signs are kept at a minimum according to the Municipal Outdoor Advertising Regulations, to the satisfaction of the Council. **Further provided** that the consent will be given to the owner of the property in terms of Table B, Column 5. Consent from all adjacent erf owners must be obtained prior to submission to Council.

**“HOSPITALITY”** refers to the zoning in which a hotel, holiday accommodation, tourist facilities and accommodation establishments, as defined in this scheme is permitted in the scheme area.

**“HOTEL PENSION”** A building designed and/or used as an accommodation establishment comprising at least 10, but not more than 20 bedrooms for accommodation of guests and complying with the requirements of the Advisory Board, as constituted by the Namibian Tourism Board Act, 2000 (Act 21 of 2000).

**“HOTEL”** means a building designed and/or used for the business of providing accommodation and meals for reward to transient guests and which complies with the provisions of the Namibian Tourism Board Act, 2000 (Act 21 of 2000) as amended and licensed under the Liquor Act, 1998 (Act No. 6 of 1998), as amended, but excludes any off-sales departments.



**“INDUSTRIAL BUILDING”** means a building or land used where any person or persons performs work in connection with:

- (a) the large scale manufacturing of any article or part of any article,
- (b) the altering, repairing, renovating, testing, ornamenting, painting, spraying, polishing, finishing, cleaning, dyeing, washing, or breaking up of any article,
- (c) the sorting, assembling or packing (including washing or filling bottles or other containers) of articles,
- (d) the construction, reconstruction, assembling, repairing or breaking up of vehicles or parts thereof (but excluding premises used for the purpose of housing vehicles where only minor adjustments are carried out),
- (e) the production and storage of gas in a holder of more than five hundred cubic metre storage capacity, or any other industrial use (noxious industries excluded) not included in the definition of a light industrial use;

**Further provided that** the provision of a caretaker unit/flat not exceeding 80m<sup>2</sup> and the sale of goods manufactured and produced on site or which are related to the main use may be permitted with Council approval.

**“INFORMAL DWELLING UNIT”** means a structure made from informal materials located within the “Informal Residential” zone, built from whatever materials such as wood, grass, corrugated iron etc, which does not comply with the standards for durability as prescribed by the Municipal Building Regulations, but which could be provided with water, sewerage and electricity services and which is designed for the accommodation of one or more families and may include traditional dwelling houses and group saving housing schemes, e.g. Shack Dwellers Federation.

**“INFORMAL RESIDENTIAL”** means any land located within the jurisdiction of the local authority, where special dwelling units or temporary or permanent buildings are erected and occupied by more than one family and where no formal title has been obtained, but excludes any other use zone defined under Column 1 of Table B, inclusive of “Undetermined” and “Agricultural” land, further subject to conditions laid down by the Local Authority.

**“INSTITUTIONAL BUILDING”** A building or portion of a building used or intended to be used as an old age home, crèche, public or private school, community hall, religious or charitable institution and/or the administration thereof, and includes a HIV/AIDS centre, state or private hospital, clinic or dispensary, whether private or public, used in connection therewith, but does not include:

- (a) a hospital, sanatorium, dispensary or clinic for the treatment of infectious or contagious diseases; or
- (b) premises for the detention of mentally disordered persons or a mental hospital; or
- (c) a reform or rehabilitation centre.

**Further provided that** the provision of a dwelling unit may be permitted with Council approval.

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**K**

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“**KIOSK**” means a building or part of a building or a temporary structure, approved by Council, which will not exceed 100m<sup>2</sup> in floor space, including storage, and which can be located within a holiday accommodation, tourist facility, camping and caravan park or truck port development, where prepared meals or foodstuffs are sold to the public.

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**L**

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“**LAND**” Includes land covered by water and any right in or on the land. Any reference to land is restricted to land within the area of jurisdiction of this Town Planning Scheme.

“**LAND UNIT**” means a portion of land registered or capable of being registered in a deeds registry.

