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OVERSTRAND MUNICIPALITY
BY-LAW ON MUNICIPAL LAND USE PLANNING 2015

GENERAL EXPLANATORY NOTE:

[] Words in bold in square brackets indicate deletions from the existing enactment.

_____ Words with a solid line indicate insertions in the existing enactment.

To amend the provisions in the Overstrand By-Law on Municipal Land Use Planning 2015

BE IT ENACTED by the Council of the Overstrand Municipality as follows:

By amending the Index as follows:

- 16 Application for land development [**required**] and other approvals
- 27. Ownership of public places and land required for municipal [**engineering services and social facilities**] services, infrastructure and amenities
- 53. [**Amendments prior to approval**] Request to be granted intervener status.
- 58. [**Decision-making period**] Timeframe pertaining to an Application
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- 69. Municipal decision-making structures with respect to applications and appeals
- 87. [**Objections to compliance notice**] Complaints and objections
- 90. [**Subsequent application for authorisation of activity**] Application for rectification of a contravention of this By-law (by way of administrative penalty)
- Schedule 2 :Overstrand Municipality Land Use Scheme

By amending the Definitions as follows:

By inserting the following new definitions:

“land use scheme” means the Zoning Scheme as contained in Schedule 2: Overstrand Municipality Land Use Scheme (as amended);

“notice period” means the period as made provision for in this by-law and/or other applicable legislation

“overlay zone” or “overlay zoning” means a category of zoning applicable to a particular land unit or area, which:

(i) Stipulates development parameters for a land unit or area, in addition to the underlying zoning or base zone requirements;

(ii) May include further development parameters in a particular area or zone which may be more or less restrictive than for land units which are not covered by the overlay zoning;

“Spatial Planning and Land Use Management Regulations” means the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015, promulgated in terms of the Spatial Planning and Land Use Management Act and published in Notice R239/2015 in Government Gazette 38594 of 23 March 2015;

By deleting the following definitions in their entirety:

[“occasional use”, in relation to departure, means a right to utilise land for a purpose granted on a temporary basis for a specific occasion or event;]

[“overlay zone” means an area or precinct in a zoning scheme that is demarcated for the purpose of conserving natural resources or promoting certain types of development which is subject to conditions, requirements or restrictions in addition to those of the zoning;]

“emergency” includes a situation which arises as a consequence of floods; strong winds; severe rainstorms; fires; earthquakes and industrial accidents/incidents which may require the relocation of people and/or human settlements as a whole to reasonably safe identified sites;

“Land Use Planning Act” means the Land Use Planning Act.No 3 of 2014, (as amended);

“Spatial Planning and Land Use Management Act” means the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), (as amended);

By amending section 3 (a) and (d) (iii) as follows:

(a) appoint an intergovernmental steering committee to compile a draft [or amend its] Municipal Spatial Development Framework; or

(d) in writing inform the Provincial Minister of—

(iii) the process contemplated in Sub-section 3 (c) **[that will be followed in the drafting or amendment of the Municipal Spatial Development Framework including the process for public participation];**

By amending section 4(3)(b)(ii) as follows:

(3) (b) (ii) the Department(s), nominated by the Head of Department; and

By amending section 6(h) as follows:

(h) **[oversee]** ensure the incorporation of amendments to the draft Municipal Spatial Development Framework or draft amendment of the Municipal Spatial Development Framework to address comments obtained during the process of drafting thereof;

By amending section 8(2)(d) as follows:

(2)(d) provide detailed policy and the recommended development parameters for land use planning;

By amending section 13(1) as follows:

13. (1) The owner **[of land]** or a person authorised by the owner may apply to the Municipality for the determination of a zoning for land referred to in Section 8 of the Ordinance and which is not deemed to be zoned by virtue of a determination under Subsection 14(1) of the Ordinance.

By amending and renumbering section 16 as follows:**16. Application for land development required and other approvals**

(2)(a) a rezoning of land;

(e) a consolidation of land that is not exempted in terms of Section 26;

[(p) an occasional use of land;]

(p) [(q)] to disestablish **[a home]**an owners' association;

(q) [(r)] to rectify a failure by **[a home]** an owners' association to meet its obligations in respect of the control over or maintenance of services;

(r) [(s)] a permission required for the reconstruction of an existing building that constitutes a non – conforming use that is destroyed or damaged to the extent that it is necessary to demolish a substantial part of the building;

(s) determination of an administrative penalty.

By amending section 22(5)(d) as follows:

22 (5) (d) effect the registration of transfer of a land unit or land units as indicated on the registration diagram / diagrams, or, General Plan; by obtaining of a Certificate of Registered or Consolidated Title; [registration of the transfer of ownership in terms of the Deeds Registries Act of the land unit shown on the diagram or of at least one new land unit shown on the general plan.]

By amending and renumbering section 25 as follows:

[(2)](1) The Municipality may approve the amendment or cancellation of a subdivision plan, including conditions of approval and/or the general plan or diagram, in relation to a land unit or units indicated on the general plan or diagram **[of which no transfer has]**which has or have not been registered as per the provisions of the Deeds Registries Act.

[(3)](2) When the Municipality approves an application in terms of Subsection (1), any public place that is no longer required by virtue of the approval must be closed.

[(4)](3) The Municipality must notify the Surveyor-General of an approval in terms of Subsection (1), and the Surveyor-General must endorse the records of the Surveyor General's office to reflect the amendment or cancellation of the subdivision, and where applicable, the closure of the public place as contemplated in Subsection (2).

[(5)](4) The **[An]** approval of a subdivision in respect of which an amendment or cancellation has been [is] approved in terms of Subsection (1), remains valid for the remainder of the period contemplated in Section 22(5) applicable to the initial approval of the subdivision, calculated from the date of approval of the amendment or cancellation in terms of Subsection (1).

By amending and renumbering section 26 as follows:

(1) **(f)** the conveyancing of land in order to effect transfer to the beneficiaries of an approved Municipal housing project;

(1) **(g) [(f)]** the subdivision of land in order to effect its transfer between spheres of government [from a local authority, a provincial or national government];

(1) **(h) [(g)]** (i) water pipelines, electricity transmission lines, sewer pipelines, gas pipelines or oil, petroleum product pipelines, and boreholes by or on behalf of an organ of state or service provider;

By amending section 27 as follows:

27. Ownership of public places and land for municipal [engineering services and social facilities] services, infrastructure and amenities

By amending section 28 (3)(a) and (b) as follows:

(3) The Municipality may pay a claim if—

(a) in the case of loss of or damage to property, the claimant has proved his or her loss or damage;

(b) in the case of personal injury, the claimant has furnished proof of the quantum of his/her damages, but subject to the right of the Municipality to obtain legal advice as to the correctness of said quantum;

By amending section 29(a) as follows:

(a) allow **[without compensation]** that the following be conveyed across his or her land unit, as may be reasonably required, in respect of other land units:

By amending section 30 as follows:

(1) A person may not apply to the Registrar of Deeds to register the transfer of a new land unit: to apply for a certificate of registered title or a certificate of consolidated title, as the case may be, unless the Municipality has issued a certificate in terms of this Section.

(2) The registration of any property; the application for a certificate of registered title or a certificate of consolidated title, as the case may be, resulting from a land development application may not be effected unless the municipality has certified that all requirements and conditions for the approval have been complied with.

(3) Proof must be furnished **[provided]** to the municipality that all common property including private roads and private places originating from the subdivision, has been developed, prior to the transfer of the first [last] erf to the owners' association as contemplated in Section 31.

(4) The Surveyor – General may not approve or amend a general plan or diagram in respect of the subdivision or consolidation of land units contemplated in this Section without written confirmation from municipality that the subdivision or consolidation is exempted by the [a] municipality in accordance with this Section.

By amending and renumbering section 31 as follows:

31. (1) The Municipality may, when approving an application for a subdivision of land impose conditions relating to the compulsory establishment of an owners' association by the applicant upon the transfer of the first sub-divided property to the new owner.**[for an area determined in the conditions.]**

[7](4) The constitution of an owners' association may contain other objectives as set by the association but may not contain provisions that are in conflict with any law.

[8](5) The constitution of an owners' association may be amended when necessary provided that an amendment that may affect any rights of the Municipality or a provision referred to in Subsection (3), is approved by the Municipality.

(6) The constitution of an owners' association takes effect upon the registration of transfer of ownership of the first land unit to a person other than the developer.

[9](7) An owners' association which comes into being by virtue of Subsection (1)— (a) has as its members all the owners of land units originating from the subdivision and their successors in title, who are jointly liable for expenditure incurred in connection with the association; and (b) is upon registration of the first land unit, automatically constituted.

[10](8) The design guidelines contemplated in Subsection (3) (d) may introduce more restrictive development rules than the rules provided for in the zoning scheme.

[11](9) If an owners' association fails to meet any of its obligations contemplated in Subsection (3), the Municipality may take appropriate action to rectify the failure and recover from the members referred to in Subsection **[(7)](3)** (a), the amount of any expenditure incurred by it in respect of those actions.

[12](10) The amount of any expenditure so recovered is, for the purposes of Subsection (9), considered to be expenditure incurred by the owners' association

By amending section 35 as follows:

(1) The Municipality may, **[of its own accord or]** on application in terms of Section **[13] 16 (2)** by notice in the Provincial Gazette amend, suspend or remove, either permanently or for a period specified in the notice and either unconditionally or subject to any condition so specified, any restrictive condition.

(6) The Municipality must cause a notice of the decision to remove, suspend or amend a restrictive condition to be published in the Provincial Gazette after the decision comes into operation as contemplated in Subsection (5) and notify the Registrar of Deeds of the decision.

By amending and renumbering section 36 as follows:

36 (1) The applicant must, after the amendment, suspension or removal of a restrictive condition by notice in the Provincial Gazette **[as contemplated in Section 35(1)]**, submit the following to the Registrar of Deeds:

(c) a copy of the notification **[of the approval]** as published in the Provincial Gazette

(2) The Registrar of Deeds and the Surveyor-General must, after the amendment, suspension or removal of a restrictive condition by notice in the Provincial Gazette as contemplated in Section 35 (6), make the appropriate entries in and endorsements on any relevant register, title deed, diagram or plan in their respective offices or submitted to them, as may be necessary to reflect the effect of the amendment, suspension or removal of the restrictive condition.

By amending section 39 as follows:

(1) An application must be accompanied by the following documents, where applicable;

By amending section 45 as follows:

(2) The owner **[of land]** must in writing inform the Municipality as to whether he or she has withdrawn his or her power of attorney granted to another person to make an application on his or her behalf.

(3) When an application has been withdrawn the application will be considered finalised and a new application, if any, may be submitted.

(4) An applicant may amend his or her application at any time after notice of the application has been given in terms of this by-law and prior to the submission of the planning report to the Authorised official or Municipal Planning Tribunal—

(a) at the applicant's own initiative;

(b) as a result of objections and comments made during the public notification process; or

(c) at the request of the Municipality.

(5) Should an amendment to an application be considered material, the Municipality may require that further notice of the application be given in terms of this By-law and may require that the notice and the application be resubmitted to municipal departments, other organs of state and service providers.

(6) In the event that an amended application is submitted in accordance Subsection (5) the Municipality may require payment of additional application fees.

By amending section 48 as follows:

(1) Notice of an application contemplated in Section 47(1) and Subsection (2) must be served—

(c) on each person whose rights or legitimate expectations will be affected by the **[approval of the]** application.

By amending section 50 as follows:

(1) (g) by means of data messages contemplated in the Electronic Communications and Transactions Act, 2002 (Act 25 of 2002), by sending a copy of the notice to the person, if the person has an email address or other electronic address; or

By amending and renumbering section 51 as follows:

(1) All petitions must clearly state—

[(a) the contact details of the authorised representative of the signatories of the petition;

(b) the full name and physical address of each signatory; and

(c) the objection and reasons for the objection.

(2) Notice to the person contemplated in Subsection (1)(a), constitutes notice to all the signatories to the petition]

(a) (i) The full name, surname, national identity number and physical address of each signatory;

(ii) The full name, surname, postal address, telephone number and facsimile of no more than two specified persons to whom further communication relating to the application may be directed; provided that where such information is not made available, the Municipality shall direct further communication only to the first person who signed such petition and whose address is known; and only the first objector will be recorded as the legal objector; and

(iii) Each page of a petition containing the signature of a petitioner shall contain at least a summary of the objection.

- (iv) the interest of the body or person in the application;
- (v) an affidavit stating that he or she is not colluding with any applicant, objector or appellant and is prepared to act in regard to the application or appeal as the Municipality may direct.

(b) The reasons for the petition must be set out in sufficient detail —

- (i) the facts and circumstances which explain the comments contained within the petition;
- (ii) the undesirable effect which the application will have on the area and/or demonstrate that she or he will be adversely affected by the decision;
- (iii) any aspect of the application which is not considered consistent with applicable policy.

(2) Any written notification by the Municipality to petitioners shall be regarded as sufficient if such notification is sent to the persons contemplated in Sections 50 (1)(f) and 51 (1)(a)(ii).

(3) A petition that does not comply with the above requirements or as contemplated in Sections 53 (3) and 53 (4), will not be considered and processed as a valid petition and will not be regarded as an objection.

By amending section 53 as follows:

53. Request to be granted intervener status [Amendments prior to approval]

[(1) An applicant may amend his or her application at any time after notice of the application has been given in terms of this by-laws and prior to the approval thereof—

- (a) at the applicant's own initiative;**
- (b) as a result of objections and comments made during the public notification process; or**
- (c) at the request of the Municipality.]**

[(2) If an amendment to an application is material, the Municipality may require that further notice of the application be given in terms of this By-law and may require that the notice and the application be resent to municipal departments, organs of state and service providers.]

(1) A person contemplated in Subsection (3) may, within the period contemplated in Subsection (4), submit a petition on the prescribed form and with proof of payment, to the Municipal Manager to be granted intervener status.

(2) Upon receipt of a petition the Municipal Manager must direct the petition to the delegated authority.

(3) A person may submit a petition only if he or she has not been given notice of the application in terms of Sections 48, 50(f) or 50(g) and —

- (a) if the application has not yet been resolved – the petitioner has an interest in the application; or
- (b) if the application has been resolved – the petitioner has a pecuniary or proprietary interest which is or has been or may be adversely affected or is able to demonstrate

that she or he will be adversely affected by the decision or an appeal with regard to the decision.

(4) A petition will be invalid if submitted –

(a) more than seven days after the petitioner became aware of the application or resolution with regard to an application or may reasonably have been expected to have become aware of the application or resolution with regard to an application; or,

(b) after 21 days from the date of the decision of the Authorised Official or Municipal Planning Tribunal, or,

(c) if an appeal has been submitted, from the date of the decision of the Appeal Authority.

(5) A petitioner must submit the required information as contemplated for in Section 51 (1)(a) and (b).

(6) The Authorised Official, Municipal Planning Tribunal or Appeal Authority, as the case may be, may direct a copy of the petition and the information contemplated in Subsection (5) to the existing parties to the proceedings for comment.

(7) The Authorised Official, Municipal Planning Tribunal or Appeal Authority may –

(a) refuse a petition if submitted late or as contemplated in terms of Subsection (3) and (4);

(b) in the event that a question arises as to whether the petition should be granted–

(i) the Municipal Planning Tribunal or the Authorised Official must decide the validity of the petition if the application has not yet been decided; or

(ii) the Appeal Authority if the application has been decided.

(8) In deciding whether to grant a petitioner intervener status, the Municipal Planning Tribunal, Authorised Official or Appeal Authority, as the case may be, must consider at least whether –

(a) the petitioner qualifies in terms of Subsections (3) and (4);

(b) no existing party to the proceedings adequately represents the interest of the petitioner;

(c) the petitioner represents other persons who have a similar interest in the proceedings and whom are not otherwise represented;

(d) refusal of the petition would impede the ability of the petitioner to protect his or her interests;

(e) the petitioner's objection, comments or representations are relevant to the proceedings; are different from those of the existing parties, and may assist the decision-maker; and

(f) granting the petition would not cause undue delay or otherwise prejudice the interests of any party to the proceedings.

(9) The decision-maker must notify the petitioner and the existing parties to the proceedings of the outcome of the petition.

(10) There is no appeal against a decision to either grant or refuse a petition.

(11) A person who is granted intervener status is regarded as an appellant.

By amending and renumbering section 58 as follows:

58 Timeframes pertaining to applications [Decision-making period]

(1) The administrative phase commences only after a complete land development and or land use application has been submitted to a municipality and the components of the said administrative phase contemplated in Subsection (2), for which the municipality is responsible, may not exceed than 12 months.

(2) The administrative phase is the phase during which all public participation notices have to be published and responded to; parties have to be informed; public participation processes finalised; intergovernmental participation processes finalised and the application referred to the Municipal Planning Tribunal or Authorised Official for consideration and decision-making

(3) [1] When the power to take a decision is delegated to an authorised employee and no [integrated process in terms] provision of any other law has to be complied with the authorised employee must decide on the application within 60 days after completion of the administrative phase contemplated in Subsection (2).

(4) [2] When the power to take a decision is not delegated to an authorised employee and no [integrated process in terms] provision of any other law has to be complied with the Municipal Planning Tribunal must decide on the application within 90 days after completion of the administrative phase contemplated in Subsection (2).

(5) [3] The authorized employee or Tribunal, as the case may be, may extend the period contemplated in Subsections (3) or (4) in exceptional circumstances which may include the following:

(b) if additional information is required in order to consider the application.

[(b) In the case of the Tribunal, if an oral hearing is to be held.]

By amending section 61 as follows:

61. [Determination of] Decision pertaining to an application

By amending and renumbering section 64 as follows:

(1) The Municipality may at any time correct an error in the wording of its decision provided that the correction does not change its decision or results in an alteration, suspension or deletion of a condition of its approval.

(2) The Municipality may, of its own accord or on application by the applicant or an interested party, upon good cause shown, condone an error in a procedure, if the condonation does not have a material and adverse effect on, or unreasonably prejudices, another party.

By amending section 66 as follows:

(g) a registered planner's written assessment in terms of Section 66 of LUPA, 2014, including; [application in terms of the By-Law:]

- (i) an amendment of a Spatial Development Framework or Land Use Scheme
- (ii) an approval of an overlay zone contemplated in the land use scheme
- (iii) a phasing, amendment or cancellation of a subdivision plan or part thereof
- (iv) a determination of a zoning

By amending section 67 as follows:

(2)(w) the payment of an administrative penalty as contemplated in Section 90 in respect of the unlawful use of land;

[(w) requirements for an occasional use that must specifically include –

- (i) parking and the number of ablution facilities required;**
- (ii) maximum duration or occurrence of the occasional use; and**
- (iii) parameters relating to a consent use in terms of the zoning scheme;]**

(3) If a Municipality imposes a condition contemplated in Subsection (2)(a), an engineering services agreement must be concluded between the Municipality and the owner of the land prior to commencement of the construction of engineering infrastructure [concerned before the construction of infrastructure commences on the land].

[(12) The Municipality may, on its own initiative or on application, amend, delete or impose additional conditions after due notice to the owner and any persons whose rights may be affected.]

By amending section 69 as follows:

69. Municipal planning decision-making structures in respect of applications and appeals

By amending section 73 (2)(b) as follows:

(2)(b) the member tenders his or her resignation in writing to the chairperson of the Tribunal or, if the member who resigns is the chairperson of the Tribunal, to the Council;

By amending and renumbering section 77 as follows:

[(3) Any person who wishes to make a verbal representation to the Tribunal must, 14 days prior to a meeting, request the Administrator in writing to make a representation at the meeting.]

[4] (3) If a request for verbal representation is allowed in terms of the rules and procedures then the Chairperson must consider and decide the request and if approved, impose any reasonable conditions **[that it may deem fit].**

By amending and renumbering section 79 as follows:

(4) **[(6)]** The notice must allow persons 21 days from date of notification of the appeal to comment on the appeal.

(5) **[(4)]** Any person who lodge an appeal or apply for intervener status to the Municipal Manager must submit proof of payment of appeal fees as may be determined by the Municipality.

(6) **[(5)]** The notice must be served in accordance with Section 115 of the Municipal Systems Act and in accordance with the additional requirements as may be determined by the Municipality.

[(7) If an objector lodges an appeal, the Municipality must give notice of the appeal to the applicant within 14 days of receipt thereof.]

[(8) A person or body who has received notice of the appeal may comment on the appeal within 21 days of being notified.]

(7) **[(9)]** The Municipality may refuse to accept any comments after the closing date.

