






PART III




CLAUSE 5: ERECTION AND USE OF BUILDINGS AND USE OF LAND




1. The purposes for which land may be used and buildings may be erected or used for are shown in Column 3 (Primary Use) of Table B. Column 4 (Consent Use) shows what land may be used or buildings may be erected and/or used with the consent of the Council only in each of the zones specified in Table "B". Column 5 shows consent uses a property owner may obtain and is only related to the owner of the property and not the land itself. Any use not reflected in columns (3) and (4) may not be permitted in the relative zone.
2. No land may be used for a purpose for which a building may not be erected or used on such land, provided that where a building may be erected and used for a particular purpose on land with the consent of the Council, such land may be used for such purpose with such consent.
3. The owner consent given in column (5) is not transferrable and cannot become a primary use. Owner consent is granted on certain conditions and can be withdrawn if the conditions are not adhered to.





Table B: Land Use Table





| | 1 | 2 | 3 | 4 | 5 |
|---|---|--------------------------------|---|---|---|
| | HATCH | MAP REFERENCE | PRIMARY USE (Purposes for which land may be used) | CONSENT USE (Purposes for which land may be used with consent from Council and subject to Clause 7) | OWNER CONSENT (Consent granted to owner of property in terms of Clause 7) |
| A |  Informal Residential | Light yellow hatch (45° right) | Informal dwelling unit, Dwelling unit | Shop, Place of assembly, Place of worship, Day care centre. | Shebeen, Resident occupation, Home based shop. |

| | 1 | 2 | 3 | 4 | 5 |
|---|---|--|--|---|---|
| | HATCH | MAP REFERENCE | PRIMARY USE (Purposes for which land may be used) | CONSENT USE (Purposes for which land may be used with consent from Council and subject to Clause 7) | OWNER CONSENT (Consent granted to owner of property in terms of Clause 7) |
| B |  | Residential Yellow fill | Dwelling unit/s (also see Table E). | Place of worship, Place of instruction, Hotel pension (also see Table E), Heritage consent, Bed and breakfast, Guest house, Day care centre, Backpackers hotel. | Resident Occupation, Shebeen, Home Based Shop |
| C |  | General Residential 1 Orange fill | Dwelling unit/s (also see Table E), Blocks of flats, Residential buildings, Duplex flats, Townhouses. | Place of instruction, Place of worship, Institutional building, Hotel pensions, Hotels. | Resident Occupation, Shebeen, Home based shop. |
| D |  | General Residential 2 Orange cross hatch | Dwelling unit/s, Block of flats, Duplex flats, Townhouses, Backpackers hotel, Bed and breakfast, Guest house, Hotel pension, Old age home. | Residential buildings, Place of worship, Hotel pensions, Place of instruction, Institutional buildings, Heritage consent, Day care centre, Self-catering accommodation establishment. | Resident occupation, Shebeen, Home based shop. |
| E |  | Rural Residence Grey hatch (45° right) with yellow fill | Small scale agriculture, Dwelling unit. | More than one dwelling unit, Farm stall, Kiosk, Nursery, Holiday accommodation/housing, Workshop, Lodge, Guest farm, Resort, Permanent tented camps and lodges. | Home based shop, Resident occupation. |

| | 1 | 2 | 3 | 4 | 5 |
|---|---|------------------------------|---|---|---|
| | HATCH | MAP REFERENCE | PRIMARY USE (Purposes for which land may be used) | CONSENT USE (Purposes for which land may be used with consent from Council and subject to Clause 7) | OWNER CONSENT (Consent granted to owner of property in terms of Clause 7) |
| F |  | Dark green hatch (45° right) | Nature Estate; Equestrian Estate; Golf Estate; Wildlife Estate; Retirement Village (Densities for each development as prescribed in Table E). | Place of Worship; Shop, Resort. | Resident occupation; Home based shop. |
| G |  | Light blue fill (2° left) | Offices | Dwelling unit, Block of flats, Place of worship, Place of instruction, Day care centre, Restaurant, Hotel pension, Guest house, Funeral parlour and chapel, Driving school, Convention centre. | None |
| H |  | Light blue hatch (45° right) | Shops, Offices, Business buildings, Dwelling unit, Bed and breakfast, Guest house, Home based shop. | Place of worship, Place of instruction, Institutional building, Block of flats, Residential building, Place of assembly, Place of amusement, Service stations, Drive-in cafes, Duplex flats, Hotel pensions, Dry cleaners and laundrettes, Drive-in Cafés, Driving School, Shebeen. | None |