“**LIGHT INDUSTRIAL**” The use of land or a building designed or used for such purposes as distribution centres, wholesale trade, storage, computer centres, warehouses, cartage and transport services and laboratories and may also include offices such as are usually ancillary to or reasonable necessary in connection with the main use. Further provided that the provision of a caretaker unit/flat not exceeding 80m<sup>2</sup> and the sale of goods manufactured and produced on site or which are related to the main use may be permitted with Council approval.

“**LOCAL AUTHORITY**” refers to the Municipal Council of Hentiesbaai and includes the Management Committee of that Council, or any official who is in the service of the Council and acting by virtue of any authority conferred on him/her by the Council in connection with this Town Planning Scheme and which was delegated to him in terms of the Local Authorities Act, 1992 (Act 23 of 1992), as amended.

“**LOCAL AUTHORITY PURPOSES / USE**” refers to those purposes that the Local Authority can and should give effect to in terms of Local Authorities Act, 1992 (Act 23 of 1992), as amended, or any other legislation, which empowers the Local Authority to act, and includes structures and land required to provide municipal services or the provision of market or SME structures, sewerage works, waste sites, substations, fire services etc.

“**LOCAL BUSINESS**” means the use of land or buildings primarily for small scale retail buying or selling of goods, groceries, everyday items and may include offices or dwelling units but shall not include the office of a veterinarian, the manufacturing, repairing or assembly of goods, funeral parlours or any place of entertainment or a gambling house.

“**LODGE**” means an establishment other than tented lodges which is located in a rural area or other area within a natural environment where recreation facilities are offered and comprise of at least 5 bedrooms for accommodation of guests and has a dining room or restaurant for the serving of meals to guest and must comply with the Namibian Tourism Board Act, 2000 (Act 21 of 2000), as amended.



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**M**


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**“MAIN BUILDING”** The building erected on the site for the specific purpose for which the erf has been zoned on the map.

**“MAIN ROAD”** means the major traffic route having a street reserve of 25 metres or more.

**“MAP”** A Scheme Map as mentioned in Regulation 4 of the Town Planning Regulations, 1974, as amended by any approved amending scheme.

**“MATERIAL DATE”** see Date of Proclamation.

**“MAXIMUM FLOOR AREA RATIO”** See Bulk Factor.

**“METRE”** Is the standard international metre.

**“MINIMUM BUILDING VALUE”** unless otherwise so stated by Council the minimum building value will be in line with Clause 25 of this scheme.

**“MINIMUM ERF SIZE”** refers to an area indicated on the Density Map designating a portion of land for the purpose of indicating the restrictions imposed by this scheme on the erection of residential buildings and the use of land in terms of restrictions relating to density as per Table E. The minimum erf sizes for other land uses are regulated by the Control Measures under Part IV of this scheme.

**“MINING”** means an enterprise, which practices the extraction of raw materials, whether by means of surface, or underground methods, and includes the removal of stone, sand, clay, kaolin, ores, minerals, semi or precious stones, subject to the necessary approvals from the Ministry of Mines and Energy and an environmental clearance certificate from the Ministry of Environment and Tourism.

**“MINISTER”** The Minister of Urban and Rural Development.

**“MOTOR VEHICLE”** Any vehicle designed or intended for propulsion by either than human or animal power and includes a motorcycle and a trailer or caravan but does not include a vehicle moving exclusively on rails.

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**“NATURAL GROUND LEVEL”** means a level halfway between the highest and lowest point of the natural land unit.

**“NATURE RESERVE”** means a national park, or some other nature park or conservancy, which consists of an area, utilized as a game park or reserve for fauna and flora in their natural habitat and can include holiday accommodation/housing and a tourist facility with the consent of the Council further provided that the minimum property size of a Nature Reserve shall be 1 hectare.