(8) **[(10)]** The Municipality, after receipt of an appeal—

(9) **[(11)]** The authorised employee must complete the pre-hearing process (all the necessary documentation must be obtained, the applicant and objectors must be informed and the appeal referred to the Appeal Authority) within [30]150 days of receipt of the notice of appeal [draft a report assessing the appeal and submit it to the Appeal Authority within 30 days of receipt of the comments contemplated in Subsection (6) and (8), as the case may be.]

(10) **[(12)]** The Appeal Authority must decide on the appeal within 60 days from the expiry of the period contemplated in Subsection **[(11)]** (9).

(11) The Appeal Authority may extend the period contemplated in Subsection (10) in exceptional circumstances.

(12) **[(13)]** The parties to the appeal must be notified in writing of the decision of the Appeal Authority within 21 days from the date of the decision as contemplated in Subsection (10) and (11) **[(12)]**.

(13)**[(14)]** The Municipality must—

By amending section 83 as follows:

(1)(c) conditions imposed in terms of this By-law or **[previous planning legislation]** any law repealed by the Land Use Planning Act.

By amending section 84 as follows:

(1) Any person who—

(a) contravenes or fails to comply with Section 16(1), 16(5) and 84(2);

(b) fails to comply with a compliance notice issued in terms of Section **[87]** 85;

(d) upon registration of transfer of the first land unit arising from a subdivision to a person other than a developer fails to transfer all common property, including private roads and private places originating from the subdivision to the owners' association;

(2) An owner who permits land to be used in a manner set out in Subsection (1)(c) and who does not cause the use to be ceased or take reasonable steps to ensure that the use ceases, or who **[permits a person to]** breaches the provisions of a land use [zoning] scheme, is guilty of an offence and liable upon conviction to a fine or imprisonment for a period not exceeding 20 years or to both a fine and such imprisonment.

(4) The Municipality **[must]** may adopt fines and contravention penalties duly approved by the district courts within the Municipalities jurisdiction, to be imposed in the enforcement of this by – law.

By amending section 85 as follows:

(2)(c) rectify the contravention of or non-compliance with a condition of approval within a specified period.

(2)(d) apply in terms of Section 90 for the determination of an administrative penalty;

[85 (6) A person who received a compliance notice in terms of this section may lodge representations to the Municipality within 30 days of receipt of the notice.]

(6) If relevant, the notice may advise the owner or other person of their right to apply for rectification of the contravention as contemplated in Section 90, and may state that the Municipality intends to institute the measures contemplated in Section 84 in the event that the owner or other person fails to apply for rectification of the contravention within a specified time.

(7) The notice may invite the owner within a specified time to inform the Municipality what steps have been taken to comply with the notice.

By amending section 86 as follows:

(1) (b) describe the activity **[concerned]** and the land on which it is being carried out;

(1)[(f) provide for an opportunity for a person to lodge representations contemplated in terms of Section 85(6) with the contact person stated in the notice;]

(f) [(g)] issue a warning to the effect that—

(2) Any person who receives a compliance notice must comply with that notice within the time period stated in the notice. [unless the Municipality has agreed to suspend the operation of the compliance notice in terms of Section 87.]

By amending and renumbering section 87 as follows:

87. [Objections to compliance notice] Complaints

[(1) Any person or owner who receives a compliance notice in terms of Section 85 may object to the notice by making written representations to the Municipal Manager within 30 days of receipt of the notice.

(2) Subject to the consideration of any objections or representations made in terms of Subsection (1) and any other relevant information, the Municipal Manager — (a) may suspend, confirm, vary or cancel a notice or any part of the notice; and (b) must specify the period within which the person who received the notice must comply with any part of the notice that is confirmed or modified.]

(1) A person, who is, or may be, affected by an alleged contravention of this By-Law, must in writing and using the prescribed form or in a manner determined by a policy, request the Municipality to investigate the alleged contravention and to act in accordance with the provisions of this Section.

(2) A complaint lodged in terms of this section must be contained in an affidavit stating:

- (a) the name, surname, address and contact details of the complainant;
- (b) the origin (i.e address / location / source) of the alleged contravention;
- (c) the nature of the alleged contravention;
- (d) when the alleged contravention was first noticed and/or;
- (e) the duration and frequency of the alleged contravention;
- (f) the name and address of the alleged perpetrator.

(3) Upon receipt of a complaint, the municipality must investigate the complaint

(4) The municipality must inform the complainant of the outcome of the investigation within 30 days of the investigation having been completed and the steps to be taken to remedy the contravention in the event that the municipality is of the opinion that a provision of this By-Law has been or is being contravened

By amending section 88 as follows:

If a person fails to comply with a compliance notice the Municipality may—

- (b) apply to a **[the High]** Court of competent jurisdiction for an order restraining that person from continuing with the illegal activity; and/or to demolish, remove or alter any building, structure or work illegally erected or constructed and/or to rehabilitate the land concerned without the payment of compensation; or,
- (c) in the case of a temporary departure or consent use, the Municipality may withdraw the approval granted and **[then act in terms of]** take any of the other steps contemplated in Section **[87] 85**.

By amending section 89(2) as follows:

(2) If the person or owner fails to cease with the activity with immediate effect [immediately], the Municipality may apply to a **[High]** Court **[with]** of competent jurisdiction for an urgent interdict or any other relief as may be necessary.

By amending and renumbering of section 90 as follows:

90. [Subsequent application for authorisation of activity] Application for administrative penalty

[(1) If instructed to rectify or cease an unlawful land use or building activity, a person may make an application to the Municipality for any land development contemplated in Section 16(2), unless the person is instructed under Section 86 to demolish the building work.

(2) The applicant must, within 30 days after approval is granted, pay to the Municipality a contravention penalty in the amount determined by the Municipality.]

(1) A person who is in contravention of this By-Law, and who wishes to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned.

(2) A person making an application contemplated in Subsection (1) must –

(a) submit an application;

(b) pay the prescribed fee;

(c) provide the information contemplated in Subsections (3); and

(d) comply with the duties of an applicant in Section 84.

(3) The applicant must, to the satisfaction of the Municipality, provide the following information such as-

(a) the nature, duration, gravity and extent of the contravention;

(b) the conduct of the person (allegedly) involved in the contravention;

(c) a report by a quantity surveyor in matters of unauthorised building/construction;

(d) whether the unlawful conduct was stopped; and

(e) whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.

(4) The report regarding the/an administrative penalty must be considered by the Authorised Official, the Municipal Planning Tribunal or Appeal Authority, as the case may be.

(5) If the Authorised Official, the Municipal Planning Tribunal or Appeal Authority decides to impose an administrative penalty on a person who has contravened this By-Law, it must determine an amount which –

(a) for building work in contravention of this By-Law – may not be more than 100% of the value of the building, construction and engineering work unlawfully carried out, as determined by the Municipality;

(b) for land use in contravention of this By-Law – may not be more than 100% of the municipal valuation of the area that is used unlawfully, as determined by the Municipality; and

(c) for building work and land use in contravention of this By-Law – must comprise the penalties in both paragraphs (a) and (b).

(6) When determining an appropriate administrative penalty, the Authorised Official, the Municipal Planning Tribunal or Appeal Authority, as the case may be, must take into consideration for the information provided by the applicant in Subsection (3), and should the information be insufficient the Authorised Official, the Municipal Planning Tribunal or Appeal Authority, as the case may be, may request additional information.

(7) The Authorised Official, the Municipal Planning Tribunal or Appeal Authority, as the case may be, must notify the person who is in contravention of this By-Law of its decision and if it decides to impose an administrative penalty, the notice must –

(a) set out the administrative penalty;

(b) include the provisions of Section 62;

(c) state that the person must pay the administrative penalty to the Municipality within 30 days of the effective date of decision contemplated in Section 62 or within such further period that the Authorised Official, the Municipal Planning Tribunal or Appeal Authority, as the case may be, may decide;

(d) state that the payment of an administrative penalty in terms of this Section does not limit the Municipality's power to investigate the offence and/or institute a criminal prosecution; and

(e) state that, without further notice, the Municipality may apply to a court of competent jurisdiction for an order confirming the administrative penalty and/or other appropriate relief including the costs of the application.

(8) The Municipality may apply to a Court of competent jurisdiction for an order confirming the order of the Municipality.

By inserting into the By-law:

Schedule 2 : Overstrand Municipality Land Use Scheme (OMLUS)

Short Title:

The By-law is called the Overstrand Municipality Amendment By-law on Municipal Land Use Planning 2020.

OVERSTRAND MUNICIPALITY LAND USE SCHEME, 2020

GENERAL EXPLANATORY NOTE:

[] Words in bold and in square brackets indicate deletions from the existing enactment.

_____ Words with a solid line indicate insertions in the existing enactment.

To amend the provisions in Overstrand Municipality Zoning Scheme, 2013

BE IT ENACTED by the Council of the Overstrand Municipality as follows:

By amending the Index as follows:

- [2.2 APPLICATION FOR A CONSENT USE**
- 2.3 APPLICATION FOR THE CONSOLIDATION OF LAND UNITS**
- 2.5 DECISIONS**
- 2.6 CONDITIONS OF APPROVAL**
- 2.8 APPEALS**
- 4.1 SUMMARY OF USE ZONES AND DEVELOPMENT RULES]**

[2.4] 2.2 ADDITIONAL REQUIREMENTS RELATING TO PUBLIC PARTICIPATION

[2.7] 2.3 VALIDITY OF INFORMATION

[2.9] 2.4 ERRORS ON ZONING MAPS

[19.1] 4.1 INTERPRETATION

16.1 GENERAL ENCROACHMENTS **[ENCROACHMENT OF BUILDING LINES]**

16.6 BOUNDARY WALLS **[EARTH BANKS AND RETAINING STRUCTURES]**

16.8 AESTHETICS AND MAINTENANCE OF PROPERTY AND PLACEMENT OF VEHICLES

16.10 GENERAL DEVELOPMENT PARAMETERS

CHAPTER **[20] 19**: GENERAL PROVISIONS APPLICABLE TO ANNEXURES

19.1 **[20.1]** ANNEXURES

By amending the definitions as follows:

A

“additional dwelling units” means dwellings in the Agriculture Zone 1, which are not required for the accommodation of bona fide persons involved in the agricultural practice on the property concerned; **[and additional dwelling units may be used for long or short term accommodation purposes;]**

“agricultural industry” means an enterprise for the processing of agricultural related products on or close to the land unit where these agricultural products (whether land or marine based, such as aquaculture) are grown, harvested and raised where processing in such proximity is necessary due to the nature, perishability and fragility of such agricultural products or promotion of tourism related activities, and includes, inter alia: dairies, wineries, distilleries, olive processing facilities, breweries and other facilities required for the processing of agricultural products, where produce packed is not produced on the land unit, but does not include service trades;

“agriculture” means the cultivation of land for crops and plants, including plantations, the keeping and breeding of animals, beekeeping, bird farming or the operation of a game farm, and may comprise[s] natural veld and includes only such activities and buildings as are reasonably connected to the main farming activities such as residential accommodation for the farmer, farm manager and farm labourers and the packing of agricultural produce grown on the property but excludes intensive horticulture, intensive animal farming, agricultural industry, and a farm shop;

“animals” include livestock such as any cattle, sheep, goats, horses, mules, donkeys, rabbits and wild animals;

“animal care centre” means a place for the care of pets and other animals, operated on either a commercial or welfare basis, and includes a boarding kennel(s), a commercial kennel(s), **[and]** pet training, a pound, **[centres;]** and **[includes a]** a crematorium for animals;

[“associated”, when used in the context of an associated use or purpose, means use, purpose, building or activity which is normally ancillary and subservient to the lawful primary use of the property;]

“atrium”, which consists of a floor and a roof or ceiling, means a covered courtyard comprising a void within a building that extends for one or more floors in height, but does not contain floors that penetrate into the void; **[An atrium consists of a floor and a roof or ceiling];**

“authority use” means a use which is practiced by or on behalf of a public authority, **[and]** the characteristics of which are such that it cannot be classified or defined under other uses in this land use [zoning] scheme, and includes, but is not limited to, a use practiced by:

- (i) The **[State]** National Government (as defined in the Constitution) including but not limited to, **[such as]** a military training centre and installation, a police station and a prison;

- (ii) The Provincial Government (as defined in the Constitution) including but not limited to, **[such as]** a road station and road camp;
- (ii) **[The]** Local Government (as defined in the Constitution) including but not limited to **[, such as]** fire services and municipal depots with related uses or any use necessary to provide mandated services (including limited accommodation for staff who are required for standby emergencies, municipal offices, clinics, **[library]** libraries and any other associated use(s) approved by **[Council]** the municipality);

“average ground level” means the average of the highest and lowest existing ground level immediately abutting the outer perimeter of a building and **[Council]** the municipality may:

- (i) Determine the average ground level from measurements supplied on a building plan; or
- (ii) Deem a level to be the average ground level from the contour plan, local height bench mark or other information held by **[Council]** the municipality; or
- (iii) Require the owner or applicant to commission a registered land surveyor to measure levels of the ground or interpolate levels, in order to provide **[Council]** the municipality with sufficient information so that it can determine the average ground level for the purposes of this land use [zoning] scheme;

B

“backpackers” means an accommodation facility that provides communal facilities including dormitories and may offer a range of alternative sleeping arrangements;

“bar” means primarily an enterprise for the sale and consumption of alcoholic beverages to **[the by]** customers **[upon]** on the premises where age restriction applies [upon the premises where the liquor is sold] and may include the **[the making available]** provision of meals [of food to customers] and a place of entertainment, but does not include the sale of alcoholic beverages for off-site consumption **[A place of entertainment;]** (In this context pub and tavern have the same meaning);

“base level” of a building means an imaginary plane drawn horizontally at the average ground level of the building or vertical division, (for the purpose of an uncovered stoep and /or deck, a separate base level will be applicable);

“brewery” means a place where beer or wine is made and may include a selling point to the general public; tasting **[and conference facilities,]** as well as the provision of light meals (which is subservient to the main use) but does not include a distillery, restaurant and / or pub;

“builder’s yard” means a land unit which is used for the storage of material and equipment which:

- (i) Is required or normally used for construction work;
- (ii) Was obtained from the demolition[s] of structures or excavations of **[ground]** land;
- (iii) Is necessary for, or is normally used; for land development, such as storage of material used for building roads, for installing essential services, or for any other construction work (e.g. sand or bricks), whether for public or private purposes; and

- (iv) **[It]** includes the administrative component of such undertaking but **[does not include] excludes** any accommodation, other than a caretaker's accommodation;

"building line" means an imaginary line on a land unit, which defines a distance from a specified cadastral line, within which the erection of buildings and structures are prohibited, except with Municipal **[the necessary Council the municipality]** approval;

C

"camping site" means a property or part thereof on which tents and/or caravans are used for the short term accommodation of visitors and holiday makers, and includes ablution, cooking and other associated facilities for the use by **[of]** such visitors, **[and]** infrastructure related to the operation of the camping site, and may include accommodation facilities for the owner, manager and staff with the **[permission] consent** of **[Council] the municipality**;

"carport" means a building or structure**[, which is]** (covered or uncovered) with two open sides, primarily used for the housing of motor vehicle's and / or trailers and boats;

"car wash" means any structure or structures where vehicles are washed and/or valeted;

"caravan" means a mobile vehicle which has been equipped or converted for living and sleeping purposes; **[and which is mobile;]**

"community facilities" means a property or place that provides for a range of social uses and functions generally directed at serving **[community needs such as]** educational, religious, welfare, health, and generally the needs of a community;

"consent use" means the secondary use right that is permitted in terms of the provisions pertaining to a particular zone, subject to **[only with]** the consent of **[the Council] the municipality**;

"consolidation" means the process of preparing a diagram for approval by the Surveyor General from two or more diagrams **[[representing several] which represent at least two contiguous pieces of land]**, which **[have] has** been prepared for the purpose of obtaining a certificate of consolidated title thereto from the Registrar of Deeds, and "consolidate" has the same meaning;

"coverage" means the total area or percentage area of a land unit which may be covered by buildings and / or covered by a roof; provided that the following portions of buildings shall be disregarded in the calculation of coverage:

- (iv) Eaves not projecting more than 1,0 m **[from the wall of the building over the building line];**
- (v) Minor decorative features not projecting more than 250 mm. **[A portion of a buiding where the ceiling is at ground level or lower.]**

"crèche" means the use of a portion of a dwelling house or outbuildings by the occupant to provide day care, pre-school, play group or after school care services for a limited number of children provided that the primary use of the property shall prevail, subject to the applicable legislation; **[means a facility for the day care of young children in the absence of their parents, and may provide care for more children than are permitted in a day care**

centre, subject to any applicable legislation of the Department of Education, provided that the primary use of the property shall prevail;]

D

“**dairy**” means a building for the storage, processing and distribution of milk and related products, and [but does not] includes an agricultural building where cows or other animals are milked;

“**day-care centre**” means a facility for the day-care of young children in the absence of their parents, and may provide care for more children than are permitted in a crèche, subject to any applicable legislation, provided that the primary use of the property shall prevail;

[means the use of a portion of a dwelling house or outbuildings by the occupant to provide day care, pre-school, play group or after school care services for a limited number of children provided that the primary use of the property shall prevail;]

“**distillery**” means a place where hard liquor is distilled and may include a selling point to the general public, tasting facilities and the provision of light meals, which is subservient to the main use, but does not include a restaurant and or pub;

“**dwelling house**” means a self contained inter-leading group of rooms, used for the accommodation and housing of a single family, together with adequate sanitary facilities and kitchen, and such outbuildings as are ordinarily used therewith, **[which may be used for long or short term accomodation]**, provided further that a dwelling house may not have more than two kitchens;

“**dwelling unit**” means a unit containing one or more inter-leading rooms, with adequate sanitary facilities and a kitchen, used for the accommodation and housing of a single family, **[which may be used for long or short term accomodation]**, and may be included in or separate from the main building on the property;

E

“**encroachment agreement**” means an agreement between an owner and the Overstrand municipality relating to the projection of portions of a building, structure or activity from the owner’s property onto or over **[Council] the municipality’s** property;

“**environmental impact assessment**” means a report as stipulated in terms of applicable environmental legislation concerning the impact on the environment of specified proposed activities, or any other studies required by **[Council] the municipality** and includes heritage issues;

“**environmental management plan**” means a report concerning the impact on the environment of specified or, proposed activities and monitoring measures on the environment in order to guide the implementation of a proposal, ongoing maintenance after implementation and sustainable utilisation of the resources on the land unit; and shall include:...

“**erection**” (“erect” has a corresponding meaning) in relation to a building or structure includes:

- (i) the building of a new building or structure;

- (ii) the alteration, or conservation, or renovation, or addition to, a building or structure; and
- (iii) the **[re-erection]** re-construction of a building or structure which has completely or partially been demolished;
[and "erect" has a corresponding meaning;]

"existing ground level" means the level of the land surface on a land unit:

- (i) in its unmodified / natural state; or
- (ii) as established from a plan containing contours lodged with an official agency such as the municipality or government department which, in **[Council]** the municipality's opinion, depicts the existing level of the ground at or before the commencement date; or
- (iii) in a state which has been graded, with **[Council]** the municipality's approval, for the purpose of development; or
- (iv) as determined by **[Council]** the municipality, if in its opinion it is not possible to ascertain the existing level of the ground due to irregularities or disturbances of the land, and **[Council]** the municipality may require the owner or applicant to commission a registered land surveyor to measure levels of the ground or interpolate levels, in order to provide **[Council]** the municipality with sufficient information so that it can determine the most appropriate existing ground level for the purpose of administering this land use [zoning] scheme;

"existing use" means the use or uses which, in the opinion of **[Council]** the municipality, is or are practiced lawfully on the land unit, structure or building or part thereof;

F

"fertilizer plant" means the production, packaging and storing of fertilizer (organic, synthetic or bio fertilizer) not produced on the farm and includes dry licks and mineral blocks;

"flats" means a building containing two [three] or more dwelling units, together with such outbuildings as are ordinarily associated therewith, **[provided that in those zones where flats are permissible, less than three dwelling units shall also be permitted];**

"floor area" means the area, measured in square meters, taken up by a building or part thereof, and covered by a roof, slab or projection, and shall be measured from the external faces of the external walls or similar support. The total floor area of a building which consists of 1 (one) or more storeys shall include all storeys; basements and balconies, but shall exclude garages and carports.

