

## PART V: MISCELLANEOUS PROVISIONS

### **CLAUSE 9: BUILDING LINES AND HEIGHT RELAXATIONS**

In the case of applications for relaxation of building lines and height relaxation Council shall take the following into account, further provided that Council may require the building line relaxation in all use zones to be advertised in accordance with Clause 7, taking into account the following:

- (a) The location of the erf concerned in relation to streets and other erven in the immediate vicinity.
- (b) The height of the erf on the adjoining land.
- (c) The shape or size of the erf and the sitting of existing buildings on or in the vicinity of the erf.
- (d) Whether the written comments of the adjacent and affected property owners has been obtained by the applicant prior to the submission for building line and height relaxation is made with Council, and if any objections are obtained the nature and extent of such objection.
- (e) The possible acquisition of a portion of the erf by the Council for street improvements.
- (f) Whether the development of a particular property or portion thereof in accordance with the building line requirements of this clause would be unreasonably difficult or would be less harmonious or uniform with the adjoining properties, than would be the case if the building line is relaxed.
- (g) No outdoors or windows shall be permitted in any wall of building structures being closer than 1.5 metres to any property boundary.
- (h) Provision of an access way, other than through a building and at least 1 metre wide, from a street to every vacant portion of the land unit concerned, other than a court yard is made.
- (i) Building plans indicating the intended encroachment of the building lines, signed by the abutting land owner prior to consent being granted by Council.



### **CLAUSE 10: EXTERNAL APPEARANCE OF BUILDINGS**

- a) Any person intending to erect any building, temporary structure, swimming pool, garden house, stable, poultry house, dam, pond, rugby field, tennis court, etc. shall furnish the Council for its considerations if it so requires (in addition to any plans and particulars required to be submitted under any of the Council's Regulations) with drawings or other sufficient indication of the external appearance of the proposed building, including such description of the materials to be used for that purpose.
- b) The drawings shall be upon suitable and durable material to a scale of not less than 1 in 100 except that where the building is so extensive as to render a smaller scale necessary the drawing may be to a scale of not less than 1 in 200. The Council may require such alteration of the external appearance and building material as it may deem necessary.
- c) The erection of any building shall be subject to this scheme, as well as to the health and building bylaws.

### **CLAUSE 11: GENERAL AMENITY AND APPEARANCE**

1. Where the amenity of any vicinity is injured by the conditions of any building, structure, yard or garden in the area the Council may serve a notice to the owner or occupier of the premises on which the injurious conditions exist requiring him within a period, not being less than twenty eight (28) days from the date of service of the notice, or as may be specified in the notice to take such action as may be necessary to abate the injurious conditions, failing which the Council may undertake such actions themselves at the cost of the particular owner.
2. Any person on whom a notice was served in terms of this clause that feels aggrieved by the decision of the Council, may appeal to the Competent Authority within twenty-eight (28) days from the date of service of the notice.

### **CLAUSE 12: PROVISION FOR LOADING – AND OFF-LOADING SPACES**

1. With the exception of the "Industrial" zone, the Council may with the purpose of preventing obstruction of traffic in any street or proposed street onto which a building will front or be erected adjacent to, require from the owner that he submit proposals for the Council's approval of provision of suitable and adequate space on the site for the loading and off-loading of supply of fuel to vehicles which in all likelihood will have a continuous relation to the use of the building.
2. No owner or utilisation of a building in respect of which such proposals have been required shall undertake or cause or allow the loading, off-loading and refuelling of vehicles contrary to the approved proposals.

### **CLAUSE 13: EXTENSIVE BUILDING PROJECTS**

In the case of extensive building projects within the "Business", "General Residential 1 & 2" or "Industrial" zones, the Council may, subject to the conditions of Clause 7, impose more or less restrictive conditions than those contained in the scheme regulations, provided that it shall rest upon the Council only to decide whether or not a certain project can be considered as an extensive building project. The height restriction will however apply in all instances.

### **CLAUSE 14: STORAGE OF MATERIAL ON VACANT ERVEN**

- (a) The owner of an erf may not store any building material, equipment, tools or vehicle or erect a builders shed on the erf prior to submission and approval of building plans for a main building: Provided that following such approval building material, equipment and tools (or erection of a builders shed) may only be stored on the site for a period not exceeding 30 (thirty) days prior to physical commencement of the erection of the building.
- (b) The Council reserves the right at the expiry of the 30 (thirty) days period to instruct the owner of the erf to remove the material, equipment, tools or builders shed from the site within a specified period failing which the Council shall remove the same at the cost of the owner of the erf.