**“NOXIOUS INDUSTRY”** means a building designed and/or used for the purpose of carrying on any noxious or offensive trade occupation and, without prejudice to the generality of the foregoing, includes the following: Chemical works, paint works, breweries and distilleries, sugar mills and sugar refineries, manure-, superphosphate or fertilizer works, or premises used for the storing or mixing of manure, superphosphate or fertilizers, or the premises for the storing, drying, preserving or other treatments of bones, horns or hoofs, or premises used for the storing, sorting or treatment of hides and skins, other than in a dry and inoffensive condition, abattoirs, glue or size factories, entrails scraping and tripe boiling works, soap candle works, fat dripping work and any other similar works where meat, bones, blood, offal or other animal organic matter is handled or processed, wool scouring or wool washing works, rock lobster or fish processing works, fish picking or rock lobster and fish canning trades, premises or trades used for the storing handling and processing of material originating from fish, whales and seals, paper-mills or paper factories, wattle bark grinding or extract factories, destructors, depositing sites or other sites for the disposal processing of domestic refuse, trade refuse, street refuse, sewage or night-soil, lead melting works, oil refineries and other trades in connection with processing of by-products or petroleum refining, paint and varnish works, quarries, asbestos-, cement-, bricks- and lime-works, metallurgical works, reduction and repossessing works or any other works or trade which the Competent Authority may declare as such by notice in the Official Gazette: Provided that upon production of a certificate by the Medical Officer of Health, in consultation with the Inspector of Factories, that the process to be used in the conduct of any of the said industries or factories listed above will eliminate nuisance or danger to health in neighbouring premises arising from:

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

**Provided that** any activity as listed by the Environmental Management Act (Act 7 of 2007) and its regulations should first obtain environmental clearance from the Ministry of Environment and Tourism before the activity may commence. **Further provided that** the Council may consent to the erection and use of buildings for such industries in accordance with Table B, zone L in the “General Industrial” zone.

**“NURSERY”** means a property or part of a property that is utilised for the sale of plants and gardening products and propagation, breeding and early cultivation of plants.

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O

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**“OCCUPANT”** In relation to any building, structure or land, means and includes: any person occupying such building, structure or land legally entitled to occupy it, and includes any person having the charge or management thereof, or the agent of any person absent from the area or whose whereabouts are unknown.

**“OFFICES”** A building, room or suite of rooms used for administrative work and planning and may include a place for related subordinate draughting work, clerical or professional purposes and may include a post office, magistrate’s office, a bank, a building society and an insurance society, medical consulting rooms and dentistry.

**“OLD AGE HOME”** means group housing in a residential complex catering for the welfare and housing of the elderly and includes the health care and recreational facilities normally associated with caring for the elderly and can include a frail care centre.

**“ORDINANCE”** The Town Planning Ordinance, 1954 (Ordinance 18 of 1954) with any amendments thereof and including the regulations and schedules framed there under.

**“OUTBUILDING”** see definition of “dwelling unit”.

**“OWNER”** The person registered in the Deeds Registry as the owner of the land and includes the liquidator of a company or a legal representative acting with the authority conferred upon him by law or holder of a registered servitude right or lease, or any successor in title.

**“OWNER CONSENT”** means a consent given by Council in terms of Table B, Column 5, of this scheme, to the applicant and /or owner of a property, for the use of that property or part of it for a specific purpose: provided that when the said applicant or owner sells the property, move away or cease to perform the use allowed in terms of the Council consent, the consent will not be transferable to the next owner or occupant of the specific property and therefore cease to exist with immediate effect; furthermore such a consent to the owner will not be regarded as a land use right, but as an owner use right. Council must review this consent on demand or by complaint from the neighbour(s). Such consent must comply with Clause 7 of this scheme.

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**“PANEL BEATING”** See “Noxious Industry”.

**“PARASTATAL ORGANISATIONS”** mean any organisation instituted by law of the government, the purpose of which is to provide a service to the public, and can include transport and communication services, electricity and water supply authorities and other similar parastatal organisations, who will furthermore be obliged to submit building plans to the Council, for any new development or extensions to these services.

**“PARKING GARAGE OR PARKING BAY”** means a building or any land designed or adapted to be used for the purpose of parking, but does not include a building, any part of which is designed or adapted for use as a workshop for repair of motor vehicles or the selling of petrol, oil and accessories.