| | 1 | 2 | 3 | 4 | 5 |
|---|---|------------------|--|--|---|
| | HATCH | MAP REFERENCE | PRIMARY USE (Purposes for which land may be used) | CONSENT USE (Purposes for which land may be used with consent from Council and subject to Clause 7) | OWNER CONSENT (Consent granted to owner of property in terms of Clause 7) |
| I |  | General Business | Shop, Business buildings, Parking garages, Hotels, Blocks of flats, Residential buildings, Office, Drive-in cafes, Hotel, Hotel pension, Driving school, Backpackers hotel, Bottle store, Convention centre, Bed and breakfast, Guest house, Self-catering accommodation establishment, Restaurant, Convention centre. | Service industry, Service stations, Dry cleaners and laundrettes, Place of assembly, Place of amusement, Gambling house, Institutional buildings, Funeral parlours and chapels, Warehouses, Place of worship, Car wash, Nursery, Hotel pensions. | None |
| J |  | Service Station | Service Station, Car wash, Kiosk, Restaurant. | Workshop, Truck Port. | None |
| K |  | Light Industrial | Light industrial Warehouse, Dry cleaners and laundrette, Service industry, Dwelling unit, Place of amusement, Car wash, SME, Driving school, Office, Warehouses, Nursery. | Parking garages, Service station, Business buildings, Funeral parlour and chapel, Building yard, Panel Beater, Scrap yard, Gambling house, Truck port, Place of assembly, Place of instruction, Shop, Aquaculture, Drive-In cafe, Workshop. | None |

| | 1 | 2 | 3 | 4 | 5 | |
|---|---|--------------------|---|---|---|------|
| | HATCH | MAP REFERENCE | PRIMARY USE (Purposes for which land may be used) | CONSENT USE (Purposes for which land may be used with consent from Council and subject to Clause 7) | OWNER CONSENT (Consent granted to owner of property in terms of Clause 7) | |
| L |  | General Industrial | Purple hatch (45° right) | Industrial buildings, Scrap yards, Warehouses, Building yards, Dry cleaners and laundrettes, Light industry, Place of amusement, Truck port, Car wash, Service station, SME, Driving school, Aquaculture, Workshop. | Business buildings, Place of instruction, Noxious industry, Gambling house, Panel beater, Place of assembly. | None |
| M |  | Institutional | Dark brown shape fill | Institutional buildings, Place of worship, Place of instruction, Day care centre, Convention centre, Retirement village, Old age home. | Special use, Dwelling unit/s; Place of assembly. | None |
| N |  | Private Open Space | Dark green hatch (45° left) | Private Open Space, Restaurant, Sport Arena/Fields, Ornamental Gardens, Recreational Resort | Tourism, Place of Assembly, Tourist Facility, Camping and Caravan park, Kiosk, Convention Centre. | None |
| O |  | Nature Reserve | Light green fill with dark green cross hatch | Nature Reserve. | Dwelling unit, Tourist facility, Private Open Space, Institutional building; Lodges, Holiday accommodation/ Housing, Convention centre, Retirement village; Old age home. | None |

| | 1 | 2 | 3 | 4 | 5 |
|---|---|---------------|---|---|---|
| | HATCH | MAP REFERENCE | PRIMARY USE (Purposes for which land may be used) | CONSENT USE (Purposes for which land may be used with consent from Council and subject to Clause 7) | OWNER CONSENT (Consent granted to owner of property in terms of Clause 7) |
| P |  | Agriculture | Agricultural building, Dwelling unit, Agricultural use, Nursery. | Tourism, Tourist facility, Farm stall, Guest farm, Lodge, Permanent tented camps and tented lodges, Camping and caravan park; Driving school, Rest camp, Aquaculture, Service industry, Agriculture industry. | Resident occupation, Home based shop. |
| Q |  | Hospitality | Hotel, Guest farm, Lodge, Resort, Permanent tented camps and tented lodges, Dwelling unit, Camping and caravan park, Rest camp, Camp site, Holiday accommodation/ housing, Self-catering accommodation establishment. | Tourist Facility and Convention Centre. | None |
| R |  | Special | Special use (See Table C) | Any use specified by Council (See Table C) | None |
| S |  | Parastatal | Parastatal, Offices. | SME | None |