### **CLAUSE 15: BOUNDARY WALLS AND FENCES**

No boundary wall or fence may be erected in such way that it will obstruct the natural flow of water; further provided that:

- (a) Street boundary walls and fences shall not exceed 1.8m height. Material for boundary walls must be to the approval of the Council.
- (b) Side and rear boundary walls shall be of a weather resistant material with the maximum height of 2.0 metres.
- (c) Boundary walls for scrap yards and building yards must be at least 2.0 metres.
- (d) Safety or security fences shall not exceed a height of 2.5 metres. Material for security fences must be subject to standards set and approved by the Council prior to construction.
- (e) An electrical fence may not be lower than 1.8 metres.
- (f) With approval of Council crime security prevention measures may be affixed to buildings on window sills or walls fronting any public space or street.
- (g) Alternative fencing may be erected in the Agricultural zone.

## **CLAUSE 16: GENERAL CONDITIONS**

The following additional stipulations will be applicable to all erven:

1. With Council approval street vendors may trade in areas designated by Council for sale of goods as approved by Council.
2. Notwithstanding any other conditions in this scheme, no land may be used for a drive-in theatre without the consent of Council and subject to the provisions of Clause 7 of this scheme.
3. No abattoir, stable, dairy or poultry house may be erected without Council approval.
4. Except for in an area zoned "Agriculture" or with Council approval, no cattle, goats, poultry, sheep, draught animals or pigs may be kept.
5. Except with Council Approval and approval from the Ministry of Environment and Tourism, no monkeys, baboons, beasts of prey may be kept.
6. No land in any use zone may be used for the purpose of dumping refuse, sewage disposal, scrap yard, dumping ground or cemetery without Council approval.
7. The Competent Authority is not responsible for any flood damage caused to any property.
8. The display of any advertisement, nameplate, notice or sign must be in accordance with the standards as set by the Hentiesbaai Outdoor Advertising Regulations.
9. Special general conditions on land and buildings on any new township extension after the proclamation of this scheme can be laid down by Council with the establishment of such a township.

## **CLAUSE 17: CONSERVATION OF NATURAL RESOURCES**

1. No trees known as Prosopis SPP shall be planted or permitted to grow on an erf or within the local authority area.
2. In accordance with Part IV of the Forestry Act, 2001 (Act No. 12 of 2001), no person shall:
  - (i) On **any** land within the Town Planning Scheme boundary, **other than a proclaimed erf**, cut, destroy or remove any living tree, bush or shrub without a license; river courses included.
  - (ii) Clear the vegetation on more than 15 hectare on any piece of land, which is predominantly woody vegetation; or cut or remove more than 500 cubic metres of forest produce from any piece of land in a period of one year without the approval from the Director of Forestry.



3. No indigenous trees within the local authority area may be removed without the consent of Council.
4. No structures may be erected and no activity may take place which may entail the direct or indirect alteration of the physical, chemical or biological properties of groundwater or pollution of groundwater in any other way so as to make it less fit for any beneficial purpose for which it may reasonably be expected to be used.
5. No refuse, rubble or other hazardous substance that may pollute groundwater may be dumped except at a site designated by Council as a waste disposal site.
6. Save with the approval of Council:
  - (a) No boreholes or wells may be sunk for the purposes of abstracting groundwater on any land located within the area of this scheme. Existing boreholes and wells may only be repaired, cleaned, deepened or relined.
  - (b) No stable, feedlot or concentration of livestock may occur within 200 m of a watercourse, production borehole or private borehole and no septic tank, pit latrine, VIP or French drain is allowed within 500 m of any private or production borehole.
  - (c) A 100 m buffer zone must be maintained at all times around production boreholes; No development or construction activities may occur within this buffer zone.
  - (d) All boreholes, whether private or production, located on private property must be capped and locked when not in use.
  - (e) All septic tanks, pit latrines or VIPs must be emptied as required, and the waste removed to a municipal wastewater treatment facility.
  - (f) All sewers, septic tanks, pit latrines or VIPs must be inspected when empty for cracks or leaks.
  - (g) No hazardous substance shall be conveyed from an area outside of the area of the scheme for purposes of dumping the hazardous substance at a site within the area of the scheme;
  - (h) No storage tank or drum in excess of 200 litres or other similar type facility for a hazardous substance shall be installed, upgraded or replaced whether above or below ground;
  - (i) Flat drainage areas with or without discernible gradient that form the source of rivers or groundwater recharge shall not be destroyed, damaged or polluted in any way;
  - (j) No sand or gravel may be mined or removed for any purpose from any watercourse.