"floor space" in relation to any building means the area of the floor which is covered by a slab, roof or projections, provided that:

- (iii) a projection of eaves and a projection which **[projection]** acts as a sunscreen or an architectural feature which does not exceed 1,0 m beyond the exterior wall or similar support shall be excluded;
- (iv) any common pedestrian thoroughfare which is covered by a roof and which provides access through a building **[concerned]** from a parking, public street or an open space to some other parking, public street or open space and which is accessible to the general public during normal business hours shall be excluded;

- (vii) in the case of multi-level buildings, any stairwells, lift wells, light wells or other wells and any atrium shall only be counted once; and
- (viii) **[and provided further that]** floor space shall be measured from the outer face of the exterior walls or similar supports of such building, and where the building consists of more than one level, the total floor space shall be the sum of the floor space of all levels, including that of basements;

G

“**gazebo**” means a lightweight, freestanding, open- sided structure or pavilion for use in the garden, usually as a sunshade, and includes any built structure covered by a roof or, thatched or retractable awing;

“**greenhouse**” means a structure **[with the sides]** predominantly made of transparent material, such as glass, Perspex, shaded cloth or plastic for the purpose of **[growing]** cultivating plants under controlled environmental conditions;

“**gross density**” means a measure of the number of dwelling units in a specified area, and is calculated, for the purposes of this land use [zoning] scheme, as follows:

“**guest house**” means a dwelling house, or second dwelling unit which is used for the purpose of **[temporary]** lodging of transient guests **[or lodgers]** on compensation; and may provide [the provision of] meals for guests; **[visitors or tourists]**, **[and]** is occupied by the owner or occupant, or manager of the property, and **[may include an in-house cash bar and restaurant, provided that these]** may include associated facilities which are only for the use of the bona fide guests **[or lodgers and may not be]** and not accessible to the general public, but does not include a hotel, guest rooms, residential building or boarding house;

“**guest rooms**” means a limited number of rooms forming part of a dwelling house **[or dwelling unit]** that are let **[on a permanent or temporary basis]** to transient guests or lodgers, provided that the dominant use of the dwelling house / unit concerned shall remain for the living accommodation of a single family;

H

“**harbour usage**” means a building, structure(s) or areas for the docking, launching and mooring of boats and yachts, **[shops and boat yards]** and includes supplementary and associated uses such as shops and boat yards, boat houses, boat repair facilities, slip ways, dry docks, harbour offices, fuelling facilities, warehouses, piers, naval infrastructure and utilities, and cranes;

“**heavy vehicle service station**”: means a facility for vehicles (above 3500 kg) and associated uses that includes the retail supply of fuel, oil, tyres or spares, general repairs, exhaust fitment, washing of vehicles, and a shop of which the floor area does not exceed 50% of the total floor space of all buildings on the land unit; but does not include spray painting, panel beating, blacksmithing or body work;

“**hobby**” means an activity done regularly in one's leisure time for pleasure, excluding activities creating noise, health and nuisance not related to a commercial venture;

“**holiday accommodation**” means a harmoniously designed and built development, used for holiday and recreational purposes, whether in private or public ownership, which:

- (i) Consists of a single enterprise in which accommodation is supplied **[by means of short term renting]** on a temporary basis and or by means of time sharing only;
- (ii) May include the provision of a camping site, mobile home park and dwelling units;
- (iii) May also accommodate a restaurant, and/or shop; **[and]** indoor and outdoor recreation facilities for the use of paying lodgers and occupants of the establishment; but
- (iv) **[Does not include]** excludes a hotel or conference centre;

“**home occupation**” means the practising of **[an occupation, profession, art or trade or the conducting of an enterprise, which includes an estate agency, from a dwelling unit by one or more of the occupants of a dwelling unit; provided that the dominant use of the dwelling concerned shall remain for the living accommodation of a single family, and the property complies with the requirements contained in this zoning scheme for a home occupation; but does not include adult entertainment]** a non-residential use conducted from a dwelling provided that the dominant use of the dwelling concerned shall remain the accommodation of a single family, provided that the use and property complies with the requirements contained in this land use [zoning] scheme for home occupation;

“**hotel**” means a property used **[as a temporary residence]** for transient guests, where lodging and meals are provided, and may include;...

“**house shop**” means the conducting of a retail trade from a dwelling house, or outbuilding by the operator of the enterprise [one or more occupants of the dwelling house concerned,] who shall reside on the premises, provided that the dominant use of the property concerned shall remain **[for]** the **[living]** accommodation of a single family;

“**household pet**” means a pet kept primarily for a person's company and / or relaxation and / or protection restricted to dogs; cats; racing pigeons; hamsters; mice; rats; canaries; budgies; parakeets; parrots, and other talking birds; snakes; spiders; fish and scorpions but excludes wild animals in its widest sense; farm animals; livestock in its widest sense; laboratory animals, and animals bred or kept or captured for commercial purposes. The list may not be exhaustive. “Pet” will have the same meaning. The keeping of household pets will be subject to compliance with the applicable noise and health legislation and may not have a detrimental impact on the amenity of the area;

“**industry**” means a property, which in **[Council]** the municipality's opinion, is used as a factory or workshop and in which an article or part of such article is made, manufactured, produced, built, assembled, compiled, printed, ornamented, processed, treated, adapted, repaired, renovated, rebuilt, altered, painted (including spray painting), polished, finished, cleaned, dyed, washed, broken up, disassembled, sorted, packed, chilled, frozen or stored in cold storage; and includes self-storage, [including] offices, caretaker's quarters, warehouses and breweries, distilleries and mechanical workshops or other uses which are subservient and ancillary to the use of the property as a factory **[and includes a warehouse, brewery, distillery and mechanical workshop,]** but does not include **[a service station]** noxious trade or risk activities;

“**informal trading**” means the selling of products in areas demarcated or leased by **[Council]** the municipality for such purposes [specifically for those purposes, such as markets and other demarcated areas];

“inter-leading” means the inter-accessibility of two or more habitable rooms or habitable spaces (excluding via bathrooms, garage, store rooms and bedrooms);

L

“land unit” means a portion of land registered in the Deeds Registry, or shown on a valid plan of subdivision approved by **[Council]** the municipality or other competent authority, as an erf, stand, lot or plot; and includes servitudes and leased areas;

“land use scheme” has the same meaning as zoning scheme;

“Land Use Planning Act” means the Land Use Planning Act.No 3 of 2014, (as amended);

“loading bay” means an area which is clearly demarcated for loading of goods onto commercial vehicles and off-loading of goods from commercial vehicles, and which has vehicular access to a public street to the satisfaction of **[Council]** the municipality;

“lodge” has the same meaning as “hotel” and is [means accommodation] located in a natural area such as nature reserves and farms;

M

“market” means an outdoor venue **[permitted by Council]** for the sale **[to the public]** of fresh produce, food and beverages, crafts, art and manufactured goods to the public;

“medical centre” includes a laboratory, a pharmacy, medical consulting rooms and offices;

“multiple parking garage” means a place, **[excluding a road, street and on-site parking associated with a primary or consent use, that is]** used for the parking of motor vehicles by the public, with or without payment of a fee, and may include parking within a building but excludes parking on a road, or a street and on-site parking associated with a primary or consent use;

“multi-purpose centre” means a building utilised and designed for the purpose of accommodating a range of compatible institutional and community services permitted in the CO1 zone, provided that **[Council]** the municipality’s consent is required to include any of the consent uses as part of the multi-purpose centre;

N

“noxious trade” means **[offensive]** poisonous or potentially harmful trade, use or activity which, because of fumes, emissions, **[smell]** odours, vibrations, noise, waste products, nature of materials used, processes employed, or other causes, is considered by **[Council]** the municipality to be a potential source of danger or health risk [, **nuisance or offence]** to the general public or persons in the surrounding area. **[and]** “Noxious Industry” has the same meaning;

O

“occasional use” means the use of a property for short- term activities, which includes but is not limited to; craft markets, public meetings, festivals, religious gatherings, fund raising projects, garage sales, bazaars, shows and film shoots;

“occupant” means any person who inhabits a building, structure or land, or any person **[having]** who is in charge of it or **[the charge or] [management]** manages **[thereof]** it, and includes the agent of any person absent from the area or whose whereabouts are unknown;

“outbuilding” means a structure, whether attached or separate from the main building, which is ancillary and subservient to the main building on a land unit, and includes a building **[which is]** designed to be **[normally]** used for the garaging of motor vehicles, for storage purposes and any normal activities in so far as these are usually and reasonably required in the connection with the main dwelling, **[and includes]** as well as the accommodation of recreational activities such as a pool room, braai room; lapa, gazebo and the practicing of hobbies (which may not cause a nuisance and/or disturbance and / or noise and / or damage to a neighbouring property or properties or premises) **[but does not include a dwelling unit]** and outbuildings are primary uses under each zoning except open space zones, where **[Council]** the municipality may permit outbuildings should it be deemed necessary;

“overlay zone” or **“overlay zoning”** means a category of zoning applicable to a particular land unit or area, which:

- (i) stipulates development parameters for a land unit or area, in addition to the underlying zoning or base zone requirements;
- (ii) may include further development parameters in a particular area or zone which may be more or less restrictive than for land units which are not covered by the overlay zoning;

P

“parking area” means a practical parking layout approved by **[Council]** the municipality;

“parking bay” means an area measuring no less than 5,0 m × 2,5 m for a perpendicular or angled parking and 6,0 m × 2,5 m for parallel parking, which is clearly outlined and demarcated for parking of one motor vehicle and which is accessible to the satisfaction of **[Council]** the municipality;

“Planning Law” means the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015; Land Use Planning Act, No 3 of 2014 and the Spatial Land Use Management Act, No 16 of 2013 or succeeding legislation which governs the preparation and administration of municipal planning including all related planning in Local, Provincial and National Government [the Western Cape or South Africa, whichever is applicable];

“Poultry” means fowls, ducks, muscovy ducks, geese, turkeys, pigeons, peacocks and domestic guinea-fowl

“primary natural area” means land which contains natural resources that are considered important for the well being of human and natural communities, by Council and comprise protected natural land, and “virgin land” as defined in environmental legislation, in either public or private ownership, as well as land

earmarked for inclusion in such area; excluding agriculture activities, other than the sustainable harvesting of natural products;]

“primary use” in relation to land or buildings means any use specified in this land use [zoning] scheme as a primary use, being a use that is permitted without the need to first obtain [Council] the municipality’s consent;

“private road” means privately owned land which provides vehicular access to a separate land unit or land units and which is designated as private road or private street on an approved general plan, diagram or approved plan of subdivision; it may include ancillary access control infrastructure such as a gatehouse, guardhouse, refuse room and utility room, but does not include a driveway on a property or a servitude;

“private open space” means land which is in private ownership, used primarily for outdoor sports, play, rest or recreation, or as a park area or nature area, and includes associated buildings, infrastructure and uses, and may include an indoor or outdoor swimming pool and facilities, with the consent of **[Council] the Municipality;**

“public road” means any highway, road, thoroughfare, lane, footpath, sidewalk, alley, passage, bridge or any other place of a similar nature or any portion thereof serving as a public right of way which is registered in the name of the State or local authority, and includes a public street;

R

“recreational facilities” means the use of land **[(including stretches of coastline and large, uncovered or open developed or undeveloped areas)]** to practice a particular sport or combination of sports and general recreation and includes a clubhouse and associated infrastructure and buildings, indoor and outdoor swimming pools and associated infrastructure, and a shooting and driving range but does not include any building or structure that is used for business or any other use not aligned to or dependant on the sport concerned;

“register” means the record held by **[Council] the municipality** in connection of all departures, certification uses, consent uses, site development plans, conditions relating to use rights or special zone development parameters;

“renewable energy structures” means any wind turbine or solar voltaic apparatus, or grouping thereof, which captures and converts wind or solar radiation into energy and is erected for commercial use and gain irrespective of whether it feeds onto the national electricity grid or not, and includes any appurtenant structure or any test facility or structure which may lead to the generation of energy on a private or commercial basis;

“residential building” means a building where lodging is provided for human habitation, together with such outbuildings as are ordinarily used therewith **[and]**, limited to, boarding houses, **[backpackers (hostels),]** and old age homes **[, and or]** where facilities are shared;

“retirement village” means a development for the purposes of accommodating retired persons and associated facilities and conforms to the following conditions:

- (i) Other than staff accommodation, each dwelling unit shall be occupied by at least one person **[who is 50 years or older or as amended]** and must comply with the applicable legislation;

- (ii) A range of care and other facilities shall be provided to the satisfaction of **[Council]** the municipality;
- (v) Additional development management provisions may be determined by **[Council]** the municipality in respect of a retirement village;

“roof” means a water proof covering, excluding shade ports;

“rooftop base station” means a cell phone base station where antennae are attached to the roof or side of an existing building; provided that any antennae support structure or equipment room that is not part of the building does not extend more than 2,5 m in height above the top of the building;]

“room” means a part or division of a building enclosed by walls, floor, roof and ceiling;

S

“sale of alcoholic beverages” means the sale or offering for sale of drinks [to the public, of drinks] capable of producing intoxication in a consumer, and may include bars, pubs and taverns;

“scrap yard” means a property which is utilised for one or more of the following purposes (subject to the provisions of Chapter 16.10):

- (i) storage, depositing or collecting of junk or scrap material or articles for purposes of recycling;
- (ii) the dismantling of vehicles, machines or other articles to recover components or materials;
- (i) **[Storing, depositing or collecting of junk or scrap material or articles the value of which depends mainly or entirely on the material used in the manufacture thereof**;
- (ii) **The dismantling of second hand vehicles or machines to recover components or material; and**
- (iii) **The storing or sale of second hand parts, poles, steel, wire, lumber, tyres, bricks, containers or other articles which are suitable to be left out in the open without any serious damage being incurred; and includes blast furnaces for melting and moulding of metals;**
- (iv) **Subject to the provisions of section 8.1.9 and 8.1.10]**

“second dwelling unit” means a dwelling unit which may, in terms of this land use [zoning] scheme, be erected on a land unit where a dwelling house is permitted, and such second dwelling unit may be a separate structure or may be contained in the same structure as the dwelling house; provided that:

- (i) The second dwelling unit must be situated [shall remain] on the same land unit;
- (ii) The second dwelling unit shall comply with the requirements specified in this land use [zoning] scheme;
- (iii) **[Council]** The municipality may require the payment of a bulk services levy or such other levy as it may determine when permitting the erection of a second dwelling unit;
- (iv) Where a wendy house, **[shelter]** or outbuilding is used for accommodation purposes, such wendy house **[shelter]** or outbuilding shall be considered a second dwelling unit for the purpose of this scheme;

“**sectoral framework**” means a broad policy plan and supporting documentation for a specified planning area and the surrounding area. It may include principles and broad heads of agreement summarising the general obligations of **[Council] the municipality**, the owner of property and / or developer of land in relation to the specified planning area. A contextual framework is prepared by **[Council] the municipality**, or a land owner or development agency under the supervision of **[Council] the municipality**

“**self-catering**” means sole occupancy unit(s) for transient guests, consisting of one or more rooms and self-contained public areas e.g. kitchen, dining area and lounge

“**service agreement**” means a written agreement which is concluded between a property developer and / or owner and **[Council] the municipality**, in terms of which the respective responsibilities of the two parties for the planning, design, provision, installation, financing and maintenance of internal and external infrastructure or engineering services and the standard of such infrastructure or services are determined; which agreement is also applicable to any successor~~[/]~~(s) in title of the developer;

“**service trade**” means an enterprise which **[is]**:

- (iii) is not **[liable]**likely, in the event of fire, **[to cause] to cause** excessive combustion, **[give]**resulting in **[poisonous]**noxious fumes or **[cause]** explosions; and
- (iv) includes a builder’s yard and allied trades, fitment centre for tyres, shock absorbers or exhausts systems, and similar types of uses; but
- (v) excludes **[Does not include]** an abattoir, **[brick-making site] brick yard**, sewage works and service station **[or motor repair garage;]**

“**servitude**” means a registered personal or registered / unregistered praedial right that grants or restricts use over a property or part thereof for specific purposes;

“**shop**” means a property or part of a property used for the retail sale of goods, items and services to the public, including a retail concern where goods which are sold are manufactured and repaired; provided that the floor space relating to such manufacture or repair shall not exceed 50% of the floor space of the shop; “shop” does not include an industry, service trade, motor repair garage, service station, adult entertainment business or sale of alcoholic beverages, and if such uses are included on the property they shall be regarded as separate uses subject to such separate development parameters **[rules]** as may be determined by **[Council] the municipality**;

“**single family**” means a household which may consist of:

- a single parent with or without children; or
- a married or unmarried couple with or without children and / or dependents; or,
- a legal guardian of a child / children,

[means a household, all the members of which are placed under the guidance of a single family head provided that with the exception of unmarried children every member of the household shall be a dependant by commonlaw of the said family head. No more than two unrelated or independent persons who earn and receive an independent income and who maintain a common household.]

“**site development plan**” means a scaled and dimensioned plan which indicates details of proposed development and may include the following:

- (xix) Any other details as may reasonably be required by **[Council]** the municipality such as co-ordinates;

“staff quarters” means a building, whether attached or detached from the main unit for the sole purpose of the housing of staff, and where **[Council]** the municipality may request proof of necessity of staff quarters;

“street boundary” means the boundary which separates a land unit and a public road or private road; provided that the boundary of a pedestrian way or service lane that, in the opinion of **[Council]** the municipality, is not and never will be used by motor vehicles, shall be deemed to be a common boundary for the purpose of determining building lines, street centreline setback and site access requirements;

“structure” has the same meaning as “building” (i.e. Anything built by man); [without in any way limiting its ordinary meaning, includes any building, shelter, wall, fence, pillar, pergola, steps, landing, surfaced or covered driveway, terrace, sign, ornamental architectural feature, swimming pool, fuel pump and underground tank, and any portion of a structure;]

“subdivisional area” means a land unit or land units zoned in a manner permitting subdivision as contemplated in **[the]** Planning Law and which has been made subject to:

- (i) A use determination;
 - (ii) A density determination;
 - (iii) Relevant conditions and stipulations contained in this land use [zoning] scheme;
 - (iv) The planning stipulations of any applicable legislation and or planning documents;
- and
- (v) Any other conditions laid down at the time of the approval for the rezoning;

T

“this land use [zoning] scheme” means the land use [zoning] scheme of the Overstrand municipality;

“tourist accommodation” means the letting of rooms or individual unit(s) (including a dwelling house / unit) on a temporary basis to transient guests where a daily or weekly tariff is applicable, and includes a guest house, **[bed and breakfast]**, backpackers establishment, camp sites, and associated amenities, provided that the use complies with the requirements of any other relevant legislation;

“transport use” means a transport undertaking based on the provision of a transport service and includes a public or private undertaking such as, (but not limited to) an airport, a railway station, a bus depot or bus terminus, a taxi rank, a public transport interchange and, a harbour and associated uses, including communications, transport, accommodation and facilities, sheds, container depots, workshops, offices and directly related shops;

U

“urban agriculture” means the cultivation of crops and or keeping of animals and poultry (which may be sold in neighbouring markets), on relatively small demarcated areas within urban areas **[, for sale in neighbouring markets,]** provided that cultivation of a garden by

an occupant shall not be regarded as urban agriculture for the purposes of control in terms of this land use [zoning] scheme;

“use right” in relation to a land unit, means the right to utilise the land in accordance with its zoning including any lawful approval for a departure, consent use, condition of approval or any other approval granted in respect of the rights to utilise the land.

“utility service” means a use or infrastructure that is required to provide engineering and associated services for the proper functioning of urban development and includes a water reservoir and purification works, electricity substations and transmission lines, waste water pump stations and treatment works, renewable energy infrastructure such as wind turbines and solar panels, whether above or below ground or water, and may include such sustainable service delivery technology as **[Council] the municipality** may approve, but does not include road, or transport use;

V

“vertical division” of a building means a portion of the building with multiple floor levels that is clearly distinguishable as a logical vertical component from the other portions of the building, and where a building is divided in vertical divisions, then every such division shall have a separate base level, with a minimum difference in floor level of one meter, for the purpose of administrating this land use scheme;

[of a building means a portion of the building bounded by external and or internal walls, with or without openings, which portion is clearly identifiable as a logical vertical component from the other portions of the building, and Council may deem that a building is divided in vertical divisions where every such division shall have a separate base level for the purpose of administrating this zoning scheme;]

W

“wendy house” means a wooden structure used primarily for the storage of goods, and may [may] be regarded as an outbuilding, provided that:

- (i) When it exceeds 10 m² in **[size] extent**, building plans must be submitted to **[Council] the municipality** for consideration;

Z

“zoning map” means an approved map or maps **[showing] indicating** the land units within **[Council] the municipality’s** area of jurisdiction and applicable zoning and Overlay Zones;

By amending PART 1: CHAPTER 1 as follows:

- 1.1.1 This document forms part of the land use [zoning] scheme of the Overstrand Municipality, and applies to the area of jurisdiction of the Overstrand Municipality with effect from the date **[that notice of adoption] of [is] publication [published]** in the Provincial Gazette.
- 1.1.3 The land use [zoning] scheme consists of the rules contained in this document, the zoning map or maps which indicate the zoning of property, and the record of all approved departures, special consents and conditions as per the Land Use Register.