| | 1 | 2 | 3 | 4 | 5 |
|---|-----------------------------|-----------------|---|---|---|
| | ZONE | MAP REFERENCE | PRIMARY USE (Purposes for which land may be used) | CONSENT USE (Purposes for which land may be used with consent from Council and subject to Clause 7) | OWNER CONSENT (Consent granted to owner of property in terms of Clause 7) |
| T | Undetermined | Beige fill | None | Any other use which is not otherwise defined in this scheme and which the Council may permit. | None |
| U | Aquaculture and Mariculture | Light blue fill | Aquaculture, Mariculture, Dwelling unit. | | None |



3. Subject to the provision of Clause 6 and Clause 7 hereof where any application is made to the Council for its consent to use land or the erection and use of a building in a zone in which a use of the kind proposed may be exercised only with the Council's consent, the Council may give or withhold its consent and shall in giving its consent be entitled to impose such conditions as it may deem fit governing the erection and use of such building or use of land. In considering such applications, regard shall be given to the question whether existing services can accommodate the proposed use and whether the use of the land or the use for which the building is intended or designed is likely to cause injury to the amenity of the neighbourhood, for instance in the case of an industrial building, injury due to the emission of smoke or fumes or dust, noise or smell.
4. Nothing herein contained shall be deemed to exempt or excuse compliance with any of the Council's Regulations.

EXISTING CONSENT AND CONFLICTING LAND USES

5. (i) Any existing consent use which has not been exercised on any land or buildings, which is in conflict with the provisions of these regulations lapsed on the material date.
- (ii) The continued use of any land or building, which is in conflict with the conditions of the Town Planning Scheme shall, subject to the conditions in sub-clause (iii), lapsed without the payment of compensation upon the termination of a period of fifteen (15) years from the date of proclamation of the scheme in terms of Section 26(2) of the Town Planning Ordinance, 1954 (Ordinance 18 of 1954), as amended.
- (iii) The Council may, after receiving a written application from the owner, before the expiry of the period mentioned in sub-clause (ii) above, consider that extension for a further period or periods of five (5) years with a maximum of fifteen (15) years: Provided that after the expiry of the period mentioned in sub-clause (ii) above, the Council may issue a written notice requesting the owner/occupier of the land or building to bring the use into compliance with the Town Planning Scheme without compensation.
- (iv) A building, the use of which is in conflict with the provisions of the scheme, may be expanded with the permission of the Council, provided that any rebuilding of or addition to a building shall further be in accordance with the provisions of the scheme for that type of building.
- (v) An applicant who is aggrieved by the Council's decision has the right to appeal to the Minister.

CONSENT TIMEFRAME:

6. The consent granted by the Council for the use of land or erection of a building, shall lapse if such use or erections are not proceeded with within a period of **one and a half years** from the date of the Council's consent: Provided that in the case of the erection of a building being delayed as a result of any Government

policy or legislation in respect of building control, the consent use shall not lapse and the Council may then extend the term at will.

SUBDIVISIONS AND CONSOLIDATIONS:

7. Where an erf is **subdivided and consolidated** with an adjacent erf with a different zoning, such a consolidation is only permitted subject to the provision of Clause 7 hereof, **except** in the following cases:
 - (a) The subdivided portion is used for the same purpose than the erf with which the subdivided portion is to be consolidated with.
 - (b) The area of the subdivided portion to be consolidated is less than 20% of the area of the erf with which it is to be consolidated.
 - (c) The zoning of the erf to be subdivided allows the use of the erf to which the portion of the subdivided erf is to be consolidated with. It thus means that the consolidation of an erf with an adjoining portion is only permitted if the specific use is permitted in either Columns 3 or 4 of Table B.
8. **No erf or portion may be subdivided into smaller portions as specified on the Density Map and Table E.**
9. No consolidation or subdivision of land shall be made without the consent of the Council and the Competent Authority.

CLAUSE 6: SPECIAL PROVISIONS

6.1 SPECIAL USES

Table C records all "Special" land uses as permitted by Council on land where conditions on land or buildings otherwise not defined within this scheme have been approved by Council. Any request for amendments to the permitted land use on a "Special" zoned land use shall only be permitted by the Council after Clause 7 of this scheme has been adhered to.