- (k) No topsoil stripping activity shall take place;
- (1) No hazardous substance may be conveyed in quantities exceeding 200 litres to, from, or within the Area of the Scheme except in accordance with National Regulations and SANS 0228; 2003, SANS 0229: 1996, SANS 0230: 1997 and SANS 0231:2003)
- (2) No area within a 1 in 100-year flood line shall be built upon or used for any purpose other than as park, a garden or a recreational area or for municipal services.



## **PART VI: LAND SUBDIVISIONS & INFRASTRUCTURE**

### **CLAUSE 18: MINIMUM SITE REQUIREMENTS**

Where, upon the subdivision of an erf, land is given off for a street or for some other public purpose, the area of such land may, with the consent of the Council, be calculated as part of the area of the subdivision for the purpose of Tables E and F.

The Council shall not, in those areas in which in terms of Table E only one dwelling unit per existing erf is allowed, consent to any subdivision of an existing erf, provided, however, that the Council may consent to such a subdivision if no portion smaller in extent than ninety per cent (90%) of the area of the original erf is used as the site of a dwelling unit and provided further that the permissible coverage is not exceeded.

Without derogating from anything else stated in the scheme, the Council shall not, in those areas in which, in terms of the scheme and particularly Table E, a minimum area of site is required per dwelling unit or residential unit, consent to any subdivision of land whereby any portion which may be used for residential purposes has a size or extent which is less than the said prescribed minimum.

Upon the subdivision of any land where any portion of such land is physically separated by the execution, or proposed execution of public works and provided that such portion does not fall below 75% (seventy five per cent) of the minimum area as laid down by the scheme, such portion may be used for residential purposes.

### **CLAUSE 19: ACCESS AND STREET NUMBERS**

If an erf has more than one street frontage, access to the erf shall be obtained from the street(s) determined by the Council. The determination shall be made before the approval of any building plans showing how access is to be taken.

Street numbers shall be regulated as follows:

All erven within the municipal area shall be fitted with a conspicuous number plate, showing the erf's street address number, erected on the street boundary from which access is legally taken, within six weeks of submitting a building plan for the main building on that erf, or within six weeks from the date of proclamation hereof.

### **CLAUSE 20: DRAINAGE AND STORMWATER**

The owner of an erf shall, without compensation, be obliged to allow the laying of water pipelines, storm water drains, sewerage mains and overhead and underground electrical supply mains across the erf, if deemed necessary by the Council, and in such a manner and position as may from time to time be agreed upon, and to allow the temporary deposit on the land adjoining such works, of such material as may be excavated during the course of construction, maintenance and removal of any of the aforesaid. This shall include the right of access to the erf at any reasonable time for the aforesaid purpose or other works pertaining thereto, subject thereto that the Council shall compensate for any damage done in execution of any such works.

No storm water drainage pipe, canal, work or obstruction (except storm water drain pipes, canal or works which have been authorized in writing by the Council or which have been or may be build, laid or erected in terms of any law) may be constructed on or over the property or located in such a way that –

- (a) The flow of storm water from higher lying property to lower lying property is impeded or obstructed and through which any property is or may be endangered;
- (b) The flow of a natural watercourse (in which the Council allows flood water to run off, be discharged or to be canalised) is or can be changed, canalised or impeded; or
- (c) The maintenance of such storm water pipe, channel or work shall be the responsibility of the owner of the concerned property.

### **CLAUSE 21: UNSERVICED ERVEN**

#### **Sale or transfer of unserviced erven:**

Except with Council approval, no property owner may sell or otherwise give transfer of an erf or farm portion which lacks any of the following:

- (a) Access to a public street constructed and surfaced in accordance with Municipal standards;
- (b) A Municipal water connection or access to a communal water supply point or supply pipeline which has been approved by the Municipality for use by that erf or farm portion;
- (c) A sewer connection or access to a sewage disposal system or sewer which has been approved by the Municipality for use by that erf or farm portion.