By amending and renumbering PART 1: CHAPTER 2 as follows:**Submission of applications**

- 2.1.1 In addition to the requirements stipulated in any other law, the following requirements relate to applications submitted in terms of this land use [zoning] scheme.
- (a) Applicants shall ensure that applications submitted to the Municipality are:
- (i) Clearly and legibly written or typed and explained in plain language;
 - (ii) Fully completed and properly motivated, in the required format and accompanied by the fees and other documents as required by **[Council] the municipality** from time to time; and ...
- [(b) The Municipal Manager or his delegate shall, within fourteen calendar days from the date of receipt of an application, notify the applicant in writing of any aspects that require additional information or documentation, if any.**
- (c) If additional information is required, the date on which the application is resubmitted with the additional information to the satisfaction of the Municipal Manager or delegate shall be the date of the application.]**

[2.2 APPLICATION FOR A CONSENT USE]**[Application for a consent use]**

- 2.2.1 **[The owner of a property may apply to the Council to use the property concerned, for the purposes of a consent use that is permitted in a particular zone with the Council's consent;**
- 2.2.2 **Where the Council is of the opinion that any land owner may have an interest in the application, the Council may first advertise the application concerned, and the provisions of 2.4 will apply.**
- 2.2.3 **The Council may grant or refuse its consent and the provisions of 2.4 will apply.**

Conditions applicable to consent uses

- 2.2.4 **Any consent use in a primary zone shall be subject to the development parameters of that zone and to the particular restrictions provided for a particular use in the zone concerned, unless special land use restrictions apply in respect thereof; and**

- 2.2.4 The Council may impose other conditions with regard to the specific property concerned.]

[2.3 APPLICATION FOR THE CONSOLIDATION OF LAND UNITS]

[Application for the consolidation of two or more properties]

- 2.3.1 [No person shall from the commencement of these regulations consolidate any land except in accordance with an application granted under 2.3.6 by the Council.
- 2.3.2 An owner of land may apply in writing to the Municipal Manager for the granting of approval to consolidate land.
- 2.3.3 The Municipal Manager may:
- (a) Require that the application be advertised if, in the opinion of the Municipal Manager, the proposed consolidation may adversely affect the character of the area or the interests that any person has in land; and
 - (b) Request the comment of any person or entity that in the opinion of the Municipal Manager has an interest in the application.
- 2.3.4 If the Municipal Manager acted in terms of 2.3.3 he or she shall submit copies of the objections or comments received to the applicant for comment.
- 2.3.5 The Municipal Manager shall submit the application and all relevant documents to the Council for consideration.
- 2.3.6 The Council may grant or refuse an application under 2.3.2; provided that such an application may only be refused on the basis of its effect on existing rights concerned or to preserve the built form and character of the surrounding area.
- 2.3.7 When the Council grants an application for consolidation it:
- (a) May do so subject to such conditions as it deems fit;
 - (b) Shall notify the applicant and the Surveyor-General concerned of the Council's decision and where applicable furnish them with a copy of the conditions imposed by the Council.]

2.2 ADDITIONAL REQUIREMENTS RELATING TO PUBLIC PARTICIPATION

Advertisements

- 2.2.1 Advertising of all applications shall take place in accordance with the requirements of applicable planning law, applicable legislation and **[Council]** the municipality's advertising policy, as approved by **[Council]** the municipality from time to time.

[Petitions

- 2.4.2 In addition to requirements stipulated in any other law, the following requirements relate to objections submitted in the form of a petition.
- (a) All petitions shall clearly indicate:

- (i) The full name, national identity number and physical address of each signatory;
 - (ii) The full name, postal address, telephone number and facsimile of no more than two specified persons to whom further communication relating to the application may be directed; provided that where such information is not made available, the Council shall direct further communication only to the first person who signed such petition and whose address is known; and only the first objector will be recorded as the legal objector; and
 - (iii) Each page of a petition containing the signature of a petitioner shall contain at least a summary of the objection.
- (b) Any written notification by the Council to petitioners shall be regarded as sufficient if such notification is sent to the persons contemplated in 2.4.2(a) (ii) above.
 - (c) Any petition that does not comply with the above requirements will not be considered and processed as valid objection.
 - (d) Any petition submitted in terms of 2.4.1 establishes a single right of appeal with respect to decisions taken in terms of this land use scheme.]

[2.5 DECISIONS]

[Procedures for decisions]

2.5.1 Council may approve or refuse an application submitted in terms of this land use scheme, and may impose conditions on approval.

2.5.2 The Council shall, when considering an application in terms of this land use scheme, take into account, but not limited to the following:

- (a) The general purpose of the land use scheme;
- (b) Principles and policies established for such applications in terms of relevant legislation by national, provincial and municipal spheres of government, as may be amended from time to time;
- (c) Any objections received on or before the closing date in response to an advertisement of the application, as well as comments received from other organs of state;
- (d) Any response received from the applicant to objections and comments;
- (e) Any approved integrated development plan, spatial development framework or sectoral plan that applies to the application or area concerned;

Provided that Council shall not refuse any application solely on the basis of trade competition.]

[2.6 CONDITIONS OF APPROVAL]

2.6.1 The Council may impose conditions of approval for applications submitted in terms of this land use scheme, including approval for a consent use, and such conditions may include provisions not contained in this land use scheme but which are consistent with the general purposes of the land use scheme and

requirements of the Planning Law, or any other requirements deriving from the circumstantial factors surrounding the application.

- 2.6.2** If the Council grants its consent in terms of this land use scheme it may, in addition to any other conditions, impose conditions of approval that:
- (a) Limit the consent use for a specific period of time;
 - (b) Limit the consent use to a specific activity described in the definition of the use in this land use scheme;
 - (c) Require that a consent use does not adversely affect the potential of the property to be used for its primary uses in terms of this land use scheme.
- 2.6.3** If Council grants its consent in terms of this land use scheme, it may require that a copy of the approved general plan or section plan be submitted to Council, prior to clearance certificates being issued for the purpose of transfer.]

2.3 [2.7] VALIDITY OF INFORMATION

- 2.3.1** Any information in connection with this land use [zoning] scheme, that is given by an official to a person making enquiries, shall only be valid if it is in writing, signed by the official with the delegated power of **[Council] the municipality**, and if such information is not in conflict with the provisions of this land use [zoning] scheme, the zoning map, or an approval granted by **[Council] the municipality**, or any applicable legislation.
- 2.3.2** At all relevant times when considering the furnishing of the information referred to in clause **[2.7.1] 2.3.1**, the provisions of the Promotion of Access to Information Act will apply, **[or]** as amended.

[2.8 APPEALS]

[Appeals]

- 2.8.1** An applicant or person who has objected to an application may submit an appeal against a decision relating to the application in terms of this land use scheme, and the appeal procedures as stipulated in Planning Law will *mutatis mutandis* apply for processing appeals submitted in terms of this regulation.
- 2.8.2** An objection submitted in the form of a petition establishes a single right of appeal and will be considered and processed as a single appeal.]

2.4 [2.9] ERRORS ON ZONING MAPS

- 2.4.1** In the event that a zoning has been wrongly allocated on the zoning map or wrongly converted from a former zoning map associated with a former land use [zoning] scheme, the owner of the property, or the municipality, after consultation with the owner, may submit an application to **[Council] the municipality** to correct such error, subject to the following provisions:
- (a) The applicant must submit material proof of an error and proof of the lawful land use rights;
 - (b) The applicant must propose a suitable zoning to be allocated to the property;

- (c) The application procedures in accordance with the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended will apply; and
- (d) The applicant will be exempted from the payment of any application fee.

2.4.2 **[Council]** The municipality shall consider an application submitted in terms of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 [2.9.1] and if such application is approved, shall amend its zoning maps in accordance with the approval.

By amending PART 1: CHAPTER 3 as follows:

- 3.1.2 (b) With a split-zoning where one base zone applies to a portion of the land unit and one or more other base zones apply to other defined portions of the land unit, provided that where a split-zoning is envisaged the applicant must submit a plan prepared by a suitably qualified land surveyor, clearly identifying the area of each base zone concerned, to the satisfaction of **[Council]** the municipality; and
- 3.1.6 All property owners, within the urban edge (as indicated in the applicable SDF, are limited to the keeping of household pets as defined. The keeping of household pets is subject to any applicable legislation, By-Law and or policy relating to household pets.

Bulk zones

- [3.1.6]** 3.1.7 Certain use zones make provision for different bulk zones that distinguish between different building forms or intensity of land use, through different development parameters [rules]. In order to change or relax the development parameters [rules] applicable to a property regulated by a bulk zone, the following must be submitted and approved and the municipality may determine which method shall be used:
- (a) an application for a departure from the development parameters [rules] or bulk zone; or
 - (b) an application for a rezoning to another use zone; **[must be submitted and approved, and Council the municipality may determine which method shall be used.]**

3.2 CATEGORIES OF USES

Primary uses

- 3.2.1 The use of a property for any purposes specified as a primary use in this land use [zoning] scheme for that property is permitted without the consent of **[Council]** the municipality, provided that such use conforms to the provisions specified in the particular zone, overlay zone where applicable and definitions in this land use [zoning] scheme.

[Consent uses

- 3.2.2 **The use of a property for any purposes specified as a consent use in this land use scheme for that property is permitted only if the Council grants its prior written consent.**

3.2.3 The Council may grant or refuse an application for a consent use.

3.2.4 The Council may limit its approval of a consent use application to one or more uses included within the definition of the consent use.]

Additional use rights

3.2.2 [3.2.5] An activity or use described as an “Additional Use Right” in a particular zone is a primary use in that zone, provided that any conditions specified for such activity or use are adhered to. In this scheme additional use rights are only applicable to Authority Zone 1 and Community Zone 1 **[and the Less Formal Development Zone]**.

Uses not permitted

[3.2.6] 3.2.3 Subject to any provisions to the contrary in the Land Use Scheme [Planning Law] and or any condition of title, property may not be used for any purpose without the approval of the municipality.**[which is not specified in this land use scheme.]**

[3.2.7 A property shall only be used for the purposes set out in the primary or consent use provisions for a particular zone.]

Special uses

3.2.4 [3.2.8] A special use may be permitted in the Special Zone with the consent of the **[Council] municipality.**

Occasional uses

[3.2.10] 3.2.5 The occasional use conforms **[with]to** the **[Council] municipality's By-law [policy, if such policy exists;]** provided that the approval does not absolve the applicant from compliance with any other relevant legislation.

[3.2.11] 3.2.6 Approval granted under **[3.2.10] 3.2.5** shall be subject to such conditions as the **[Council] municipality** may impose, which may include, but are not limited to, the following:

- (a) That the applicant provides parking and toilet facilities to the **[Council] municipality's** satisfaction;
- (b) That such occasional use does not extend beyond the hours of operation or duration in terms of days as determined by the **[Council] municipality;** and
- (c) That such approval may be withdrawn by written notice to the applicant, if in the opinion of the **[Council] municipality,** any condition of approval is not complied with or if a public nuisance is created.
- (d) The municipality may determine a public participation process, with special regard to the affected community.

Uses shown on building plans

[3.2.13] 3.2.7 A building plan may not be considered and approved in terms of the National Building Regulations and Building Standards Act No 103 of 1977, or as amended, where the uses indicated on the property or within the proposed building or structures are in contradiction with this land use [zoning] scheme, or any other legislation.

[3.2.14] **[If any building plan is approved showing uses on a property, such uses are not considered to have been approved in terms of this land use scheme.]**

[3.2.15] **[A lawful non-conforming use shall not constitute an offence in terms of this land use scheme.]**

By amending and renumbering PART 1: Chapter 4 as follows:

4.1 [SUMMARY OF USE ZONES AND DEVELOPMENT RULES

4.1.1 Table A overleaf contains a summary of the zones and development rules contained in this land use scheme. This table is provided for ease of reference, but the detailed development rules are contained in Part 2 of this document. In the event of a difference between Table A and Part 2, the provisions of Part 2 shall prevail.]

4.1 INTERPRETATION

Rules for interpretation

4.1.1 The following rules of interpretation shall apply:

- a) In this land use scheme, in the register, in any note on the zoning map and in any condition imposed in terms of this land use scheme, the words and expressions shall have the meanings assigned to them in accordance with the definitions contained in these land use scheme regulations, except where a contrary interpretation is clear from the context. Interpretation of words not defined in this chapter will have the meanings assigned to them in the “New Shorter Oxford English Dictionary” published by Oxford University Press, except where a contrary interpretation is clear from the context.
- b) Headings contained in this land use scheme shall be used for reference purposes but shall not be construed to govern, limit or modify the meaning or intent of any provision of the land use scheme.
- c) The masculine gender includes the feminine and neuter, and vice versa, and the singular includes the plural unless the context indicates otherwise.
- d) Whenever reference is made to a law, ordinance or by-law, the reference applies to all substitutions, amendments and additions of that law, ordinance or by-law.
- e) Whenever reference is made to the use of a building, land unit or property, the reference applies also to the erection of a building, to the use of part of a building and to the use of a land unit, whether a building is erected on the land unit or not.
- f) It is understood that the terms “must” and “shall” are mandatory, and the term “may” is not mandatory unless the context clearly indicates otherwise.

- g) The municipality's interpretation of the text shall prevail unless the contrary is proven.

Methods of measuring distances, levels and heights

4.1.2 The following provisions apply with regard to measuring distances, levels or heights:

- a) If required by the municipality, the owner or applicant shall appoint a registered surveyor to supply or verify information necessary for the municipality to make a decision about compliance with distances or heights required in terms of this land use scheme.
- b) Where reference is made or implied to the distance between boundaries or between a building and a boundary, this distance shall be measured in the following manner:
- (i) The boundary or boundaries and all points of the building shall be projected onto a horizontal plane, and all measurements shall be made in such a plane.
- (ii) The distance between a point on a building and a boundary shall be measured at the shortest distance between the point and the boundary.
- c) Where reference is made to a portion of a boundary "opposite" a building, such portion shall be defined by drawing lines in a manner described in clause (b), from points on such building, at right angles to such boundary.
- d) Where reference is made to a distance, ground level or height of a point on a building or other measurement, then such distance, level or height shall be calculated in accordance with the land use scheme. In any case where the distance, level or height involved is so irregular that calculation in accordance with these principles is impractical or leads to a result which is clearly not in accordance with the intent of the land use scheme, the municipality shall determine the distance, level or height concerned for the purpose of administering this scheme.

Interpretation of boundaries

4.1.3 Where uncertainty exists as to the boundaries of use zones, the following rules apply in the order listed:

- a) Boundaries shown as following or approximately following any public street or road shall be construed as following the street or road cadastral boundary.
- b) Boundaries shown as following or approximately following any land unit boundary shall be construed as following such cadastral boundary.
- c) Boundaries shown as following or approximately following natural features shall be construed as following such features.
- d) In the event of further uncertainty as to the boundaries of a use zone, the municipality shall make a determination or may appoint a professional land surveyor of his choice to determine the boundaries at the cost of the land owner.

Interpretation of category of use and zoning

4.1.4 The municipality shall determine the category of use or zoning, and its decision shall be final unless the contrary is proven, where:

- a) there is uncertainty or dispute about zoning categories;
- b) there is conflict between the provisions of a zoning map, this land use scheme and the register; and
- c) there is uncertainty or dispute about the zoning of property.

Architectural guidelines

4.1.5 Architectural Guidelines approved prior to the promulgation of the Overstrand Municipality Zoning Scheme 2013, or as amended, shall prevail unless otherwise determined

By amending and renumbering PART 2: Chapter 5 as follows:

CHAPTER 5: AGRICULTURAL AND RURAL ZONES

5.1 AGRICULTURE ZONE 1: AGRICULTURE (AGR1)

5.1.1 The following use restrictions apply to property in this zone:

- (a) **Primary uses** are: agriculture, crèche, dwelling house, **[day care centre]**, guest rooms, home occupation;
- (b) **Consent uses** are: additional dwelling units, agricultural industry, animal care centre, aquaculture, day care centre, **[crèche]**, farm shop / stall, fertilizer plant, guest house, hotel, institution, intensive animal farming, intensive horticulture, lodge, mining, place of assembly, place of entertainment, place of instruction, plant nursery, riding stables, **[rooftop base,]** service trade, tourist accommodation, tourist facilities, transmission apparatus **[tower]**, utility services, wellness centre, 4 x 4 trail.

Development parameters [rules]

5.1.2 The following parameters [rules] apply:

(a) **Floor space**

The total floor space of all buildings on the land unit, may not exceed 5 000m²; provided that **[Council]** the municipality may relax this requirement if it is satisfied that such buildings are required for bona fide farming activities on the land unit.

(c) **Height**

- (i) The maximum height of a building, measured from the base level to the top of the structure **[roof]** is 8,0 m, provided that;
- (ii) Agricultural buildings other than dwelling units shall not exceed a height of 12,0 m measured from the base level to the top of the structure **[roof]**; and where **[Council]** the municipality is satisfied that a greater height is necessary for the agricultural function of the building, it may permit such greater height; and

[Additional dwelling units]

5.1.1 The Council may approve additional dwelling units in Agricultural Zone I provided that:

- (a) The additional dwelling units shall remain on the same cadastral units as the primary dwelling unit;
- (b) The number of additional dwelling units shall not exceed the 1 unit per 10,0 ha, up to a maximum of five additional dwelling units per land unit, and
- (c) No additional dwelling units may be erected within 100 m of the high water mark on the coast, other than where additional dwelling units are provided as an integral part of an existing farmstead or with the special consent of Council.

Farm shop/stall

5.1.2 The Council may approve a farm shop provided that:

- (a) The maximum floor area is 300m²;
- (b) The maximum height does not exceed 8,0 m, measured from the base level to the top of the roof;
- (c) Sufficient parking is provided to the satisfaction of Council; and
- (d) The access requirements of the relevant roads authority must be complied with.

Agricultural industry

5.1.3 The Council may approve an agricultural industry, if it is satisfied that the proposed use or activity is desirable, provided that:

- (a) The area affected by the agricultural industry must be clearly identified on a land survey diagram or other plan prepared by a suitably qualified person to Council's satisfaction, and endorsed by Council; and
- (b) The following development rules apply:
 - (i) A site development plan, must to be submitted to Council's satisfaction, in terms of 16.3, for all new development or extensions within an area determined in terms of (a) above; and
 - (ii) Parking and access shall be provided on the identified portion in terms of Chapter 17, provided that Council may require additional parking and loading requirements in response to the operational requirements of a particular agricultural industry.

Guest rooms

5.1.4 The following provisions shall apply where a portion of a property is used for the purposes of guest rooms or where rooms are let by an occupant of that property to paying guests or lodgers:

- (a) No more than two rooms per property shall be used for the bedroom accommodation for paying guests or lodgers, and no more than 5 guests or lodgers shall be supplied with lodging or meals at any one time;
- (b) Guest rooms may not be converted to, or used as, separate dwelling units, and there shall be no cooking facilities in the guest rooms, apart from a kettle;

- (c) Meals shall only be supplied by the landowner or manager to guests or lodgers who are staying on the property;
- (d) No advertising sign shall be displayed without the written approval of Council other than a single un-illuminated sign or notice affixed to the building or boundary wall or fence, and such sign must be in line with the Overstrand Signage By-Law; and
- (e) One on-site parking bay shall be provided per guest room.