Further provided that the Council may impose any restrictive or environmental condition against a special use when approving a special use. These need to be adhered to at all times by the owner or occupant of the property. Any permanent amendment to the use right granted to a property as listed under Table C is to be considered to be a rezoning and may only be permitted after Clause 7 has been adhered to.

The following erven designated in Column (2) of Table C shall only be used for the purposes as indicated under Column (3). Every use designated under Column (3) is subject to the consent of the Council and the condition(s) they may impose.

Table C: Special Uses

| 1 | 2 | 3 |
|-------------------|--|---|
| No. on map | Number of erf/portion zoned "special" | Uses permitted with the consent of the Local Authority |
| 1 | Portion 68, Jakkalsputz | Caravan Park, camping and tourism related activities |
| 2 | Portion 15, Aquaculture | Aquaculture and mariculture related activities |
| 3 | Erven 2006, 2166 Ext. 7 | Caravan park, camping and tourism related activities |
| 4 | Portion A/133 | For seal factory and related activities |

6.2 ADDITIONAL PROVISIONS

1. Without prejudice to any powers of the Council derived from any other law, ordinance or regulation, nothing in this scheme shall be construed as prohibiting or restricting or enabling the Council to prohibit or restrict:

- (a) The recovery of minerals by underground or surface mining on any land which is not included in a proclaimed township;
- (b) The letting, subject to the Council's Regulations relating to lodging and boarding-houses, of any part of a dwelling unit otherwise than as a tenement to a maximum of four persons;
- (c) The occasional use of a place of worship, place of instruction or institution or institutional building as a place of assembly;
- (d) With the consent of the Council a building (with opening windows overlooking the neighbouring property) can be erected on a common border with a Public Open Space;
- (e) The use subject to the Council's consent, of a dwelling unit in a residential zone by the occupier for the purposes of carrying on his profession or occupation which does not include the following:
 - (i) the use of a building as a shop or as a building for an industrial undertaking;
 - (ii) the display of goods to the public whether in a display window or otherwise displayed;
 - (iii) the display of any advertisement board or sign other than a board or sign which indicates the profession or enterprise of the occupier;
 - (iv) any use detracting from the amenities of the neighbourhood.

Notwithstanding the conditions in sub-paragraphs (e) (i) to (iv) the Council may permit resident occupations in the zones as determined by Table B.

- (f) No shop or other building in a business zone shall be erected unless the Council is satisfied that such shop or building will constitute an integral option of a comprehensive and co-ordinated development of the business zone in question, but that the Council may, having regard to the economic and physical life of an existing shop or building in such zone permit

alterations to such shop or building subject to such alterations being refused is it is deemed to have been erected otherwise than in conformity with the provisions of this scheme.

6.3 HERITAGE BUILDINGS/USE

Table D records a "Heritage Building/s" or a "Heritage Site" which in the opinion of the Council is worth preserving in whole or in part; or a building, structure or place which has been recorded as a national monument by the National Heritage Council of Namibia. Any amendments to the exterior façade or the building, place or monument as recorded under Table D may only be undertaken with written approval from the National Heritage Council of Namibia and with consent of Council.

Table D: List of Heritage Buildings

| 1 | 2 | 3 | 4 |
|--|--------|------|-------------|
| Description of erf/portion classified as a heritage building or site | Street | Type | Present Use |
| | | | |

6.4 DENSITIES AND NUMBER OF BUILDINGS PER ERF

6.4.1 NUMBER OF BUILDINGS PER ERF

Except in the case of "Places of Instruction" and "Public Worship" and for residential purposes, not more than one building together with such outbuildings as are ordinary used in connection therewith, shall be erected on an erf. Further provided that:

- (a) Council can approve the erection of more than one dwelling unit on a "Residential" zoned erf subject to the density restrictions as per Table E.
- (b) Council may with approval, allow the following on an erf exceeding 1000m² in extent:
 - (i) In the "General Residential 1" and "General Residential 2" zones more than one building of the type referred to in column (3) of Table B of the relevant zone, may be erected, and
 - (ii) In the "General Business" zone more than one building of the type referred to in column (3) of Table B of the relevant zone, may be erected.