**“PERMANENT TENTED CAMPS AND TENTED LODGES”** means an accommodation establishment which is located in a rural area or other area within a natural environment. It provides accommodation in permanent tents or other

structures with walls of canvas or wood, reeds, grass or other natural material, and may include, in combination therewith, accommodation facilities in the form of camping sites or caravan pitches and meets the requirements as stipulated in the Namibian Tourism Board Act, 2000 (Act 21 of 2000), as amended.

**“PLACE OF AMUSEMENT”** means any building or land where persons congregate for amusement or for social, recreational or sporting purposes and where an admission fee is generally levied and includes a night club and restaurant where entertainment is provided.

**“PLACE OF INSTRUCTION”** A crèche, school, college, school for mentally handicapped children, technical institute, academic lecture hall, or other educational centre, and includes a hostel appertaining thereto, a monastery, convent, public library, art gallery, museum, gymnasium, but does not include a building used or intended to be used wholly or principally as a certified reformatory or industrial school.

**“PLACE OF WORSHIP”** A church, synagogue, chapel, or other place of public devotion, and includes any building incidental thereto but excludes funeral parlours together with any chapel forming part thereof and a cemetery or crematorium.

**“PLACE OF ASSEMBLY”** means any building or land where persons congregate for amusement for social, recreational or sporting purposes and includes:

- (a) a public hall, social hall, theatre, cinema, music hall, concert hall, dance hall, exhibition hall;
- (b) a sports ground or amusement park, sports arena or similar amenities open to the public;
- (c) a billiard saloon, sport arena or skating rink, or similar amenities open to the public;
- (d) a non-residential club and;
- (e) a non-residential club;
- (f) any other place of assembly (including a funeral parlour) whether used for purposes of gain or not, which does not fall within the scope of the definitions of place of worship, place of instruction, or institutional building.

**“PRIMARY USE”** Means the purpose for which land may be used and buildings may be erected or used for as shown in column 3 (Primary Use) of Table B.

**“PRIVATE OPEN SPACE”** Any land reserved in terms of this scheme for use as private grounds for the pursuit of sport, games, rest and recreation or as an ornamental garden or recreational resort to which the general public has no right of access and can include a kiosk.

**“PUBLIC OPEN SPACE”** means any land used or reserved in this scheme for use by the public as an open space, park, garden, playground, recreation ground or square and may, in agreement with Council, be subject to long term lease and maintenance agreements, inclusive of access control, further provided that the use and development of public open space be subject to the provisions of the Local Authorities Act, 1992 (Act 23 of 1992).



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## R

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**“REAR BOUNDARY”** of site or erf means every boundary thereof (other than a street or side boundary), which does not intersect with a street boundary or does not border on an open space, provided that in the case of panhandle erven Council shall determine which boundary is the rear boundary.

**“REGULATIONS”** The regulations promulgated by the Minister in terms of Section 49 of the Town Planning Ordinance, 1954 (Ordinance 18 of 1954), as amended.

**“RESIDENT OCCUPATION”** means the practising of an occupation, a professional practice or trade from a residential premise, with consent of Council and with regards to specifications of Clause 6.7 of this scheme, by a person in his/her home of which the dominant use of the dwelling shall remain residential of nature.

**“RESIDENTIAL BUILDING”** A building (other than a dwelling unit, block of flats or hotel) used for human habitation, together with such outbuildings as are ordinarily used in connection therewith and includes tenements, residential clubs and hostels, but does not include any building mentioned whether by way of inclusion in the definitions of “Place of Instruction” and “Institutional Building”.