Day care centre

5.1.5 The following provisions shall apply where a portion of the property is used by the occupant of the property for the purposes of a day care centre:

- (a) No more than 5 children are permitted at any one time;
- (b) A register of children must be kept, and completed, and the register must be produced for inspection on the request of Council;
- (c) The services shall be primary day care or educational and not medical;
- (d) The hours of operation shall be restricted to 07h00 and 18h00 from Mondays to Friday and from 07h00 to 13h00 on Saturdays;
- (e) The proprietor of the day care centre shall reside on the property;
- (f) No more than two assistants may be employed at the day care centre; and
- (g) The minimum indoor and outdoor play space shall be provided as follows:

Indoor Play Space	Outdoor Play Space
1,5 m ² per child	2,0 m ² per child

Home occupation

5.1.6 The following provisions shall apply where a portion of the property is used for the purposes of home occupation:

- (a) The dominant use of the dwelling house or dwelling unit shall be for the living accommodation of a single family;
- (b) The total area used for a home occupation shall not exceed 25% of the total floor area of the buildings on the property;
- (c) No more than 5 persons in total shall be engaged in home occupation activities on the property, including the occupants or the occupant and any assistants;
- (d) No portion of such dwelling, and no home occupation shall be used for the purposes of noxious trade, risk activity or sale of alcoholic beverages;
- (e) No advertising sign shall be displayed without the written consent of the Council other than a single un-illuminated sign or notices affixed to the building or boundary wall or fence, and such sign must be in line with the Overstrand by-law relating to outdoor advertising and signage;
- (f) The storage of products, goods, or supplies connected to the home occupation shall be inside a building or screened from neighbours and public streets;

- (g) The hours of operation are restricted to 07h30 and 17h30 Monday to Friday and 7h30 to 13h00 on Saturdays;
- (h) On site parking must be provided to the satisfaction of Council, provided that at least two on site parking bays are provided;
- (i) No more than one vehicle, not exceeding 3 500 kg gross weight, shall be utilised for the home occupation; and
- (j) The Council may impose additional conditions in order to minimise any potential public nuisance.]

Additional dwelling units

5.1.3 The provisions of Chapter 16.10 apply.

Farm shop/stall

5.1.4 The provisions of Chapter 16.10 apply.

Agricultural industry

5.1.5 The provisions of Chapter 16.10 apply.

Guest rooms

5.1.6 The provisions of Chapter 16.10 apply.

Guest house

5.1.7 The provisions of Chapter 16.10 apply.

Day care centre

5.1.8 The provisions of Chapter 16.10 apply.

Home occupation

5.1.9 The provisions of Chapter 16.10 apply.

Transmission apparatus

5.1.10 The provisions of Chapter 16.10 apply.

Site development plan

5.1.11 **[5.1.9] [Council]** The municipality may require that a site development plan be submitted for approval in accordance with Chapter 16.3.

[RURAL ZONES]

RURAL ZONE 1: AGRICULTURAL SMALL HOLDINGS (R1)

Use of the property

5.2.1 The following use restrictions apply to property in this zone:

- (a) **Primary uses** are: agriculture, crèche, dwelling house, **[day care centre]**, guest rooms, home occupation;
- (b) **Consent uses** are: agricultural industry, animal care centre, aquaculture, conservation use, day care centre **[crèche]**, farm shop / stall, intensive animal farming, intensive horticulture, place of assembly, place of entertainment, place of instruction, plant nursery, recreational facilities, riding stables, **[rooftop base,]** second dwelling unit, tourist accommodation, tourist facilities, transmission apparatus **[tower]**, utility services.

Development parameters [rules]

5.2.2 The following parameters [rules] apply:

(a) **Floor space**

The total floor space of all buildings on the land unit[,may], may not exceed 2 000m²; provided that **[Council]** the municipality may relax this requirement if it is satisfied that such buildings are required for **[genuine]** bona fide farming activities on the land unit.

(c) **Building lines**

(ii) Where the configuration of the land unit, is of such a nature that alternative building lines need to be considered, **[Council]** the municipality may approve such alternative building lines to permit the use of the property as defined in this zone, provided that where Rural Zone 1 abuts an urban area the building lines of the adjacent property shall apply along the shared boundary; and

(d) **Height**

- (i) The maximum height of a building, measured from the base level to the top of the structure **[roof]** is 8,0 m;
- (ii) Agricultural buildings other than dwelling units shall not exceed a height of 10,0 m measured from the base level to the top of the structure **[roof]**; provided that where **[Council]** the municipality is satisfied that a greater height is necessary for the agricultural function of the building, it may permit such greater height; and

Minimum subdivision size

5.2.3 The provisions of Chapter 16.10 apply.

[The following development rules apply:

- (a) **No new subdivision or any remainder to be zoned Rural Zone 1 shall be less than:**
 - (i) **5,0 ha, if no minimum subdivision size is specified on the zoning map; or**

- (ii) **Where Council has specified a minimum subdivision size, as indicated on the zoning map in terms of an overlay zone for the area concerned, that minimum subdivision size applies.]**

Second dwelling unit

5.2.4 The provisions of Chapter 16.10 apply.

[The following development rules apply to a second dwelling unit:

- (a) **The floor area of the second dwelling unit shall not exceed 250 m² in area;**
- (b) **A second dwelling unit shall be constructed in a similar architectural style and with external material, finishes and colour similar to the primary dwelling unit;**
- (c) **A second dwelling unit may be contained within the same building as a primary dwelling unit and may be either on the ground or first floor; and**
- (d) **A second dwelling unit may not be separately alienated in terms of the Sectional Title Act.]**

Farm shop/stall

5.2.5 The provisions of Chapter 16.10 apply.

[The provisions of 5.1.4 apply.]

Agricultural industry

5.2.6 The provisions of Chapter 16.10 apply.

[The provisions of 5.1.5 apply.]

Guest rooms

5.2.7 The provisions of Chapter 16.10 apply.

[The provisions of 5.1.6 apply.]

Day care centre

5.2.8 The provisions of Chapter 16.10 apply.

[The provisions of 5.1.7 apply.]

Home occupation

5.2.9 The provisions of Chapter 16.10 apply.

[The provisions of 5.1.8 apply.]

Transmission apparatus

5.1.10 The provisions of Chapter 16.10 apply.

Site development plan

5.2.11 **[Council]** The municipality may require that a site development plan be submitted for approval in accordance with Chapter 16.3.

RURAL ZONE 2 : CONSERVATION USAGE (R2)

Use of the property

5.3.1 The following use restrictions apply to property in this zone:

- (a) **Primary uses** are: conservation use, dwelling house, guest rooms and home occupation;
- (b) **Consent uses** are: agriculture, aquaculture, day care centre, harvesting of natural resources, intensive animal farming, intensive horticulture, place of assembly, place of entertainment, place of instruction, plant nursery, recreational facilities, **[rooftop base,]** second dwelling unit, tourist accommodation, tourist facilities, transmission apparatus **[tower]**, **[utility]**and utility services.

Development parameters

5.3.2 The following development parameters **[rules]** apply:

(a) **Floor space**

The total floor space of all buildings on the land unit may not exceed 800m²; provided that **[Council]** the municipality may relax this requirement if it is satisfied that such accommodation is required for bona fide conservation and / or farming activities on the land unit.

(c) **Building lines**

- (ii) Where the configuration of the land unit, is of such a nature that alternative building lines need to be considered, **[Council]** the municipality may approve such alternative building lines to permit the use of the property as defined in this zone, provided that where Rural Zone 2 abuts an urban area the building lines of the adjacent property shall apply along the shared boundary; and

(d) **Height**

- (i) The maximum height of a building, measured from the base level to the top of the structure **[roof]** is 8,0 m; **[provided that];**
- (ii) Where **[Council]** the municipality is satisfied that a greater height is necessary for the agricultural function of the building, it may permit such greater height; **[and]**

Minimum subdivision size

5.3.3 The provisions of Chapter 16.10. apply

[The following development rules apply:

(a) No new subdivision or any remainder to be zoned Rural Zone 2 shall be less than:

(i) 5,0 ha, if no minimum subdivision size is specified on the zoning map; or

(ii) Where Council has specified a minimum subdivision size, as indicated on the zoning map in terms of an overlay zone for the area concerned, that minimum subdivision size applies.]

Second dwelling unit

5.3.4 The provisions of Chapter 16.10. apply

[The provisions of 5.2.4 apply.]

Guest rooms

5.3.5 The provisions of Chapter 16.10. apply

[The provisions of 5.1.6 apply.]

Day care centre

5.3.6 The provisions of Chapter 16.10. apply

[The provisions of 5.1.7 apply.]

Home occupation

5.3.7 The provisions of Chapter 16.10. apply

[The provisions of 5.1.8 apply.]

Transmission apparatus

5.3.8 The provisions of Chapter 16.10 apply

Site development plan

5.3.9 **[5.3.8][Council]** The municipality may require that a site development plan be submitted for approval in accordance with 16.3.

5.4 RURAL ZONE 3: AGRI-VILLAGE (R3)

Use of the property

5.4.1 The following use restrictions apply to property in this zone:

- (a) **Primary uses** are: agriculture, crèche, dwelling house, town housing, home occupation, **[day care centre,**]private open space, private road, second dwelling unit;
- (b) **Consent uses** are: agricultural industry, clinic, community facility, day care centre, **[crèche,]** farm shop / stall, guest house, house shop, intensive animal farming, intensive horticulture, market, place of assembly, place of instruction, plant nursery, restaurant, retirement village, **[rooftop base,]** shelter, shop, tourist accommodation, tourist facility, transmission apparatus **[tower],** and utility services.

Development parameters [rules]

5.4.2 The following parameters [rules] apply:

- (c) **Height**
 - (i) The maximum height of a building, measured from the base level to the top of the structure **[roof]** 8,0 m; **[provided that]**
 - (ii) Where **[Council]** the municipality is satisfied that a greater height is necessary for the agricultural function of a building, it may permit such greater height; **[and]**
- (d) **Building lines**
 - (iv) **[Council]** the Municipality may require a 3,0 m combined building line between structures for reasons of health and safety.
- (g) **Additional requirements**

The following additional requirements apply in this zone:

- (iv) Engineering services must be provided to the satisfaction of **[Council]** the municipality.

Second dwelling unit

5.4.3 The provisions of Chapter 16.10 apply.

[The provisions of 5.2.4 apply, provided that:

- (a) **Where a wendy house or shelter is utilised for accommodation uses, such wendy house or shelter shall be regarded as a second dwelling unit; and**
- (b) **A second dwelling unit may not exceed 120 m².]**

Farm shop/stall

5.4.4 The provisions of Chapter 16.10 apply.

[The provisions of 5.1.4 apply.]

Agricultural industry

5.4.5 The provisions of Chapter 16.10 apply.

[The provisions of 5.1.5 apply.]

Guest rooms

5.4.6 The provisions of Chapter 16.10 apply.

[The provisions of 5.1.6 apply.]

Day care centre

5.4.7 The provisions of Chapter 16.10 apply.

[The provisions of 5.1.7 apply.]

Home occupation

5.4.8 **[5.4.7]** The provisions of Chapter 16.10 apply.

[The provisions of 5.1.8 apply, provided that:

- (a) **No more than 5 persons in total shall be engaged in home occupation activities in a dwelling unit, including occupants or the occupant and any assistants; and**
- (b) **On site parking shall be provided to the satisfaction of Council.]**

House shop

5.4.9 The provisions of Chapter 16.10 apply

[The following provisions shall apply where a portion of a dwelling unit or outbuilding is used

for the purposes of a house shop, by one or more occupants of a property:

- (a) The maximum floor area of that portion of a dwelling unit or second dwelling unit that is used for the purposes of a house shop shall not exceed 30,0m² or 25% of the floor area of the dwelling unit, whichever is the most restrictive;
- (b) No more than 3 persons, including the occupant or occupants of the dwelling unit, are permitted to be engaged in retail activities on the property, other than with the consent of Council;
- (c) No portion of the house shop shall be used for the purposes of noxious trade, risk activity, sale of alcoholic beverages, place of entertainment or gambling purposes;
- (d) No products, goods, or supplies connected to the house shop may be stored on the property outside a building;
- (e) Any new structure or alteration to the existing structure must conform to the residential character of the area concerned;
- (f) Only one un-illuminated sign, shall be permitted, which shall be fixed to the building or boundary wall or fence, and such sign shall be in line with the Overstrand by-law relating to outdoor advertising and signage;
- (g) The hours of operation and trading shall be restricted to 8h00 to 17h00 from Monday to Friday and from 8h00 to 13h00 on Saturday, and does not include public holidays or Sundays, or such trading hours as permitted by Council;
- (h) On site parking shall be provided to the satisfaction of Council;
- (i) Permission to operate a house shop is granted to a particular operator and is not transferable
- (j) No more than one vehicle, not exceeding 3 500 kg gross weight shall be utilised for the house shop; and
- (k) Permission may only be granted for a fixed period, not exceeding 5 years and may on application, be extended by the Council, for a period determined by the Council.]

Transmission apparatus

5.4.10 The provisions of Chapter 16.10 apply

Site development plan

5.4.11 **[Council]** The municipality may require that a site development plan be submitted for approval in accordance Chapter with 16.3.

By amending and renumbering PART 2: Chapter 6 as follows:

16.1 RESIDENTIAL ZONE 1: SINGLE RESIDENTIAL (SR1)

Use of the property

6.1.1 The following use restrictions apply to property in this zone:

- (a) **Primary uses** are: [**day care centre**,]crèche, dwelling house, guest rooms, home occupation, second dwelling unit, self-catering;
- (b) **Consent uses** are: [**crèche**], day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building, [**intensive**] and intensive horticulture.

Development parameters [rules]

6.1.2 The following parameters [rules] apply:

(a) **Coverage**

The maximum coverage for all buildings on the land unit is determined in accordance with the net erf area as listed in the table below:

Net erf area	Maximum coverage
<u>Less than 150m²</u>	<u>80%</u>

(b) **Building lines**

- (i) Street building line
The street building line is determined in accordance with the net erf area as listed in the table below:

Net erf area	Street building line
<u>Less than 150m²</u>	<u>1,0 m</u>

- Where a garage obtains direct access off the street, a 4,0 m building line applies.
- The street building line of erven of 400 m² and greater is 4,0 m, provided that:
 - erf with an average depth of 20,0 m or less has a 3,0 m street building line.

[provided that erven of 400m² and greater:

- **An erf with an average depth of 20,0 m or less has a 3,0 m street building line; and**
- **where a garage obtains direct access off the street a 4,0 m building line applies.]**

- (ii) Side and rear building line

The side and rear building lines are determined in accordance with the net erf area, as listed in the table below:

Net erf area	Side and rear building lines
<u>Less than 150 m²</u>	<u>At least 1,0 m one side and 0 m on the other side. Rear = 1,0 m.</u>

c) Height

- (i) The maximum height of a building measured from the base level to the top of the structure [roof] is 8,0 m

Subdivision and density standards

6.1.3 The provisions of Chapter 16.10 apply.

[(a) Minimum subdivision area

Council may specify the minimum size of a subdivisional area in terms of an overlay zone and may prescribe the minimum size of subdivided portions to be achieved in such zone.]

[(b) Maximum density

Council may specify a maximum density for a land unit in terms of an overlay zone.]

Second dwelling unit

6.1.4 The provisions of Chapter 16.10 apply.

[The provisions of 5.2.4 apply; provided that:

- (a) The total floor area of the second dwelling units shall not exceed 120m²;**
(b) The same development rules apply as for the primary dwelling unit;
(c) One on-site parking bay must be provided to the satisfaction of Council;
and
(d) Confirmation of the availability of services shall be obtained from the Director of Infrastructure and Planning or his successor in title.]

Self-catering

6.1.5 The provisions of Chapter 16.10 apply.

Guest rooms

6.1.6 The provisions of Chapter 16.10 apply.

[6.1.5 The provisions of 5.1.6 apply.]

Day- care centre

6.1.7 The provisions of Chapter 16.10 apply.

[The provisions of 5.1.7 apply, provided that:

- (a) No more than 3 persons in total shall be engaged in the day care centre activities on the property, including the occupants or occupant and any assistants.]**

Home occupation

6.1.8 The provisions of Chapter 16.10 apply.

[6.1.7 The provisions of 5.1.8 apply, provided that:

(a) No more than 3 persons in total shall be engaged in the home occupation activities on the property, including the occupants or occupant and any assistants; and

(b) On site parking must be provided to the satisfaction of Council, provided that at least one on-site parking bay is provided.]

House shop

6.1.9 The provisions of Chapter 16.10 apply.

[6.1.8 The provisions of 5.4.9 apply.]

Sectional title

6.1.10 No portion of a property zoned for single residential use, may be alienated in terms of the Sectional Title Act, or as amended.

6.2 GENERAL RESIDENTIAL ZONE 1: TOWN HOUSING (GR1)

Use of the property

6.2.1 The following use restrictions apply to property in this zone:

- a. **Primary uses** are: **[dwelling house in accordance with 6.1.2,]**town housing, private road, private open space;
- (b) **Consent uses** are: crèche, day care centre, dwelling house in accordance with 6.1.2, flats, green house, home occupation, residential building, retirement village, tourist accommodation.

Development parameters [rules]

6.2.2 The following parameters [rules] apply:

(a) **Density**

- (i) The maximum gross density in this zone is 35 units a hectare.
- (ii) A minimum erf size of 3000m² is applicable for densification

(b) **Coverage**

The maximum coverage for all buildings on the land unit is **[50]65%**.

- (c) **Height**
(i) The maximum height of a building measured from the base level to the top of the structure [roof] is 8,0 m

- (d) **Building lines on the perimeter of a town housing development**

- (i) The building line on the perimeter of the property is 3,0 m; and
(ii) The general building line exemptions of 16.1 apply.

[The following building lines apply on the perimeter of a town housing site:

- (i) **The street building line is 5,0 m;**
(ii) **The side building line is 3,0 m;**
(iii) **The rear building line is 3,0 m; and**
(iv) **The general building line exemptions of 16.1 apply.]**

- (g) **Internal roads**

The minimum internal road reserve width is 8,0 m; provided that **[Council]** the municipality may require a greater road reserve width where it is of the opinion that the vehicular use or length of the road requires a greater road reserve width.

Day-care centre

6.2.4 The provisions of Chapter 16.10 apply.

[The provisions of 5.1.7 apply.]

Home occupation

6.2.5 The provisions of Chapter 16.10 apply.

[The provisions of 5.1.8 apply, provided that in this zone:

- (a) **No more than two persons, including the proprietor may be employed within a dwelling unit;**
(b) **The required parking provision does not apply; and**
(c) **Where a home occupation is conducted from a flat, no more than 2 persons in total shall be engaged in the home occupation activities within the dwelling unit, including occupants or occupant and assistants.]**

Site development plans

6.2.6 **[Council]** the municipality may require that a site development plan be submitted for approval in accordance with 16.3.

Open Space Provision

6.2.7 The following requirements to the satisfaction of the municipality is applicable:

- a. Communal open space of at least 10% of the whole property must be provided as outdoor recreational / garden area as one functional space.

6.3 GENERAL RESIDENTIAL ZONE 2: TOWN HOUSING (GR2)

Use of the property

6.3.1 The following use restrictions apply to property in this zone:

- (a) **Primary uses** are: **[dwelling house in accordance with 6.1.2,]**town housing, private open space, private road;
- (b) **Consent uses** are: crèche, day care centre, dwelling house in accordance with 6.1.2, flats, green house, home occupation, residential building, retirement village, **[rooftop base,]** tourist accommodation and transmission **[tower]** apparatus.

Development parameters [rules]

6.3.2 The following development parameters [rules] apply:

- (a) **Density**
- (i) The maximum gross density in this zone is 50 units a hectare.
- (ii) A minimum erf size of 3000m² is applicable for densification.
- (c) **Height**
- The maximum height of a building (other than flats), measured from the base level to the top of the structure **[roof]**, is 8,0 m, provided that the maximum height for flats, measured from the base level to the top of the structure **[roof]**, is 9,0 m.
- (d) **Building lines on the perimeter of a town housing development**
- (i) The building line on the perimeter of the property is 3,0 m.
- (ii) The general building line exemptions of 16.1 apply.
- (g) **Internal roads**
- The minimum internal road reserve width is 8,0 m; provided that **[Council]** the municipality may require a greater road reserve width, where it is of the opinion that the vehicular use or length of the road requires a greater road reserve width.

Day-care centre

6.3.4 The provisions of Chapter 16.10 apply.
[The provisions of 5.1.7 apply.]

Home occupation

6.3.5 The provisions of Chapter 16.10 apply.

[The provisions of 5.1.8 apply, provided that:

(a) No more than two persons, including the proprietor may be employed within a dwelling unit;

(b) The required parking provision does not apply; and

(c) Where a home occupation is conducted from a flat, no more than 2 persons in total shall be engaged in the home occupation activities within the dwelling unit, including occupants or occupant and assistants.]

Site development plans

6.3.6 **[Council]** The Municipality may require that a site development plan be submitted for approval in accordance with 16.3.

Open Space Provision

6.3.7 The following requirements to the satisfaction of the municipality is applicable:

Communal open space of at least 10% of the whole property must be provided as outdoor recreational / garden areas as one functional space

6.3 GENERAL RESIDENTIAL ZONE 3: FLATS (GR3 and GR4)

Use of the property

6.4.1 The following use restrictions apply to property in this zone:

- (b) **Consent Uses** are: crèche, day care centre, home occupation, hotel, institution, place of assembly, place of instruction, place of worship, retirement village, tourist accommodation, and transmission apparatus [tower].