6.4.2 RESIDENTIAL DENSITIES

All "Informal Residential", "Residential" and "General Residential 1" and "General Residential 2" zoned erven shall be subject to the residential densities as per Table E, further provided that:

- (a) Council can approve the erection of more than one dwelling unit on a "Residential" "General Residential 1" and "Residential 2" zoned erf on

condition that the number of buildings on an erf is not exceeding the densities allocated in Table E.

- (b) Any request for amendments (an increase/decrease) to the residential density on any piece of land as indicated on the Residential Density Map shall only be permitted by Council after Clause 7 of this scheme has been adhered to and must be included in an amendment scheme.
- (c) The densities designated in column (1) of Table E and further indicated on the Residential Density Map of this scheme shall only be used for the residential density as indicated under column (2). Every use designated under column (3) is further subject to the specific restrictions of the use zone, further provided that:
- (i) No consolidation or subdivision of land shall be made without the consent of the Council and the Competent Authority if the Density Zoning does not permit the subdivision of erven (into erven smaller than the allocated density) or if the density of the erven to be consolidated is not the same.
- (ii) Not more than one dwelling unit or residential building may be erected on an erf zoned other than "Residential" without Council approval. Further provided that the land use densities as per Table E are adhered to.

Table E: Density Zoning

| 1 | 2 | 3 |
|---------------------|--|---|
| DENSITY ZONE | DENSITY | USE ZONE |
| 1:100 | One dwelling unit per 100m ² | Informal Residential; General Residential 1 & General Residential 2 |
| 1:150 | One dwelling per 150m ² | Informal Residential; General Residential 1 & General Residential 2 |
| 1:250 | One dwelling unit per 250m ² | Informal Residential, General Residential 1 and General Residential 2 |
| 1:300 | One dwelling unit per 300m ² | Informal Residential; Residential; General Residentials 1 & 2 |
| 1:450 | One dwelling unit per 450m ² | Residential; General Residentials 1 & 2 & Retirement Village |
| 1:600 | One dwelling unit per 600m ² | Residential; General Residentials 1 & 2 |
| 1:750 | One dwelling unit per 750m ² | Residential; General Residentials 1 & 2 |
| 1:900 | One dwelling unit per 900m ² | Residential; General Residential 1 & 2 |
| 1:Erf | One dwelling unit per erf | Residential; General Residential 1 & 2 |
| 1:5000 | One dwelling unit per 5000m ² | Golf Estate (Residential Estate) |
| 1:1ha | One dwelling unit per 1ha | Nature Estate (Residential Estate) |
| 1:5ha | One dwelling unit per 5ha | Rural Residence and Equestrian Estate (Residential Estate) |
| 1:10ha | One dwelling unit per 10ha | Wildlife Estate (Residential Estate) |

6.5 SHOPS AND ACTIVITIES IN HOTELS

The Council may permit any one or more of the following shops or activities to be established in any hotel or accommodation establishment which has been classified and graded under the Namibia Tourism Board Act, 2000 (Act 21 of 2000), as amended:

- Hairdressing saloon
- Bookshop or newsagent
- Florist
- Curio shop
- Theatre booking agent
- Travel agency and motorcar rental service
- Pharmacy

Further provided that no external advertising of any shop or activity shall be permitted and access thereto shall be gained only from within the hotel.

6.6 PARKING REQUIREMENTS

1. Except where specified elsewhere in the scheme, when a building is to be erected on a site the owner thereof shall construct and maintain, at his own expense and to the satisfaction of the Council, parking spaces on the site as set out in Table F.
2. Notwithstanding any other provisions of this scheme the occupier and/or owner of a dwelling unit, block of flats or residential building may not park on the site of such dwelling unit, block of flats or residential building more than one public vehicle used for business purposes for financial gain: Provided that public vehicles may be parked for the purposes of loading or off-loading goods normally required for attendance to be a dwelling unit, block of flats or residential building.
3. No person shall park any commercial vehicle for a purpose other than loading or off-loading in a public open space or street. Such activities must be carried out in areas determined by Council.
4. No person shall park any commercial vehicle in a public street within the Local Authority Area of Hentiesbaai for longer than 10 hours per week, provided that parking during the period of 08h00 to 19h00 to 19h00 excluding Saturdays and Sundays shall not be taken into account.