**“RESIDENTIAL ESTATE”** means lands under private ownership managed by a home owners association and includes a Nature Estate, Wildlife Estate, Equestrian Estate, Golf Estate and Retirement Village, with a density restriction for each estate as also prescribed under Table E and can, with consent of Council include a Resort. Further provided that:

- (a) **Nature Estate** means an estate as defined above of which the primary lifestyle theme is related to the residential estate of the natural environment and may include activities based on and land uses incidental to the primary theme, with a density of 1 unit per 1 ha.
- (b) **Equestrian Estate** means a residential estate as defined above of which the primary lifestyle theme is related to the keeping and riding of horses and may include activities and land uses based on and land uses incidental to the primary theme, with a density of 1 unit per 5 ha.
- (c) **Golf Estate** means a residential estate as defined above of which the primary lifestyle theme is related to the playing of golf and may include activities and land uses incidental to the primary theme, with a density of 1 unit per 5000m<sup>2</sup>.
- (d) **Wildlife Estate** means a residential estate as defined above of which the primary lifestyle theme is related to wildlife and may include activities and land uses incidental to the primary theme, with a density of 1 unit per 10 ha.
- (e) **Retirement Village** means a residential estate as defined above of which the primary lifestyle theme is related to the housing of the elderly and may include activities and land uses incidental to the primary theme, with a density of 1:450m<sup>2</sup> and a minimum erf size of 1:450m<sup>2</sup>.

**“RESTAURANT”** means any building or premises on which hot or cold meals on seated accommodation are provided to the public during the course of the day or evening, or in the case of a rest camp, caravan park, accommodation establishment, are provided to guests when lodging overnight at such undertakings.

**“REST CAMP”** provides accommodation to guests primarily in rooms, rondavels, bungalows or other accommodation units, and may include in combination therewith, accommodation facilities in the form of camping sites or caravan pitches and meets the requirements as stipulated in the Namibian Tourism Board Act, 2000 (Act 21 of 2000), as amended.

**“RETAIL TRADE”** The sale of goods or merchandise in relatively small quantities to the public and includes trade other than the “wholesale trade”, as defined in this scheme.

**“ROAD”** See “Street”.

**“RURAL RESIDENCE”** means a dwelling on an area of agricultural land, where a density of 1 unit per 5 ha will apply, where the owner or occupant may conduct small scale agriculture with such outbuildings and ancillary buildings as are ordinarily used for such small scale agriculture.

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## S

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**“SCHEME”** means the Hentiesbaai Town Planning Scheme adopted by the Council in terms of Section 16 of Ordinance No. 18 of 1954, and as amended from time to time.

**“SCRAP YARD”** Any land or building which is used for the stacking and storage of used cars or car parts, parts of used machinery, scrap metals, used pipes or other similar used goods, the storage or stacking of used building materials, the breaking up of vehicles or machinery or for the packing, storage or preparation for re-sale or re-cycling of any used material.

**“SELF CATERING ACCOMMODATION ESTABLISHMENT”** means accommodation that is provided on a self-catering basis in an accommodation unit being a house, flat, chalet or other residential unit and meets the requirements as stipulated in the Namibian Tourism Board Act, 2000 (Act 21 of 2000).

**“SERVICE INDUSTRY”** The use of land or a building which in the opinion of the Council is a small-scale industry incidental to the needs of the local community and the retail trade and which in the opinion of the Council will not interfere with the amenities of the surrounding properties or be of nuisance value by virtue of noise, appearance, smell or activities or for any other reason whatsoever but excludes an abattoir, service station or sewerage works. This use also provides for one dwelling unit as primary use and can include staff accommodation with the approval of the Council, further provided that it:

- (a) is primarily geared towards service to the local community and the retail trade;
- (b) may have a staff of maximum fifteen (15) persons;
- (c) includes, as a guideline, one of the following related trades namely dry

cleaner; launderette; upholstery; plumber; electrical repairs; medical and dental laboratory; installation of tyres, number plates, name plates, exhaust systems, tow bars and other vehicle appliances; photographic studio for the printing and development of photos; confectioner and catering service.