Development parameters [rules]

6.4.2 The following development parameters [rules] apply:

(a) Density

A minimum erf size of 3000m² is applicable for densification

(b) [a] Floor factor and coverage

(c) [b] Height

- (i) The maximum height of a building measured from the base level to the top of the structure [roof] is determined in accordance with the bulk zone as specified in the table below:

(d) [c] Setback

- (i) The **[Council]** municipality may require an 8,0 m setback from the centreline of the abutting street, provided that **[Council]** the municipality may permit stoeps to be located within the setback line; and

(e) [d] Building lines

- (ii) The side building line is 4,5 m, provided that where a fourth storey is provided, **[Council]** the Municipality may require the fourth storey to be set back 6,0 m from the property boundary;
- (iii) The rear building line is 3,0 m provided that where a fourth storey is provided, **[Council]** the Municipality may require the fourth storey to be set back 6,0 m from the property boundary; and

(f) Open space

- (i) Every block of flats, residential building or hotel in this zone must have access to an outdoor living area, and will provide [which may include private or] communal open space, but excludes parking, service yards and roads; and
[(ii)] [May include gardens, balconies, courtyards and outdoor recreational areas.]
- (ii) Communal open space of at least 10% of the whole property must be provided as outdoor recreational / garden areas as one functional

Home occupation

6.4.3 The provisions of Chapter 16.10 apply.

[Where a home occupation is conducted from a flat no more than 2 persons in total shall be engaged in the home occupation activities within the dwelling unit, including occupants or occupant and assistants.]

Transmission apparatus

6.4.4 The provisions of Chapter 16.10 apply

Site development plan

6.4.5 [6.4.4][Council] The municipality may require that a site development plan be submitted for approval in accordance with 16.3.

6.5 LESS FORMAL DEVELOPMENT ZONE: (LFD)**Use of the property**

6.5.1 The following use restrictions apply to property in this zone:

- (a) **Primary uses** are: crèche, **[day care centre,]** dwelling house, guest rooms, home occupation, private road, private open space, second dwelling unit, shelter, **[informal trading]**;
- (b) **Consent uses**, are: authority use, clinic, day care centre, **[crèche,]** flats, house shop, institution, place of assembly, place of instruction, place of worship, residential building, service trade, urban agriculture, utility service and a bottle store

Development parameters [rules]

6.5.2 The following development parameters [rules] apply:

(b) **Building lines**

The following building lines apply where the less formal settlement has occurred or is intended to occur in terms of an approved layout or cadastral plan:

- (i) The street building line is **[2,0] 1,0 m**;
- (ii) At least 1,0 m one side and 0 m on the other side **[The side building line is 1,0 m;]**;
- (iii) The rear building line is 1,0 m; provided that:
- (iv) **[Council]** The Municipality may require a 2,0 m building line where a mid-block sewer system is installed or planned to be installed.

(c) **Spaces between buildings and roads**

The following spaces must be provided between buildings and roads, where the settlement has not occurred or is not intended to occur in terms of an approved layout or cadastral plan:

- (i) Every building shall be set back at least **[2,0 m] 1,0 m** from the edge of a road or thoroughfare;
- (ii) No building shall be erected closer than **[2,0 m] 1,0 m** to an adjacent building;
- (iii) Where 4 dwelling units or shelters are attached to each other, the municipality may require a space of 2,0 m between such dwellings or shelters and any other building or shelter on the property concerned or any adjacent property, and
- (iv) Site boundary line: 3,0 m from the property boundary along the perimeter of the site as determined by the municipality.

[(iii) An uninterrupted space of at least 1,5 m shall be kept open from the front side of every dwelling to the rear side of every dwelling, unless dwellings are linked together, in which case no more than 4 dwellings shall be linked without a break of 3,0 m between buildings.]

(d) **Height**

The maximum height measured from the base level to the top of the structure **[roof]** is 8,0 m

(e) Parking and loading

The provisions of 17.1 do not apply and parking must be provided in accordance with the following table:

Use of the property	Parking standard
Dwelling unit	As required by [Council] <u>the municipality</u>
Second dwelling unit, home occupation	As required by [Council] <u>the municipality</u>
Other primary or consent uses	As required by [Council] <u>the municipality</u>

Second dwelling unit

6.5.3 The provisions of Chapter 16.10 apply.

[The provisions of 5.2.4 apply, provided that:

- (a) Where a wendy house or shelter is utilised for accommodation purposes, such wendy house or shelter shall be regarded as a second dwelling unit; and**
(b) A second dwelling unit may not exceed 120m².]

Guest rooms

6.5.4 The provisions of Chapter 16.10 apply.

[The provisions of 5.1.6 apply.]

Day -care centre

6.5.5 The provisions of Chapter 16.10 apply.

[The provisions of 5.1.7 apply.]

Home occupation

6.5.6 The provisions of Chapter 16.10 apply.

[The provisions of 5.1.8 apply, provided that the parking requirements are in accordance with 6.5.2(e).]

House shop

6.5.7 The provisions of Chapter 16.10 apply.

Constructed road or road reserve or land identified for roads

6.5.8 No building shall be erected on land which has been constructed as a road, set aside as a road reserve, or has been identified by the **[Council]** municipality as a future road.

[Informal trading]

- 6.5.10 [Informal trading is permitted on land which has been set aside as a road reserve or identified by the [Council] municipality as a future road reserve provided that:
- (a) No permanent structures are to be erected on the land;
 - (b) There is no interference with pedestrian or vehicular movement, the amenity of the neighbourhood, or with any [Council] municipality utility service; and
 - (c) There is, in the [Council] municipality's opinion, no threat to public health or safety.]

Land used or identified for firebreaks

- 6.5.10 No building or structure may be erected on land which has been set aside or identified by the [Council] municipality as a firebreak.

Approval of building plans

- 6.5.11 Notwithstanding the fact that individual land units may not have been created or transferred to individual beneficiaries, the [Council] municipality may approve building plans in terms of the National Building Act, subject to the requirements of the Act, for a building relating to a primary or consent use, with the exception of a shelter, provided that the [Council] municipality is satisfied that:

By amending and renumbering PART 2: Chapter 7 as follows:

7.1 BUSINESS ZONE 1 & 2: GENERAL BUSINESS (B1 and B2)

Use of the property

- 7.1.1 The following use restrictions apply to property in this zone:

- (a) **Primary uses** are: business premises, conference facility, flats (above ground floor), guest house, hotel, place of assembly, place of instruction, **[rooftop base station] and self-catering;**
- (b) **[Informal trading]**, transmission **[tower] apparatus (subject to the provisions of Chapter 16.10)**

Development parameters [rules]

- 7.1.2 The following development parameters [rules] apply:

(b) **Setback**

- (i) [Council] Municipality may require that all buildings and structures on the property are set back at least 6,5 m from the centre line of the street;

- (ii) Where special circumstances exist, **[Council]** the municipality may require a wider setback; and...

(c) Building lines

- (i) The street building line is 0 m subject to:
 - the setback restriction if required by **[Council]** the municipality in terms of 7.1.2(b); and
- (ii) The side building line is 0 m but [subject to]:
 - without the consent of the municipality, the building or portion erected on the property boundary may have no windows, doors, ventilation or other openings in any wall on such boundary, **[without the consent of Council]**; and
- (iv) The **[Council]** municipality may impose more restrictive building lines in the interests of public health and safety; and

(d) Height

- (i) The maximum height of a building, measured from the base level to the top of the structure [roof], is determined in accordance with the bulk zone as specified in the table below:

(f) Canopies and projections

- (i) The **[Council]** municipality may require, or permit a canopy or projection over the street boundary, provided that:
- (iv) The owner shall enter into an encroachment agreement with **[Council]** the municipality in the case of a canopy projection.

Site development plan

- 7.1.4 **[Council]** The municipality may require that a site development plan be submitted for approval in accordance with 16.3.

7.2 BUSINESS ZONE 3: LOCAL BUSINESS (B3)

Use of the property

- 7.2.1 The following use restrictions apply to property in this zone:

- (a) **Primary uses** are: shops, dwelling unit (above ground floor) in accordance with 6.3.2, flats (above ground floor), offices, restaurant, self-catering;
- (b) **Consent uses** are: bottle store, business premises, clinic, conference facility, dwelling unit (on ground floor) in accordance with 6.3.2, flats (on ground floor), town housing in accordance with 6.3.2, tourist accommodation **[guest house]**, hotel, **[informal trading]**, institution, place of assembly, place of

entertainment, place of instruction, place of worship, **[restaurant, rooftop base station]** recreational facilities, residential building, sale of alcoholic beverages, service station, service trade, transmission **[tower]** apparatus (subject to the provisions of Chapter 16.10).

Development parameters [rules]

7.2.2 The following development parameters [rules] apply:

(c) Height

- (i) The maximum height of a building, measured from the base level to the top of the structure **[roof]**, is 8,5 m.

(d) Setback

- (i) **[Council]** The municipality may require that all buildings and structures on the property are set back at least 6,5 m from the centre line of the street;
- (ii) Where special circumstances exist, **[Council]** the municipality may require a greater setback; and

(e) Building lines

- (i) The street building line is 0 m; provided that a **[3,5]** 5,0 m building line applies where fuel pumps are erected;
- (iii) The rear building line is 3,0 m; provided that where any Business Zone 3 abuts another zone, the rear building line is 3,0 **[4,5]** m;
- (iv) Provided that **[Council]** the municipality may require more restrictive building lines in the interests of public health or safety or the environment or in order to enforce any applicable law or right; and

(i) Screening

- (i) The **[Council]** municipality may require screening in accordance with 16.7; and
- (ii) Where a Business Zone 3 abuts a residential zone, **[Council]** the municipality may require a suitable wall of no less than 1,8m in height to be erected on the common boundary.

[Informal trading

7.2.3 **Informal trading shall only be permitted in the area indicated on a plan submitted to and approved by Council.]**

Site development plan

7.2.4 **[7.2.5]** **[Council]** the municipality may require that a site development plan be submitted for approval in accordance with 16.3.

7.3 BUSINESS ZONE 4: SERVICE STATION (B4)

- (a) Primary uses are: service station, **[rooftop base station]**,
- (b) **Consent uses are:** heavy vehicle service station, motor repair garage, multiple parking garage, restaurant, transmission **[tower] apparatus (subject to the provisions of Chapter 16.10)**, transport use, and utility service.

Development parameters [rules]

7.3.2 The following development parameters [rules] apply:

(c) **Setback**

- (i) The **[Council] municipality** may require that all buildings and structures are set back 8,0 m from the centre line of the abutting public street or streets; and
- (ii) The provisions of 16.2 apply.

(d) **Height**

- (i) The maximum height of a building, measured from the base level to the top of the structure **[roof]** is 8,5 m.

(e) **Building lines**

- (iv) The **[Council] Municipality** may impose more restrictive building lines in the interests of public health and safety; and...

(i) **Storage**

Any part of the premises of a service station which is used for the storage purposes for empty containers such as oil drums or packing cases, or other scrap shall be enclosed with a suitable brick wall, at least 2,0 m high or contained in a building, to the satisfaction of **[Council] the Municipality.**

Site development plan

7.3.3 **[Council] The municipality** may require that a site development plan be submitted for approval in accordance with 16.3.

Amending and renumbering PART 2: CHAPTER 8 as follows:

8.1 INDUSTRIAL ZONE 1: GENERAL INDUSTRY (IND 1)

1.1.8 The following use restrictions apply to property in this zone:

- (a) Primary uses are: industry, agricultural industry, builder's yard, care taker's accommodation, factory shop, funeral parlour, heavy vehicle service station, industrial café (subject to the provisions of Chapter 16.10), motor repair garage, **[rooftop base station]** service trade, service station, transmission **[tower] apparatus**, transport use, utility services, warehouse and workshop.

- (b) **Consent uses** are: abattoir, adult entertainment business, aquaculture, business premises, **[container site]**, crematorium, dwelling unit, **[informal trading]**, mining, noxious trade, place of assembly, place of entertainment, place of instruction, recreational facilities, restaurant, sale of alcoholic beverages and, scrap yard.

Development parameters [rules]

8.1.2 The following development parameters **[rules]** apply in this zone.

(c) **Height**

- (i) The maximum height of any building measured from the base level to the top of the structure **[roof]** is 12,0 m, provided that;
- (ii) Where a structure of greater height is required for the industrial function of the property, **[Council]** the municipality may grant approval for such greater height; and

(d) **Building lines**

- (ii) The side and rear building line shall be **[2,0]** 0 m;
- (iv) Notwithstanding the above, **[Council]** the municipality may stipulate greater building lines for considerations of public health and safety, fire control and in order to enforce any law or right; and...

(e) **Setback**

- (ii) Notwithstanding the above **[Council]** the municipality may stipulate a setback for considerations of public health and safety, fire control and in order to enforce any law or right; and

f) **Boundary walls**

A wall of 2.1 **[5,0]** m high must be erected where a land unit has a common boundary with another land unit that is not zoned General Industry (IND1) or Risk Industry (IND2) or when hazardous substances are stored on site.

Factory shop

8.1.3 The provisions of Chapter 16.10 apply.

[The occupant of an industrial property or a portion of an industrial property may operate a shop for the sale of goods which have been completely or partially manufactured on the property, and such other goods as the Council may permit, provided that:

- (i) **The total floor space of the property or portion thereof may be devoted to the sale of goods shall not exceed 10% of the total floor space of all buildings on the land unit;**
and
- (ii) **Such other goods that are offered for sale, but have not been manufactured on the property, are connected with the goods that are manufactured on the property.]**

Service station

8.1.4 The provisions of Chapter 16.10 apply.

[The development rules in 7.3.2 apply.]

Environmental considerations

8.1.5 An environmental study and/or environmental management plan may be required by **[Council]** the municipality for its consideration and approval in accordance with 16.4.

8.1.6 No activity that includes the storage of on-site hazardous substances shall be permitted unless a risk management and prevention plan has been approved by **[Council]** the municipality.

8.1.7 **[Council]** the municipality may impose conditions of approval to mitigate the environmental impact of industrial activities on adjacent properties, for considerations of public health and safety, fire control and in order to enforce any law or right.

Site development plans

8.1.8 **[Council]** the municipality may require that a site development plan be submitted for approval in accordance with 16.3.

Scrapyard Development parameters

8.1.9 The provisions of Chapter 16.10 apply.

Caretaker's Dwelling

8.1.10 The provisions of Chapter 16.10 apply.

Office space

8.1.11 The provisions of Chapter 16.10 apply.

8.2 INDUSTRIAL ZONE 2: NOXIOUS & RISK INDUSTRY (IND 2)

8.2.1 The following use restrictions apply to property in this zone:

- (a) Primary uses are: care taker's accommodation, factory shop, noxious trade, **[rooftop base station]** risk industry and, transmission [tower] apparatus (subject to the provisions of Chapter 16.10);
- (b) Consent uses are: aquaculture, industry, **[informal trading]**, mining, scrap yard, service trade, shop, transport use, utility service and waste disposal site.

Development parameters [rules]

8.2.2 The following development parameters [rules] apply:

(c) **Height**

- (i) No height restriction applies to noxious industry, risk activity and industry, provided that any other building on the land unit shall not exceed 12,0 m measured from the base level to the top of the structure [roof];
- (ii) Notwithstanding the above, where a structure of greater height is required for the industrial function of the property, [Council] the municipality may grant approval for such greater height; and

(d) **Building lines**

- (iii) Notwithstanding the above, [Council] the municipality may stipulate greater building lines for considerations of public health and safety, fire control and in order to enforce any law or right; and

(e) **Setback**

- (i) A setback of 8,0 m from the centreline of the road applies;
- (ii) Notwithstanding the above, the [Council] municipality may stipulate a greater setback for considerations of public health and safety, fire control and in order to enforce any law or right; and

Service station

8.2.3 The development parameters [rules] in 7.3.2 apply.

Factory shop

8.2.4 The provisions of Chapter 16.10 apply.

[The occupant of an industrial property or a portion of an industrial property may operate a shop for the sale of goods which have been completely or partially manufactured on the property, and such other goods as the Council may permit, provided that:

(i) The total floor space of the property or portion thereof that may be devoted to the sale of goods shall not exceed 10% of the total floor space of all buildings on the land unit; and

(ii) Such other goods that are offered for sale but have not been manufactured on the property are connected with the goods that are manufactured on the property.]

Environmental impact

8.2.5 An environmental study and / or environmental management plan may be required by [Council] municipality for its consideration.

8.2.6 No activity that includes the on-site storage of hazardous substances shall be permitted unless a risk management and prevention plan has been approved by the **[Council]** municipality.

8.2.7 The **[Council]** municipality may impose additional conditions of approval to mitigate the environmental impact of industrial activities on adjacent properties.

Site development plans

8.2.8 **[Council]** The municipality may require that a site development plan be submitted for approval in accordance with 16.3.

Office space

8.2.9 The provisions of Chapter 16.10 apply.

By amending PART 2: CHAPTER 9 as follows:

9.1 COMMUNITY ZONE 1: COMMUNITY FACILITIES (CO1)

Use of the property

9.1.1 The following use restrictions apply to property in this zone:

- b) **Consent uses are:** dwelling units, cemetery, conference facility, dwelling house, hospital, institution, recreational facilities, residential building, **[rooftop base station]** transmission **[tower]** apparatus (subject to the provisions of Chapter 16.10) and urban agriculture.
- (c) **Additional use:** A property in this zone may occasionally be used for fundraising or social functions provided that:
 - (i) Such functions are incidental and subsidiary to the uses permitted in this zone;
 - (ii) Such functions do not, in the **[Council]** Municipality's opinion, generate excessive or prolonged disturbance including noise, traffic or other public nuisance; and

Development parameters [rules]

9.1.2 The following development rules apply in this zone, provided that the development rules for a dwelling house are determined by the development parameters **[rules]** that apply to the Single Residential Zone (SR1):

(c) Height

The maximum height of any building is 10,5 m, measured from the base level to the top of the structure **[roof]**, provided that there is a 14,0 m height limit for a bell tower, steeple, minaret or similar architectural feature to accentuate the significance of a building.

Dwelling units

9.1.3 The following development parameters [rules] apply to dwelling units:

- (a) The height of a dwelling unit which does not form part of a residential building, measured from the base level to the top of the structure [roof], is 8,0 m.

Site development plans

- 9.1.4 [Council] The municipality may require that a site development plan be submitted for approval in accordance with 16.3.

Landscape master plans

- 9.1.5 [Council] The municipality may require a landscape master plan to be submitted for approval in accordance with 16.4.

By amending PART 2: CHAPTER 10 as follows:

10.1 AUTHORITY ZONE: AUTHORITY USAGE (AU)

Use of the property

10.1.1 The following use restrictions apply to property in this zone:

- (a) **Primary uses** are: authority use, [rooftop base station] additional use rights in accordance with 3.2.5.
- (b) **Consent uses** are: cemetery, informal trading (subject to the provisions of Chapter 16.10), transmission [tower] apparatus (subject to the provisions of Chapter 16.10), utility service, any other use determined by [Council] Municipality.
- (c) **Additional use:** A property in this zone may occasionally be used for fundraising or social functions provided that:
- (i) Such functions are incidental and subsidiary to the uses permitted in this zone;
 - (ii) Such functions do not, in the Council Municipality's opinion, generate excessive or prolonged disturbance including noise, traffic or other public nuisance; and
 - (iii) All relevant policies and by-laws must be adhered to.

Development parameters [rules]

10.1.2 The following development parameters [rules] apply:

- (a) No structure shall be erected nor property used in this zone, unless it is considered by [Council] the municipality to be compatible or associated with the primary or consent use;

- (b) **[Council]** The municipality may require and approve a site development plan submitted in terms of 16.3 and / or an environmental management plan submitted in terms of 16.4; and
- (c) Prior to the approval of any building plan or engineering services plan, **[Council]** the municipality shall determine the development parameters **[rules]** that apply to this zone when:
 - (ii) considering any site development plan or environmental management plan.**[is considered; or]**
 - (iii) **[Prior to the approval of any building plan or engineering services plan.]**

10.2 UTILITY ZONE: UTILITY SERVICES (UT)

Use of the property

10.2.1 The following use restrictions apply to property in this zone:

- (a) **Primary use** is: utility service;
- (b) **Consent uses** are: authority use, cemetery, crematorium, informal trading (subject to the provisions of Chapter 16.10), transmission [tower] apparatus (subject to the provisions of Chapter 16.10) [rooftop base station] and any other associated use determined by **[Council]** the municipality.