Table F: Parking Requirements

| 1 | 2 |
|---|--|
| USE | MINIMUM NUMBER OF ON-SITE PARKING SPACES TO BE PROVIDED |
| All uses not listed below | As determined by Council |
| Dwelling Unit | 2 bays per unit plus 1 guest parking bay per 3 units |
| Additional Dwelling | 1 bay/ dwelling |
| Place of Worship | 1 bay per 10 seats or 10 members with a minimum of 15 bays for funeral chapels |
| Place of Assembly | 1 bay per 4 seats |
| Place of Instruction | 1 bay per classroom/office plus 1 bay per 10 students / children |
| Bed and Breakfast/ Guesthouse | 1 bay per room plus 1 guest parking bay per 3 rooms |
| Day Care Centre / Crèche | 1 bay per 3 children |
| Other Residential Buildings | 1 bay per two occupants/ members |
| Hotel | 1 bay per 50m ² of floor area |
| Other Accommodation Establishments | 1 bay per room plus 1 visitors parking bay per 4 rooms |
| Offices | 1 bay per 50m ² of floor area |
| Block of Flats/ Townhouses | 1.5 bays per unit plus 1 visitors bay per 3 units |
| Shops/ Business Buildings | 1 bay per 50m ² of floor area |
| Institutional Buildings | 1 bay per 2 beds, plus 1 visitor bay per 3 beds, plus 1 bay per 3 staff members |
| Old Age Home/Retirement Village | 1 bay per bed plus 1 visitor bay per 3 beds plus 1 bay per 3 staff members |
| Service Stations | An area of 120m ² (excluding showrooms or workshops) per grease bay or wash bay |
| Hospitality | 1 bay per room plus 1 visitors bay per 3 rooms |
| SME | 1 bay per SME unit or wash bay |
| Restaurant | 1 bay per table with a minimum of 10 parking bays |
| Sport Arena/Field | 1 bay per 8 seats or persons |
| Place of Assembly | 1 bay per |
| Funeral Parlour and Chapel | Minimum of 15 bays per chapel |
| Warehouse Storage or Service Industries | 1 bay per 25m ² |

Provided that:

- i. The Council may relax or restrict the provisions of this clause further, if deemed necessary.

- ii. The leasing of parking spaces shall not be deemed to be a business for the purpose of this scheme.
- iii. The access to and the position and dimensions of a parking place shall conform to the requirements of the Council.
- iv. The parking requirements, subject to the specified use zoning, shall be calculated as set out in column (2) of Table F and that the number of parking bays thus obtained shall be rounded off to the nearest integer.
- v. The Council may withhold or withdraw any approval for resident occupations at any erf if parking requirements set are not adhered to.

Notwithstanding the provisions of sub-paragraphs (i) to (v) hereof, the Council may relax the provision of Table F and enter into a written agreement with the owner of the site concerned whereby the owner shall:

- (a) pay an amount to the Council which in the opinion of the Council is sufficient to enable it to provide and maintain the same number of parking spaces within reasonable walking distance from the erf as are required in terms of Table F; or
- (b) transfer a suitable site to the Council and pay an amount to the Council which will in the opinion of the Council be sufficient to enable it to construct and maintain the number of parking spaces required in terms of Table F on the said site; or
- (c) construct and maintain the number of parking spaces required in terms of Table F on any other property, which is considered to be suitable by the Council.

6.7 RESIDENT OCCUPATION

Resident Occupation means the practising of an occupation, a professional practice or trade from a residential premise, with consent of Council in terms of Clause 7, by a person in his/her home of which the dominant use of the dwelling will remain residential of nature, subject to the following:

- a) Comments from the adjacent erf owners and owners across the street must be obtained prior to submission to Council;
- b) A maximum of 30% of available floor area may be used for the 'resident occupation', provided that the area used shall not exceed 70m², except with Council's consent;
- c) A maximum of 2 employees (excluding the owner) may be employed on the premises;
- d) The nature of the activities shall be such that they do not adversely interfere with the amenities of the neighbourhood;
- e) The nature of activities shall be such that they are clearly incidental and secondary to the residential use of the dwelling and therefore not alter the essential nature of the existing use of the erf;
- f) No interference with the amenities of the surrounding properties, or be a nuisance to the area in terms of noise, appearance, smell or activities;

- g) The residential character and appearance of the dwelling and the property on which the resident occupation is to be located shall not be changed in any visible manner;
- h) Any advertisement must be done as per the Council's outdoor advertisement regulations;
- i) Consent can be withdrawn at any time by the Council if valid objections/complaints are received against the resident occupation;
- (g) This resident occupation consent shall be an "owner consent" use granted to the owner of the property and will lapse if the property is sold or if valid complaints are received against the use.