**“SERVICE STATION”** A building or part of a building used or designed or adapted for the sale of petrol, oil and other fuels and lubricants and accessories used in connection with motor vehicles and motorcycles, and includes an office and storeroom for use in connection therewith, together with facilities for the washing and servicing of motor vehicles, motor cycles, which do not require the attention of more than one qualified mechanic or other qualified artisans, and a tea room/ restaurant/ kiosk with rest rooms for both sexes, but excludes panel beating, spray painting and bodyworks.

**“SHEBEEN”** means a tavern or bar operated with consent from Council, as per Clause 7 of this scheme, and which has been licensed in accordance with the provisions of the Liquor Act, 1998 (Act 6 of 1998, as amended) on a residential property, the license holder residing on the same property. The consent does not include an accommodation establishment, restaurant or club or any enterprise or undertaking referred to in Section 7(1) of the Liquor Act, 1998 (Act 6 of 1998). Refer to Clause 6.8 for conditions on shebeens.

**“SHOP”** A building in or from which goods are sold by retail or displayed for sale to the public and includes a hair-dresser or tailor or depot for the reception of goods to be washed, cleaned, altered or repaired, as well as a service industry which is incidental or ancillary to the primary retail function, but does not include a noxious industry, service station, warehouse, residential building, bottle store or hotel.

**“SIDE BOUNDARY”** of a site or erf means a boundary other than a street boundary or a rear boundary and intersects with at least one street boundary.

**“SIDE WALK”** means that portion of the road reserve adjoining the street boundary of an erf that is not usually used for vehicular traffic, but is designed for pedestrian use.

**“SITE AREA”** means the surveyed area of the erf, which includes any prescribed line or resurveyed area of an erf, but does not include that portion of the erf –

- (a) on which the public have encroached by using that portion as a street or portion of a street in which according to Council should continue to be used as a street or portion of a street;
- (b) which is reserved as a street in terms of any other law; or
- (c) which has been expropriated in terms of any other law.

**“SMALL-SCALE AGRICULTURE”** means any agriculture which is practiced on a small scale on a small area of land and includes such buildings which are necessary for the small scale agriculture such as keeping of livestock on a subsistence basis; growing of small scale subsistence crop cultivation; bee-keeping; growing of fruit orchards, prickly pears and olive trees.

**“SME”** means any land, building or structure used as a Small Medium Enterprise as defined by Government policy on Small and Medium Enterprises, named “Namibia: Policy and Programmes on Small Business Development” published in 1997, and can, with Council approval, include an informal market.

**“SOCIAL HALL”** The use of land or a building designed for use as or used for social assemblies, gatherings, meetings and recreational purposes.

**“SPECIAL USE”** means a use which is of such nature, or in respect of which the land use restrictions are such, that it cannot be included in any other zone in these regulations, and in respect of which the land use parameters are stipulated in detail by means of conditions of approval or by means of conditions applicable to the special zone, and where each special zone should be separately numbered within Table C and indicated on the Scheme Map and can include:

- a conservation use
- a mental hospital
- an institution for the physically handicapped
- a reformatory or noxious industry
- a place where animals receive care and treatment

**Further subject** that Council may require an environmental impact assessment to be done as part of the conditions of approval.

**“STOREY”** In relation to the height of buildings as defined in this scheme, the number of floors, where the ground floor (or storey) is included. A permissible height of three storeys would mean the ground floor and two additional floors above ground floor: Provided that a basement is excluded as a storey when calculating the height of buildings provided further that the maximum height of a storey shall be four (4) metres. Any storey exceeding four (4) metres in height shall be regarded as a pro-rata plurality of storeys.

**“STREET/ ROAD”** Includes the whole or any portion of any street, road, bridge, subway, avenue, lane, sanitary lane, thoroughfare or the right of way, shown on the general plan of the township, agricultural holding or other division of land, in respect of which the public has a right-of-way by prescription or any other means and includes a road reserve and private road and subject to the regulations of the Road Traffic and Transport Act, 1999 (Act 22 of 1999).

**“STREET BOUNDARY”** The boundary of an erf or site which forms the boundary of a street, provided that where a portion of an erf or site is reserved in terms of the scheme or any law for use as a new street or street widening, the street boundary is the boundary of such proposed new street or proposed street widening.