Development parameters [rules]

10.2.2 The following development parameters **[rules]** apply:

- (a) No structure shall be erected nor property used in this zone, unless it is considered by **[Council]** the municipality to be compatible or associated with the permitted or consent use;
- (b) **[Council]** The municipality may require and approve a site development plan submitted in terms of 16.3 and/or an environmental management plan submitted in terms of 16.4; and
- (c) **[Council]** The municipality shall determine the development parameters **[rules]** that apply to this zone **[when]: ...**

By amending PART 2: CHAPTER 11 as follows:**11.1 TRANSPORT ZONE 1: TRANSPORT USAGE (TR1)****Use of the property**

11.1.1 The following use restrictions apply to property in this zone:

- (a) **Primary uses** are: multiple parking garage, transport use **[rooftop base station]** and utility service;
- (b) **Consent uses** are: informal trading, motor repair garage, service station, shops, transmission **[tower]** apparatus (subject to the provisions of Chapter 16.10) or, any other use approved by the **[Council]** municipality, provided that:...

Development parameters [rules]

11.1.2 The following development parameters **[rules]** apply:

- (d) **Setback**
 - (i) **[Council]** The municipality may require that all buildings and structures on the property are set back at least 6,5 m from the centre line of the street;
 - (ii) Where special circumstances exist, the **[Council]** municipality may require a wider setback; and
- (e) **Building lines**
 - (iv) Provided that **[Council]** the municipality may require building lines in the interests of public health or safety or the environment or in order to enforce any applicable law or right; and
- (h) **Screening**
 - (i) The **[Council]** municipality may require screening in accordance with 16.7; and

Informal trading

11.1.3 The provisions of Chapter 16.10 apply.

[Informal trading shall only be permitted on sites demarcated for informal trading in terms of a diagram prepared by a suitably qualified land surveyor submitted to the Council for approval, or in line with Council's by-law on informal trading.]

Site development plan

11.1.5 **[Council]** The municipality may require that a site development plan be submitted for approval in accordance with 16.3.

11.2 TRANSPORT ZONE 2: ROAD AND PARKING (TR2 A & B)

Use of the property

11.2.1 The following use restrictions apply to property in this zone:

(a) TR2 A Primary uses are: private parking, private road, **[public road, public parking;]**

[(a)] (b) TR2 B Primary uses are: public road and, public parking;

[(b)] (c) Consent uses are: informal trading, **[rooftop base station]** transmission **[tower]** apparatus (subject to the provisions of Chapter 16.10), any other uses determine by **[Council]** the municipality provided that:

Development parameters [rules]

11.2.2 The following development parameters [rules] apply:

(a) **Deemed zoning**

Any public **[street]**road and / or street, or any portion of land indicated as a public road on an approved subdivision plan that has not lapsed, shall be deemed to be zoned as Transport Zone 2 B: Public Road.

(b) **Construction and deposit of materials**

Except with written consent of the Municipality and adherence to its requirements:

(iv) Deposit or leave any goods, articles, building materials or waste in a public street other than for a reasonable period of time during the course of loading, off-loading or removal **[thereof]** of these goods, articles, building materials or waste;

[Except in accordance with the written permission and requirements of the municipality.]

Informal trading

11.2.3 The provisions of Chapter 16.10 apply.

[Informal trading shall only be permitted on sites demarcated for informal trading in terms of a diagram prepared by a suitably qualified land surveyor submitted to the Council for approval, or in line with Council's by-law on informal trading.]

Site development plan

11.2.4 **[Council]** The Municipality may require that a site development plan be submitted for approval in accordance with 16.3.

11.3 TRANSPORT ZONE 3: HARBOUR ZONE (TR3)

Use of the property

11.3.1 The following use restrictions apply to property in this zone:

- (b) **Consent uses** are: aquaculture, business premises, conference facilities, flats, holiday accommodation, hotel, industry, informal trading, institution, markets, multiple parking garage, offices, place of assembly, place of entertainment, place of worship, recreational facility, restaurant, **[rooftop base station]** sale of alcoholic beverages, service station, tourist accommodation, tourist facility, transport use, town housing, utility service, transmission **[tower]** apparatus (subject to the provisions of Chapter 16.10), provided that **[Council]** the municipality may approve any other use associated with waterfront development where:
- (ii) The property shall be rezoned if the other use constitutes a significant and permanent change from the primary use, and if this land use [zoning] scheme provides a more suitable alternative.

Development parameters [rules]:

[The following development parameters apply:]

Harbour usage

11.3.2 The **[Council]** municipality may require and approve a site development plan in terms of 16.3, or an environmental management plan in terms of 16.4.

11.3.3 The **[Council]** municipality must determine the development parameters **[rules]** applicable to a land unit when, prior to the approval of any building plans or engineering services:

- (a) The zoning of a land unit to this zone is approved;
- (b) Any environmental impact report is considered;
- (c) Any environmental management plan is considered;
- (d) Any site development plan is approved; and
- (e) **[Prior to the approval of any building plans or engineering services.]**

11.3.4 Structures / buildings may be erected with the written consent of **[Council]** the municipality, should **[Council]** the municipality deem it necessary, provided that **[Council]** the municipality may impose conditions relating to design, architecture and developments parameters.

Consent uses

(b) Height

- (i) The maximum height of a building, measured from the base level to the top of the structure [roof], is 11,0 m.

(d) Setback

- (i) **[Council]** the municipality may require that all buildings and structures on the property are set back at least 6,5 m from the centre line of the street;
- (ii) Where special circumstances exist, **[Council]** the municipality may require a wider setback; and

(e) Building lines

- (iv) Provided that **[Council]** the municipality may require more restrictive building lines in the interests of public health or safety or the environment or in order to enforce any applicable law or right; and

(h) Screening

- (i) The **[Council]** municipality may require screening, in accordance with Chapter 16.7; and

Consent uses

11.3.5 Other than for town housing and informal trading, the following development parameters **[rules]** apply to all consent uses in this zone:

Town housing

11.3.6 The development parameters **[rules]** in 6.3.2 apply.

Informal trading

11.3.7 The provisions of Chapter 16.10 apply.

[Informal trading shall only be permitted on sites demarcated for informal trading in terms of a diagram prepared by a suitably qualified land surveyor submitted to the Council for approval, or in line with Council's by-law on informal trading.]

Site development plan

11.3.9 **[Council]** The Municipality may require that a site development plan be submitted for approval in accordance with 16.3.

By amending PART 2: CHAPTER 12 as follows:**12.1 OPEN SPACE ZONE 1: NATURE RESERVE (OS1)****Use of the property**

12.1.1 The following use restrictions apply to property in this zone:

- (a) **Primary use[is]** are: nature reserve and conservation use;
- (b) **Consent uses** are: dwelling units, environmental facilities, **[rooftop base station]** transmission **[tower]** apparatus (subject to the provisions of Chapter

16.10), tourist accommodation, tourist facilities, utility service and any other related use permitted by **[Council]** the municipality.

Development parameters [rules]

12.1.2 The following development parameters [rules] apply:

- (a) A site development plan must be submitted in terms of 16.3 to the satisfaction of **[Council]** the municipality;
- (b) **[Council]** The municipality may require an environmental study and/or environmental management plan in terms of 16.4;
- (c) Prior to the approval of any building plans or engineering services **[Council]** the municipality must determine the development parameters [rules] applicable to a land unit, when:
 - (v) **[Prior to the approval of any building plans or engineering services; and]**
- (d) Structures / buildings may be erected with the written consent of **[Council]** the municipality, should **[Council]** the municipality deem it necessary, provided that **[Council]** the municipality may impose conditions relating to design, architecture, and developments parameters.

12.2 OPEN SPACE ZONE 2: PUBLIC OPEN SPACE (OS2)

Use of the property

12.2.1 The following use restrictions apply to property in this zone:

- (b) **Consent uses** are: cemetery, environmental facilities, informal trading (subject to the provisions of Chapter 16.10), recreational facilities, **[rooftop base station]** tourist facilities, transmission apparatus (subject to the provisions of Chapter 16.10) **[tower]**, urban agriculture, utility service, any other related use permitted by **[Council]** the municipality.

Development parameters [rules]

12.2.2 The following development parameters [rules] apply:

- (b) A site development plan must be submitted in terms of 16.3 to the satisfaction of **[Council]** the municipality;
- (c) The **[Council]** municipality may require an environmental study and/or environmental management plan in terms of 16.4;
- (d) Prior to the approval of any building plans or engineering services **[Council]** the municipality must determine the development parameters [rules] applicable to a land unit, when:
 - (i) The zoning of a land unit to this zone is approved;
 - (ii) Any environmental impact report is considered;
 - (iii) Any environmental management plan is considered;
 - (iv) Any site development plan is approved;
 - (v) **[Prior to the approval of any building plans or engineering services; and]**
- (d) No structure shall be erected or use practiced except such as is compatible with "public open space" as defined; and
- (e) Structures / buildings may be erected with the written consent of **[Council]** the municipality, should **[Council]** the municipality deem it necessary, provided that **[Council]** the municipality may impose conditions relating to design, architecture and developments parameters.

12.3 OPEN SPACE ZONE 3: PRIVATE OPEN SPACE (OS3)

Use of the property

12.3.1 The following use restrictions apply to property in this zone:

- (b) **Consent uses** are: cemetery, environmental facilities, recreational facilities, **[rooftop base station]** tourist accommodation, tourist facilities, transmission apparatus (subject to the provisions of Chapter 16.10) **[tower]**, urban agriculture, utility service, any other related use permitted by **[Council]** the municipality.

Development parameters [rules]

12.3.2 The following development parameters [rules] apply:

- (a) A site development plan must be submitted in terms of 16.3 to the satisfaction of **[Council]** the municipality;
- (b) The **[Council]** municipality may require an environmental study and/or environmental management plan in terms of 16.4;
- (c) Prior to the approval of any building plans or engineering services **[Council]** the municipality must determine the development parameters [rules] applicable to a land unit, when:
 - (v) **[Prior to the approval of any building plans or engineering services; and]**
- (d) No structure shall be erected or use practiced except such as is compatible with the "private open space" as defined; and
- (e) Structures / buildings may be erected with the written consent of **[Council]** the municipality, should **[Council]** the municipality deem it necessary, provided that **[Council]** the municipality may impose conditions relating to design, architecture and development parameters [rules].

By amending PART 2: CHAPTER 13 as follows:

13.1 RESORT ZONE: HOLIDAY RESORTS (RZ)

Use of the property

13.1.1 The following use restrictions apply to property in this zone:

- (a) **Primary uses** are: conservation use, holiday accommodation, private open space, private road and tourist accommodation;
- (b) **Consent uses** are: additional dwelling units, conference facilities, holiday housing, hotel, place of assembly, place of entertainment, recreational facilities, restaurant, **[rooftop base station]** transmission apparatus (subject to the provisions of Chapter 16.10) **[tower]**, tourist facilities, any other use determined by **[Council]** the municipality.
- (c)

Development parameters [rules]

13.1.2 The following development parameters [rules]:

- (a) Prior to the approval of any building plans or engineering services [Council] the Municipality must determine the development parameters [rules] applicable to a land unit, when:
 - (v) **[Prior to the approval of any building plans or engineering services; and]**
- (b) A site development plan must be submitted to the [Council] municipality for approval in accordance with 16.3;
- (d) A landscape master plan and environmental management plan shall be submitted to the [Council] municipality and approved in terms of provision stipulated in 16.4; and
- (d) The [Council] municipality shall stipulate the required services and other infrastructure required to service the resort.

Identification of zoned area

13.1.3 The [Council] municipality may approve a resort zoning on a portion of a land unit, if it is satisfied that the proposed use or activity is desirable, provided that:

- (a) The area affected by the activity must be clearly identified on a survey diagram or other plan prepared by a suitably qualified person to [Council] the municipality's satisfaction, and endorsed by [Council] the municipality; and
- (b) The area thus identified **[shall be]** is clearly marked on the zoning map.

Holiday housing

13.1.4 The following additional development parameters apply to holiday housing:

- (a) Holiday housing shall not comprise more than 50% or a lesser percentage as determined by the [Council] municipality of the units provided on the property concerned;
- (b) Height applicable to be applied in this zone shall be determined by [Council] the municipality but is restricted to a maximum of two storeys; **[and]**
- (c) A home owner's association shall be established and the home owners' association's constitution submitted to the [Council] municipality for approval, where holiday housing is provided.

Additional dwelling units

13.1.5 [Council] the municipality may approve additional dwelling units; provided that:

- (a) [Council] the municipality is satisfied that additional dwelling units are for the normal accommodation of employees of the resort who are active in the normal resort practice conducted on the property;
- (c) Be subject to the development parameters [rules] as determined by [Council] the municipality.

Site development plan

13.1.6 [Council] The Municipality may require that a site development plan be submitted for approval in accordance with 16.3

Environmental management plan

13.1.7 [Council] The municipality may require an environmental management plan to be submitted in accordance with 16.4.

By amending PART 2: Chapter 14 as follows:

CHAPTER 14: OTHER [SPECIAL] ZONES

14.1 SUBDIVISIONAL AREA ZONE (SA)

Development parameters [rules]

14.1.1 The following development parameters [rules] apply:

- (c) Any plan of subdivision submitted for a land unit that is zoned Subdivisional Area, shall stipulate the intended zoning of each proposed subdivision, or land portion, include a legend with a colour scheme and zoning in accordance with the land use [zoning] scheme, be properly numbered and may include retention of the Subdivisional Area Zone for specified land portions to be further subdivided and developed at later stages, provided that [Council] the municipality may request such additional information as it deems necessary to be included in the plan of subdivision; and
- (d) At the confirmation of a subdivision for property which has been zoned as Subdivisional Area, the zoning provisions approved by [Council] the municipality as conditions of the subdivision approval, shall be deemed to be a substitution scheme.

14.2 SPECIAL ZONE (SZ)

Use of the property

14.2.1 The following use restrictions apply to property in this zone:

- (b) **Consent uses** are: special usage, which means any other use determined by [Council] the municipality when approving a Special Zone and which is not catered for under a primary or consent use contained in the scheme.

Development parameters [rules]

14.2.2 The [Council] municipality shall determine the development parameters [rules] when the use of land is approved, provided that:

- (b) When granting an application for a Special Zone, the [Council] municipality must determine development parameters [rules] with regard to maximum floor space, coverage, height, building lines, parking, density, layout and the use of the property;
- (c) The [Council] municipality may determine the development parameters [rules] in accordance with a Special Zone Annexure or Special Zone Site Development Plan; and

- (d) Special Zone annexures and Special Zone site development plans must be adopted and may be amended by the **[Council]** municipality in terms of **[Council]** the Municipality's resolution, and do not require the formal amendment of this land use [zoning] scheme.

Special zone annexure

14.2.3 When **[Council]** the municipality employs the Special Zone annexure method of development management, **[Council]** the municipality must:

- (a) Identify the area concerned on the zoning map by way of a separate number, and must stipulate the development parameters [rules] that apply for the area as a separate Special Zone in an annexure to this land use [zoning] scheme;
- (b) Give each Special Zone, where the development parameters [rules] are unique, a separate number, and each number with the accompanying development parameters [rules], must be recorded as a separate Special Zone in the annexure to the land use [zoning] scheme; and
- (c) Compile a list of Special Zone Annexures established in terms of this land use [zoning] scheme and record these in Annexure B.

Special zone site development plans

14.2.4 When **[Council]** the municipality employs the Special Zone site development plan method of development management, **[Council]** the municipality must:

- (b) Register the reference number of the site development plan approved by **[Council]** the municipality; and;
- (c) Compile a list of special zone site development plans established in terms of this land use [zoning] scheme and record these in Annexure B.

Landscape master plan

14.2.5 **[Council]** The municipality may require a landscape master plan to be submitted in accordance with 16.3.

Environmental management plan

14.2.6 **[Council]** The municipality may require an environmental management plan to be submitted in accordance with 16.4.

By amending PART 3, CHAPTER 15 as follows:

Adoption or amendment of overlay zones

15.1.1 The **[Council]** municipality may prepare, approve, amend or repeal overlay zones for specific areas in order to:

- (b) Respond to particular types of development, urban form, landscape character or environmental features, provided that the **[Council]** municipality is satisfied the abovementioned objectives are appropriate for the area concerned, and the fulfillment of these objectives does not detract from **[Council]** the municipality's ability to serve the needs of the municipal area as a whole.

- 15.1.2 If the Council **[municipality]** intends to adopt, amend or repeal an overlay zone, the Municipal Manager shall:
- (a) Cause the proposed adoption, amendment or repeal to be advertised in accordance with the public consultation policy of the **[Council] municipality**, affording interested parties the opportunity to submit written comments or objections to the Municipal Manager within a period of not less than thirty days from the date of such advertisement;
 - (d) Submit the proposed overlay zone, amendment or repeal, and all relevant documentation to the **[Council] municipality** for consideration and a decision;
 - (e) Notify all persons who submitted comments relating to the adoption, amendment or repeal of the overlay zone within the prescribed period, of the **[Council] municipality's** decision; and

Identification and numbering

- 15.1.3 The **[Council] municipality** shall approve a distinctive name and number for each overlay zone and any sub-zone, when adopting such overlay zone or sub-zone.
- 15.1.4 The **[Council] municipality** shall indicate the area of an overlay zone on the zoning map and:
- (a) Shall record the existence of an overlay zone in Annexure C to this land use [zoning] scheme, with reference to where any detailed provisions of the overlay zone may be found; and

By amending and renumbering PART 4, CHAPTER 16 as follows:

16.1 GENERAL ENCROACHMENTS [ENCROACHMENT OF BUILDING LINES]

16.1.1 Encroachment of building lines permitted [General encroachments]

- (a) Notwithstanding the building line requirements set out in Part 2, the following structures or portions of structures may, **[provided they do not extend beyond the boundaries of the land unit]**, be erected over the prescribed building lines, provided that they do not extend beyond the boundaries of the land unit:
 - (ii) open and uncovered stoeps, pools and filling lower than 1,0 m above the existing ground level;
 - (vi) **[Cornices]** chimney breasts, flower boxes, water pipes and drain pipes **[and minor decorative features]** not projecting more than 500 mm from the wall of the building;
 - (vii) minor decorative features not projecting more than 250 mm from the wall of the building;
 - (viii) swimming pools, if closer than 1,0 m from the erf boundary, an engineering certificate is required;
 - (ix) pool pumps/pump houses not exceeding 1,0 m above existing ground level;
 - (x) **[ix]** a refuse room that has a footprint not exceeding 5 m² and, if covered, a roof height not exceeding 3,0 m or as required by the **[Council] municipality** in terms of 17.4;
 - (xi) **[x]** built braais up to a maximum of 1,0 m in height above the existing ground level, with the consent of affected neighbours;

- (xii) water tanks and gas bottle storage enclosures not exceeding 2,1 m in height and screened behind a boundary wall/screen to the same height; and
- (xiii) any encroachment or structure which causes additional impact will be subject to compliance with the applicable policy or legislation.

Encroachment of height restriction permitted

- (b) The following structures or portions of structures may encroach upon the height restriction, provided that:
 - (i) Chimney(s) (excluding cowl(s), TV antennas and satellite dishes no more than 1,0 m above the height restrictions;
 - (ii) A chimney that encroach upon the height restriction may not be more than 1,0 m in width; and
 - (iii) The erection of renewable energy structures above the height restriction (solar panels, wind turbines etc.) may not exceed 1m in height and 1,0 m in width;

Encroachment of side and rear building lines permitted

- (c) **[b]** The [Council] municipality may approve the [erection of an outbuilding, which] construction of a structure used for the housing of vehicles, that encroaches onto [into] the side and rear building lines, provided that:
 - (i) Written consent of the immediate neighbours is obtained [no building exceeds the height of one storey];
 - (ii) No building [wall on] that encroaches the building line may be higher than 3,5 m above the existing ground level on the common boundary provided that the height may increase at a 40 degree angle away from such boundary;
 - (iii) The length and width of the structure does not exceed one third of the lateral and rear boundary concerned or 9,0 m, whichever is the most restrictive (except in cases as prescribed in point iv below);
 - (iv) Where the lateral / rear boundary of the property is less than 19,5 m in width the structure will have a maximum width of 6,5 m on the rear boundary;
 - (v) No doors and windows shall be permitted in any wall closer than 1,0 m to the rear or side boundary;
A 1,0 m access may be required to the satisfaction of the Fire Department; [In the event of a property being accessed via a private street an access way of at least 1,0 m shall be provided from the private street to every vacant portion of the land unit concerned other than a courtyard;]
 - (vi) No runoff of rainwater from a roof shall be discharged directly onto adjoining properties;
 - (vii) The garage / carport [outbuilding] shall be included in the calculation of coverage on the land unit;
 - (viii) The [Council] municipality is satisfied that the structure does not pose a fire hazard and is constructed of appropriate material to its satisfaction;

[(x) Where the written consent of the immediate neighbours is obtained the Council need not advertise the application further.]