6.8 SHEBEENS

Any owner of land wishing to establish a shebeen must apply for:

- a) Consent to operate a shebeen from the Council in terms of Clause 7 of this scheme; and for
- b) Shebeen Liquor License in terms of Section 27 of the Liquor Act to the relevant authority.

Furthermore:

- i. Before applying to the Council for owner's consent the owner of the property must advertise in terms of Clause 7 of this scheme as well as obtain written consent from all neighbours within a 100m radius of the said property.
- ii. Liquor may only be sold to the public for on-site consumption, provided that the operating hours shall not exceed 22:00 hours and commence before 10:00 hours, except when the following day is a Saturday, a Sunday or a public holiday in which cases operating hours may extend until 23:00 hours.
- iii. Normal coverage for residential erven of 50% must not be exceeded and the dominant use of the dwelling house shall remain single dwelling of nature.
- iv. Compliance with the Fourth Schedule as set out in the Liquor Act must be followed.

In evaluation of the application for owner's consent for a shebeen the Council must take into consideration the nature of the business in relation to the existing neighbourhood amenities taking into account the proximity of churches, schools, day care centres, crèches, old age homes and residential areas before allocating such shebeen owner consent.

CLAUSE 7: ADVERTISEMENT AND APPEAL IN CERTAIN CASES

7.1 Council or any person intending to make an application to the Council for:

- (a) Rezoning of an erf and/or farm portion;
- (b) Consent for the erection and use of a building or to the use of land in Zone (A) to (U) in Table "B", columns 4 and 5, whether wholly or partially for any purpose requiring the Council's consent; except the relaxation of building lines and height restrictions as specified in the various zones;
- (c) Consent to increase the density to develop more than one dwelling unit on residential land as specified under Table E;

Shall before making such application, publish at his own expense once a week for two consecutive weeks in two newspapers circulating in the area, a notice of his intention to make such application, and shall post and maintain conspicuously for fourteen (14) days such notice on some part of the building or land visible to the public, and on the public notice board of the local authority, and shall with such application lodge with the Council proof of such publication and posting. The notice shall state that any person having any objections to the erection and use of the proposed building or to the proposed use of the land may lodge such objection with the Council and also with the applicant in writing within fourteen (14) days after the date of the last advertisement, and shall further state where the plans, if any, may be inspected.

7.2 The Council shall take into consideration all objections received within a period of thirty (30) days and shall notify the applicant and the person from whom the objections were received of the Council's decision.

7.3 Any decision of the Council given in terms of this section shall be by resolution of the Council, further provided that:

- (a) If an application made in term of Clause 7 is turned down by the Council an applicant may re-apply for consent use with Council after a period of six (6) months has lapsed on condition that the application is re-submitted in terms of Clause 7 of this scheme.
- (b) Any consent use not taken up after a period of twelve (12) calendar months after date of Council approval, the approval is deemed as null-and-void, provided that Council can extend the consent in terms of Clause 5 (5)(iii).

7.4 Notwithstanding any conditions in sub-clause 7.1 to 7.3 above, the Council may advertise any application and recover the cost of such advertisement from the applicant.

7.5 In the case of the relaxation of building lines and height restrictions specified in the various zones the applicant shall obtain the written approval from bordering erf owners before making such applications to the Council for approval as per Clause 9 of the scheme.

7.6 Appeal against Council decision:

- (a) Any objector and/or applicant that feels aggrieved by the decision of the Council, in terms of an application made under this scheme, has the right to appeal to the Competent Authority.
- (b) If the decision is one of which the Council is required to give upon the application of any person or upon the submission by any person of plans or proposals, an appeal shall, in addition, lie against a refusal of the Council to give, or unreasonable delay on its part in giving a decision, as if it were an appeal against a decision of the Council.
- (c) Written notice of an appeal shall be given to the Competent Authority and to Council. If the appeal is against the decision of the Council, the notice shall be given within twenty eight (28) days from the service of the notice of the Council's decision on the appellant.
- (d) The Competent Authority may, on the application of any person desiring to appeal, extend by not more than twenty-eight (28) days the time for making the appeal specified in the last preceding paragraph, whether or not the time specified for making the appeal has expired.