**“STREET VENDOR”** means a person practicing small scale retail trade with Council approval from a designated place on a sidewalk or public open space, and includes a person who trades in the street from a stall, caravan, trailer or motor vehicle.

**“SUBDIVIDE”** means to divide by means of a survey for registration of title or of a survey for registration of a lease as per the Township and Division of Land Ordinance, 1963 (Ord. 11 of 1963).

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**T**

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**“TOURISM”** means the provision of recreational activities and includes the business of providing services for people on holiday, but excluding a restaurant, casino, gambling house or hotel.

**“TOURIST FACILITY”** means any building or land which is used for recreational activities and includes the business of providing services for people on holiday, amenities for tourists such as lecture rooms, conference and training facilities, restaurants, gift shops and restrooms permitted by Council as a consent use, but does not include accommodation establishments.

**“TOWNHOUSE”** Two or more residential units with a maximum height of two (2) storeys which form part of a townhouse scheme, designed and built as a harmonious architectural entity, of which every dwelling unit has a ground floor.

**“TRUCK PORT”** A truck port which will mainly be used by heavy vehicles, must provide amongst others the following facilities, safe and secure parking areas for heavy vehicles, toilet and ablution blocks, food preparation areas (fire places) for the drivers, public telephone facilities, overnight facilities, workshop for light maintenance work on heavy vehicles, a fuel point, a wash bay for heavy vehicles and a refreshment kiosk.

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**U**

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**“UNAUTHORISED USE OR UNAUTHORISED BUILDING”** The use of any land or building or the erection of a building which is contrary to the provisions of the Town Planning Ordinance, 1954 (Ord. 18 of 1954) as amended, or the provisions of this scheme.

**“UNDETERMINED USE”** means land reserved for future urban development, further provided that any consent, inclusive of uses by Council and the Competent Authority, on an erf shall be subject to the regulations of Clause 7 of this scheme.

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**W**

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**“WAREHOUSE”** A building for the storage of goods and may include the transaction of wholesale business related to such goods.

**“WHOLESALE TRADE”** Trade which is restricted to the sale of goods or produce to retailers.

**“WORKSHOP”** means a site or a building where manual or mechanical work, farming related works (such as repairing of machines, pumps, windmills), or handicrafts are done and can include uses such as spray painting, panel beating, tyre repairs etc.



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## Z

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“**ZONE**” when used as a noun, means a set of provisions which, in the first place stipulates the purpose for which land can be used and in the second place the land use restrictions applicable to the specific land use or to the use of buildings; and the terms "Density Zone", "Use Zone" and "Floor Area Ratio zone" mean zones indicating restrictions applicable to density, use and Floor Area Ratio factor of buildings respectively.

“**ZONING MAP**” means the maps forming part of this scheme which reflect the “Primary Use” allocated to each land unit falling within the jurisdiction of this Town Planning Scheme.



## PART II

### **CLAUSE 2: AREA AND PURPOSE OF SCHEME**

**“Area of Scheme”:** The area to which this scheme applies is the area as indicated on the scheme map.

**“Purpose of Scheme”:** The general purpose of the scheme is to create an environment to better the socio-economic standard of residents and promote the co-ordinated and harmonious development of the area of Hentiesbaai including where necessary the redevelopment of any part thereof which has already been subdivided and built upon, in such a way as will most effectively tend to promote health, safety, order and amenity, convenience and general welfare as well as efficiency and economy and conservation of the existing character of the town, in the process of such development.

**“Existing approvals”:** Notwithstanding the provisions of this scheme, all approvals with regards to land use rights and land use restrictions or departures thereof, which have been imposed in terms of any applicable legislation, are considered to be in force, in so far as it is more restrictive as the provisions of this scheme.