#### **Building plans or building operations on unserviced erven:**

**Except with Council approval** no person shall submit building plans or commence any building operations on an erf or farm portion which lacks any of the following:

- (a) access to a public street constructed and surfaced in accordance with Municipal standards;
- (b) a Municipal water connection or access to a Municipal communal water supply point or supply pipeline which has been approved by the Municipality for use by that erf or farm portion;
- (c) a sewer connection or access to a sewage disposal system or sewer which has been approved by the Municipality for use by that erf or farm portion.

### **CLAUSE 22: ENDOWMENT**

Any property owner subdividing land shall pay to the Council an endowment as provided for in Clause 19(3) of the Townships and Division of Land Ordinance, 1963 (Ord. 11 of 1963), of 7,5% of the value of the new portions being created, on or before registration of the new portions, except as may otherwise be determined by Council.



### **CLAUSE 23: BETTERMENT**

Whereby the coming into operation of any provision contained in a scheme, or by the execution by a responsible authority of any work under a scheme, any property is increased in value, the responsible authority, if within twelve months after the date on which the provision came into operation, or within twenty four (24) months of approval being granted by the competent authority, or within twelve months after the completion of the work, as the case may be, it makes a claim in that behalf, may recover from the person whose property is so increased in value an amount not exceeding seventy-five per cent of the amount of that increase, as prescribed in section 34 of the Town Planning Ordinance ( Ordinance 18 of 1954 ), as amended.

### **CLAUSE 24: PROCEDURE AND VIEWING OF PUBLIC DOCUMENTS**

1. Where permission to erect any building or execute any works or to use any building or land for any particular purpose or to do any other act or thing, is granted under this scheme, and conditions have been imposed, the conditions shall have the same force and effect as if they were part of this scheme.
2. The Council shall keep, so as to be available for inspection at all reasonable office times by any persons interested in records of approvals, consents, authorities or permissions granted by it, or an appeal from its decision under any provisions of this scheme, and of any conditions imposed by the Minister or refusals by the Council or the Minister and from or through the applicant in connection therewith.
3. The Council shall permit any person to inspect at/during any reasonable office hours the scheme and map available in the offices of the Council, provided that any information given in regard to the scheme to any person shall only be valid if it is in writing and signed by the official duly authorised thereto by the Council.
4. If permission is required in terms of this scheme, applications for such permission, approval or authorization have to be submitted in writing and sketch plans have to accompany these applications with dimensions of all existing and/or proposed buildings on the site, if applicable.

### **CLAUSE 25: MINIMUM BUILDING VALUES**

- (1) Unless otherwise determined by Council, the value of buildings, structure and improvements erected on any property shall not be less than the minimum building value specified for that property.
- (2) Minimum building values imposed in terms of this section are applicable to the value of a main building excluding any outbuilding of a single house in the case of a "Residential" zoned erf, unless otherwise determined by Council.
- (3) For all new townships proclaimed from date of proclamation, the minimum building value of any erf shall be:



- (a) **Residential 1:** Four times the municipal valuation of the property.
- (b) **General Residential 1 and 2:** Four times the municipal valuation of the property.
- (c) **Office:** Four times the municipal valuation of the property.
- (d) **Local Business:** Four times the municipal valuation of the property.
- (e) **General Business:** Four times the municipal valuation of the property.
- (f) **Industrial:** Two times the municipal valuation of the property.
- (g) **All other uses:** As determined by Council.

#### ***CLAUSE 26: CONTRAVENTION OF SCHEME***

**Any person who violates or deliberately allows the violation of any stipulations of this scheme or conditions of any order or notice issued there under, or conditions laid down by virtue of the stipulation of this scheme, will be considered to be violating the stipulations of this scheme and shall be guilty of an offence and liable on conviction with the penalties prescribed by Section 48 of the Town Planning Ordinance 1954 (Ordinance 18 of 1954), as amended.**

#### ***CLAUSE 27: APPROVED TOWNSHIPS***

Notwithstanding the foregoing provisions, the conditions relating to use, maximum coverage, height and building lines imposed by the Minister in the approval of townships, shall apply in so far as such conditions are more restrictive than the provisions of this scheme.

More restrictive conditions can be amended to comply with the Scheme Regulations as set out in this document.

#### ***CLAUSE 28: SHORT TITLE***

This scheme shall be known as the **HENTIESBAAI TOWN PLANNING AMENDMENT SCHEME NO.13**