### **CLAUSE 3: CONFLICT OF LAWS AND EVASION OF THE PURPOSE OF SCHEME**










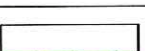
1. Nothing in the scheme or in terms thereof shall be deemed to detract from any rights the Council possesses by virtue of any servitude, contract or agreement.
2. Except where the contrary is specifically stated in the scheme, nothing in any provision of the scheme shall be deemed to override or absolve compliance with any other provisions of the scheme.
3. The Council shall not consent to anything, which in its opinion constitutes or facilitates an evasion of the intent and purpose of the scheme or of any of its provisions.



#### CLAUSE 4: RESERVATION OF LAND

1. The several pieces of land specified in column (1) of Table "A" are reserved for the respective purpose indicated in column (2) of the Table "A" and except as hereinafter provided, shall not be used for any other purpose whatsoever.

**Table A: Reserved Land**

	HATCH	MAP REFERENCE (1)	USE FOR WHICH LAND IS RESERVED (2)
a.		Red fill	New streets and proposed street widening
b.		Red circle shape fill	Street closures
c.		Green fill	Public Open Space
d.		Black cross shape fill	Cemetery
e.		Brown fill	Local Authority purposes
f.		Pink fill	Government
g.		Green circles	Beach Area
h.		Light blue fill	Educational purposes
i.		White (not coloured in)	Existing streets
j.		Green broken line	Conservation area

2. (a) Save with the consent of the Council no person shall erect a building or execute works or make excavations on land reserved under Clause 4.1 hereof other than buildings, works, or excavations required for or incidental to the purpose for which the land is reserved, provided that nothing therein contained shall be deemed to absolve any person from due compliance with the provisions of the Council's Regulations.
- (b) Save as provided in sub-clause 2(a) above no person shall spoil or waste the surface of land reserved in terms of Clause 4.1 hereof so as to destroy or impair its use for the purpose for which it is reserved: Provided that the Council may consent to the deposit on such land of waste materials or refuse.
- (c) Land reserved in terms of Clause 4.1 may continue to be used for the purposes for which it was used on the date of proclamation until such time as the Council has in terms of the Ordinance or any legislation required the owner to use or set aside such land for the purpose for which it is reserved or until the land has been transferred to the Council or to the authority for whose purpose it has been reserved.



- (d) Subject to the provisions of any other law, nothing in this clause shall be construed as prohibiting the reasonable fencing of the land.
  - (e) Any building erected on land reserved under Column (2) of Table "A" shall comply in all respects with the provision of the scheme relating to that type of building.
  - (f) Where any piece of land which was previously a street or public space vested in or owned by the Council is closed and transferred to an abutting owner by means of consolidation, such piece of land shall be deemed to fall into the same use zone and sub-zone as those into which the abutting land owned by such owner falls. Provided that compliance has been met in terms of the closure of a street or public space in terms of the Local Authorities Act, 1992 (Act 23 of 1992), as amended as well as the Environmental Management Act, 2007(Act 7 of 2007) and its regulations. Further provided that in such case it is not necessary to apply for rezoning in terms of Clause 7 of this scheme.
  - (g) In giving its consent under this clause the Council may impose such conditions as it deems fit.
3. The new streets specified in Table A shall not be deemed to be public streets until they or any portion of them fall within any township which may be established on the land traversed by such streets, or they are proclaimed as public roads, or become vested in the Council for the purpose under any law.
  4. Where the Council has acquired, either by agreement or expropriation, any such land (together with buildings, structures or any erections thereon) reserved under Clause 4 hereof, it may execute thereon such works as in the opinion of the Council may be required for, or be incidental to, the purpose for which the land is reserved, or for municipal purposes.
  5. Where any land is reserved for a new street or a street widening in terms of Clause 4 of this scheme, the building line shall be determined as if such street or street widening was in fact an existing street.
  6. Where the land is reserved for a designated area, in this zone, ultra-low cost housing may be erected as described and approved by Cabinet decision no. 536/88. For building lines, height, etc. the provisions of the Informal Residential zone shall apply in this zone.
  7. Except with the consent of the Council, people may only be buried in an area reserved as a cemetery.