Encroachment of the street building line

- (c) Upon an application, the following general principles will be considered by the Municipality: [The Council may relax the street building line under the following circumstances:]
[(i) In the case of a garage or carport subject to 16.1.2;]
- (i) **[(ii)]** if, in its opinion, the architectural effect of the building line relaxation will enhance the appearance of a street;
 - (ii) **[(iii)]** if, in its opinion, there are special circumstances, motivated to its satisfaction by the property owner, such as the topography of the site;
 - (iii) all other buildings and outbuildings are to comply with the street building line applicable within the zone concerned; and
 - (iv) in the case of a garage or carport, 16.1.2 will apply.

Garages and carports within street building lines

- 16.1.2 (a) Upon an application the following development parameters [rules] will be considered:
- (i) The **[Council] municipality** may permit the construction of a garage over a street building line, if in the **[Council] municipality's** opinion, the garage cannot reasonably be sited at the prescribed distance due to the slope of the land unit, or for other reasons provided;
- (b) **[A carport may be erected on the street boundary]** The **[Council] municipality may permit the construction of a carport over the street building line** provided that:
- (i) The width of such carport shall not exceed 6,5 m;
 - (ii) The roof of the carport shall be supported by metal or timber post or brick, concrete or masonry pillars;
 - (iii) The carport shall not be enclosed on any side except by:
 - a boundary fence or wall;
 - wall which forms the external wall of a building; or
 - security or automated gate.
- the height of such carport measured from the natural ground level to the highest point of the structure over the building line may not exceed 3,0 m on the street boundary, but the height may increase at a 40 degree angle away from such boundary (roof).
- [The edges of the roof sheeting must be trimmed with a fascia board not less than 150 mm in width.]**

16.2 SETBACKS

- 16.2.1 The portions of any land unit falling within a setback area shall be excluded for the purpose of determining coverage and maximum floor space, unless the owner transfers the portion concerned to the **[Council] municipality** free of any charge. In

that case the portion shall be included for the purpose of determining the coverage or maximum floor space on the land unit.

16.3 SITE DEVELOPMENT PLANS

16.3.1 The **[Council] municipality** may require a site development plan to be submitted to its satisfaction for any land unit provided that:

- (b) The **[Council] municipality** may require amendments of detail to the site development plan to address reasonable concerns relating to access, parking, architectural form, urban design, landscaping, environmental management, engineering services or similar concerns, and
- (c) **[Council] The** municipality may cause the site development plan to be advertised, where it is of the opinion that advertisement of the proposed development is in the public interest.

16.3.2 The following provisions shall apply with regard to site development plans:

- (a) A site development plan shall show the details referred to in the definition of "site development plan", unless the **[Council] municipality** agrees to waive certain requirements;
- (b) If the **[Council] municipality** considers it necessary, a transport impact assessment may be required in conjunction with a site development plan, the extent of which shall be determined by the **[Council] municipality** depending on the magnitude of the development;
- (c) If the **[Council] municipality** considers it necessary, a storm water management assessment and management plan may be required in conjunction with a site development plan, the extent of which shall be determined by the **[Council] municipality** depending on the magnitude of the development;
- (d) The **[Council] municipality** may approve a site development plan which is submitted for its approval, or may require amendments before it is approved, or may refuse it.
- (e) In circumstances where a site development plan is required in terms of this **land use [zoning]** scheme, no application for building plan approval in terms of the National Building Act, shall be granted by the **[Council] municipality**, unless a site development plan has first been approved;
- (f) The property shall be developed generally in accordance with the site development plan as approved by the **[Council] municipality**, and to the satisfaction of the **[Council] municipality**;
- (g) Application may be submitted to the **[Council] municipality** for amendment of an approved site development plan;
- (h) The **[Council] municipality** shall process an application to approve or amend a site development plan in accordance with its policy for transparency, public consultation and administration of such applications; and
- (i) When approving a site development plan or amendment to a site development plan, the **[Council] municipality** may impose conditions of approval.

16.4 ENVIRONMENTAL MANAGEMENT PLANS

- 16.4.1 The following provisions shall apply with regard to environmental management plans:
- (a) An environmental management plan shall contain the information specified in the definition of “environmental management plan” unless the **[Council] municipality** agrees to waive certain requirements;
 - (b) An environmental management plan must be compiled by a suitably qualified or registered environmental specialist;
 - (c) The **[Council] municipality** may approve an environmental management plan which is submitted for its approval, or may require amendments before it is approved, or may refuse it;
 - (d) If an environmental management plan is required in terms of this land use [zoning] scheme, no site works are permitted, and no application for subdivision of land, transfer of land units, or building plan approval in terms of the National Building Act, shall be granted by the **[Council] municipality**, until it has first approved an environmental management plan;
 - (e) The property shall be developed and managed generally in accordance with the environmental management plan as approved by the **[Council] municipality**, and to the satisfaction of the **[Council] municipality**;
 - (f) Application may be submitted to the **[Council] municipality** for amendment of an approved environmental management plan;
 - (g) The **[Council] municipality** shall process an application to approve or amend an approved environmental management plan in accordance with its policy for transparency, public consultation and administration of such applications; and
 - (h) When approving an environmental management plan or amendment to an environmental management plan, the **[Council] municipality** may impose conditions of approval.

16.5 OWNERS’ ASSOCIATION OR BODY CORPORATE

- 16.5.1 If the **[Council] municipality** requires an owners’ association to be established for any development, either an owners’ association in terms of the Planning Law, or a body corporate in terms of the Sectional Titles Act, may satisfy this requirement.

[16.5.2 In addition to the requirements of any other law, the following provisions shall apply to an owners’ association or body corporate in terms of this land use scheme.

- (a) **Every owner of property in a development, to which the owners’ association or body corporate applies, shall be a member of the owners’ association or body corporate;**
- (b) **The owners’ association or body corporate shall maintain all common property owned by the owners’ association or body corporate including private roads, private utility services and infrastructure, private open spaces and perimeter fences;**
- (c) **The owners’ association or body corporate shall be responsible for control and adherence to the design requirements approved in terms of its constitution or articles of association; and**
- (d) **The constitution or management and conduct rules must clearly define the responsibilities and requirements of the home owner’s association or body corporate with respect to building plan submission, deviations from approved development guidelines and development parameters, the need for endorsement of the home owner’s association or board of**

trustees on any application submitted to Council by a property owner within the development concerned, provided that:

- (i) Nothing in this provision will preclude the Council from advertising an application submitted, in respect of which Council is of the opinion that it is in the interests of the public and that an endorsement by the body corporate or the board of trustees as the case may be does not compel Council to approve an application.]

16.6 BOUNDARY WALLS [EARTH BANKS AND RETAINING STRUCTURES]

16.6.1 Without the prior written permission [**consent**] of the [**Council**] municipality no boundary wall or fence shall exceed 2,1 m in height above the existing ground level abutting such wall or fence (unless other heights are required by Fire Regulations), provided that where the ground levels on opposite sides of the wall or fence are unequal, the height of the wall or fence shall be measured from the higher of the two levels.

16.6.2 Only electric fencing will be allowed above the 2.1 m height restriction, subject to a maximum height of 0,5 m.

[Without the prior written consent of the Council:

(a) No earth bank, retaining structure, column, suspended floor, other device or series of such devices, shall be constructed that enables a ground floor of a building to be raised more than 1,5 m above the base level;

(b) No earth bank or retaining structure used for holding back earth or loose rock, whether associated with a building or not, shall be constructed to a height of more than 1,5 m above the base level; and

(c) No series of earth banks or retaining structures shall be constructed to a cumulative height of more than 1,5 m above the base level, unless an approximately level area of at least 3,0 m wide is incorporated between successive embankments or retaining structures for every 1,5 m of cumulative height.]

16.7 SCREENING

16.7.1 The [**Council**] municipality may require screening in accordance with the following:

- (b) Any external utility service or equipment which is required for a building shall be appropriately screened from view from a public street, and such screening shall be integrated with the building in terms of materials, colour, shape and size, and shall be to the [**Council**] municipality's satisfaction.

16.8 AESTHETICS AND MAINTENANCE OF PROPERTY AND PLACEMENT OF VEHICLES

Maintenance of property

16.8.1 Property shall be properly maintained by the owner or occupant and aesthetics of the property must generally be in keeping with the surrounding area. The property shall not be left in a neglected or offensive state and shall not;

- (b) Contain an accumulation of motor wrecks or used motor parts, unless these are part of a primary or consent use in terms of this land use [zoning] scheme; or
- (c) Contain outdoor storage of building material, appliances or similar items unless these are:
 - (i) Part of a primary or consent use in terms of this land use [zoning] scheme;

Placement of vehicles in residential zones

16.8.2 The following development parameters [rules] apply to the placement of vehicles in the Single Residential Zones and General Residential Zones:

- (b) Placement of private motor vehicles shall not exceed more than five, inside a garage or on the property, including motor vehicles used for recreational purposes. [A recreation vehicle, such as a caravan, may not be used for habitation by the occupant or guests for more than 60 days during any 12-month period.]

Mobile homes

16.8.3 The following development parameters [rules] shall apply with regard to mobile homes placed on a land unit zoned for resort purposes:

- (a) The mobile home shall be sited on a foundation slab and anchored to the **[Council]** municipality's satisfaction;
- (d) Any structural additions shall be of materials which, in the opinion of the **[Council]** municipality, are compatible with the mobile home.

16.9 OTHER [COUNCIL] MUNICIPAL BY-LAWS, POLICIES AND DEVELOPMENT CONTROLS

Compliance with by-laws

16.9.1 The provisions of this land use [zoning] scheme do not detract from compliance with any other **[Council]** municipality by-laws.

Conditions of approval

16.9.3 If **[Council]** municipality imposes a condition of approval that is more restrictive than the land use [zoning] scheme, the development controls contained in the approval take precedence over the land use [zoning] scheme and these must be included in the register.

Keeping of animals

16.9.4 The keeping of animals is restricted to household pets by property owners, within the urban edge as indicated in the applicable SDF (excluding agricultural zoned properties).

By adding PART 4, CHAPTER 16, Section 16.10 (subject to change to alphabetical order), as follows;

16. 10 GENERAL DEVELOPMENT PARAMETERS

Additional dwelling units

16.10.1 The Municipality may approve additional dwelling units in Agricultural Zone I provided that:

- (a) The additional dwelling units shall remain on the same cadastral boundary as the primary dwelling unit;
- (b) The number of additional dwelling units shall not exceed the 1 unit per 10,0 ha, up to a maximum of five additional dwelling units per land unit;
- (c) One additional dwelling unit will also be considered for land units less than 10,0 ha.
- (d) No additional dwelling units may be erected within 100 m of the high water mark on the coast, other than where additional dwelling units are provided as an integral part of an existing farmstead or with the special consent of the municipality and
- (e) The total floor area of the dwelling is limited to 250m².

Farm shop / stall

16.10.2 The municipality may approve a farm shop provided that:

- (a) The maximum floor area of the farm shop / stall shall not exceed 300m²;
- (b) The maximum height does not exceed single storey, measured from the base level to the top of the structure;
- (c) Sufficient parking is provided to the satisfaction of Municipality; and
- (d) The access requirements of the relevant roads authority must be complied with.

Agricultural industry

16.10.3 The municipality may approve an agricultural industry, if it is satisfied that the proposed use or activity is desirable, provided that:

- (a) The area affected by the agricultural industry must be clearly identified on a land survey diagram or other plan prepared by a suitably qualified person to the municipality's satisfaction, and endorsed by the municipality; and
- (b) The following development parameters apply:
 - (iii) A site development plan, must to be submitted to the municipality's satisfaction, in terms of 16.3, for all new development or extensions within an area determined in terms of (a) above; and
 - (iv) Parking and access shall be provided on the identified portion in terms of Chapter 17, provided that the municipality may require additional parking and loading requirements in response to the operational requirements of a particular agricultural industry.

Guest Rooms

- 16.10.4 The following provisions shall apply where a portion of a property is used for the purposes of guest rooms or where rooms are let by an occupant of that property to paying guests or lodgers:
- (a) Guest rooms shall be subject to the submission of a site plan for record purposes demonstrating compliance with the applicable provisions.
 - (b) Guest rooms will be limited to the main dwelling.
 - (c) Maximum 2 bedrooms (5 persons) per property may be used for paying transient guests or lodgers.
 - (d) Guest rooms may not be converted to, or used as, separate dwelling units.
 - (e) Meals shall only be supplied by the landowner or manager to transient guests or lodgers who are staying on the property.
 - (f) No advertising sign shall be displayed without the written approval of the municipality other than a single un-illuminated sign or notice affixed to the building or boundary wall or fence, and such sign must be in line with the Overstrand Signage By-Law.
 - (g) One on-site parking bay shall be provided per guest room, subject to the submission of a parking layout.
 - (h) No cooking facilities or prep bowls may be provided in the guest room.

Self-catering accommodation

- 16.10.5 The following provisions shall apply where a portion of the property is used for the purposes of self-catering accommodation:
- (a) It shall be utilised for single family occupation;
 - (b) Self-catering shall be restricted to either the main dwelling or the second dwelling unit if a:
 - i. second dwelling unit exists on the property (but not both);
 - ii. Self-catering will not be permitted if there is a home occupation or guest rooms;
 - (c) No activities constituting a source of nuisance shall be carried out; and
 - (d) The municipality may impose additional conditions in order to minimise any potential public nuisance.

Crèche [Day-care centre]

- 16.10.6 The following provisions shall apply where a portion of the property is used by the occupant of the property for the purposes of a crèche:
- (a) No more than 5 children are permitted at any one time;
 - (b) A register of children must be kept, and completed, and the register must be produced for inspection on the request of the municipality;
 - (c) The services shall be primary crèche or educational and not medical;
 - (d) The hours of operation shall be restricted to 06h00 and 18h00 from Mondays to Friday and from 06h00 to 13h00 on Saturdays;
 - (e) The proprietor of the crèche shall reside on the property;
 - (f) No more than two assistants may be employed at the crèche; and
 - (g) The minimum indoor and outdoor play space shall be provided according to applicable legislation;

Day-care centre [Crèche (Early Childhood Centres)]

16.10.7 The following provisions shall apply where a day-care centre is operated on a Residential Zone 1 property:

- (a) a maximum of 30 children / babies subject to compliance with the minimum indoor and outdoor play space according to applicable legislation;
- (b) compliant with all the applicable relevant legislation;
- (c) a minimum of 1 parking bay per teacher and a pick up and go facility must be provided to the satisfaction of the engineering services;
- (d) applicable tariffs as per the Municipal budget
- (e) the land use rights will not be transferable;
- (f) A register of children must be kept, and completed, and the register must be produced for inspection on the request of the Municipality;
- (g) The hours of operation shall be restricted to 06h00 and 18h00 from Mondays to Friday and from 06h00 to 13h00 on Saturdays; and
- (h) The proprietor of the day care centre shall reside on the property;

Home occupation

16.10.8 Home occupation will be restricted to the following non-residential categories:

- (a) Office type work (administration);
- (b) Professional / clerical;
- (c) Custom sewing, fabric crafts, baking;
- (d) Creation of visual arts, excluding cabinet maker, recycling, welding;
- (e) Personal services such as a Barber / hairdresser / beautician / masseuse; and
- (f) Sales and services over the internet / phone.

General development parameters for home occupation

- (a) The proprietor of the home occupation must permanently reside in the dwelling;
- (b) The total area used for a home occupation, including storage area required for the use, shall not exceed 25% or 50m² (whichever is most restrictive) of the total floor area of the building from which it is to be conducted;
- (c) No more than 3 persons in total shall be engaged in home occupation activities on the property, including the occupants or the occupant and any assistants;
- (d) Home occupation shall be conducted completely in doors;
- (e) The storage of products, goods, or supplies connected to the home occupation shall be inside a building;
- (f) No more than one vehicle, not exceeding 3 500 kg gross weight, shall be utilised for the home occupation;
- (g) The hours of operation are restricted to 07h30 and 17h30 Monday to Friday and 7h30 to 13h00 on Saturdays;
- (h) On-site parking must be provided to the satisfaction of the municipality, provided that at least two on site parking bays are provided in addition to the normal parking required;
- (i) The exercise of home occupation shall be subject to the submission of a site plan for record purposes demonstrating compliance with the requirements pertaining to home occupation and the land use parameters;
- (j) A conveyancing certificate shall be submitted demonstrating there is no title deed restrictions that restricts the home occupation;

- (k) The use shall also comply with all environmental and nuisance control regulations;
- (l) The exterior of the building and the lot shall not be changed in such a way as to decrease its residential appearance, except for permitted parking spaces and the permitted sign.
- (m) The use shall not involve the storage or use of hazardous, flammable or explosive substances, other than types and amounts commonly found in a dwelling. The use shall not involve the use or storage of toxic substances; and
- (n) The municipality may impose additional conditions in order to minimise any potential public nuisance and.
- (o) Occupation shall be subject to the submission of a site plan for record purposes, demonstrating compliance with the requirements

Home Occupation in Residential Zone 2 and 3: Additional rules

Subject to approval of HOA / Body Corporate:

- (a) No more than two persons, including the proprietor may be employed within a dwelling unit
- (b) Only the occupant may be involved in the activities of the home occupation
- (c) Parking provisions will apply; and
- (d) Where a home occupation is conducted from a flat, no more than 1 person shall be engaged in the home occupation activities within the dwelling unit.

Minimum subdivision size

16.10.9 The following development parameters apply:

- (a) No new subdivision or any remainder to be zoned Rural Zone 1 and 2 shall be less than:
 - (iii) 5,0 ha, if no minimum subdivision size is specified on the zoning map;
 - or
 - (iv) Where the municipality has specified a minimum subdivision size, as indicated on the zoning map in terms of an overlay zone for the area concerned and concern / read together with the SDF and related documents that minimum subdivision size applies.

Second dwelling unit

16.10.10 The following additional development parameters apply to a second dwelling unit:

- (a) The total floor area of the second dwelling unit shall not exceed 120 m²;
- (b) A second dwelling unit may be contained within the same building as a primary dwelling unit and may be either on the ground or first floor;
- (c) A second dwelling unit may not be separately alienated in terms of the Sectional Title Act; and
- (d) Parking must be provided on the property as per the Chapter 17, section 17.1.3 to the satisfaction of the Municipality.

- (e) A second dwelling must be located within the applicable building lines.

House shop

- 16.10.11 The following provisions shall apply where a portion of a dwelling house or outbuilding is used for the purposes of a house shop, by one or more occupants of a property:
- (a) The maximum floor area of that portion of a dwelling house that is used for the purposes of a house shop shall not exceed 30,0m² or 25% of the floor area of all buildings on the land unit;
 - (b) No more than 3 persons, including the occupant or occupants of the dwelling unit, are permitted to be engaged in retail activities on the property, other than with the consent of the Municipality;
 - (c) No portion of the house shop shall be used for the purposes of noxious trade, risk activity, sale of alcoholic beverages, place of entertainment or gambling purposes;
 - (d) The operator of the enterprise shall permanently reside on the premises;
 - (e) No products, goods, or supplies connected to the house shop may be stored on the property outside a building;
 - (f) Any structure or alteration to the existing structure must conform to the residential character of the area concerned and all the relevant legislation;
 - (g) Only one un-illuminated sign, shall be permitted, which shall be fixed to the building or boundary wall or fence, and such sign shall be in line with the Overstrand By-law relating to outdoor advertising and signage;
 - (h) The hours of operation and trading shall be restricted to 6h00 to 21h00 from Monday to Friday and from 6h00 to 21h00 on Saturday, does not include public holidays or Sundays, or such trading hours as permitted by the Municipality;
 - (i) On-site parking shall be provided to the satisfaction of the municipality;
 - (j) Permission to operate a house shop is granted to a particular operator and is not transferable;
 - (k) No more than one vehicle, not exceeding 3 500 kg gross weight shall be utilised for the house shop;
 - (l) Permission may only be granted for a period determined by the municipality; and
 - (m) No subletting is permitted.

Factory shop

- 16.10.12 The occupant of an industrial property, or portion thereof may operate a shop for the sale of goods which have been completely or partially manufactured on the property, and such other goods as the municipality may permit, provided that:
- (i) The total floor space of the property or portion thereof may be devoted to the sale of goods shall not exceed 10% of the total floor space of all buildings on the land unit; and
 - (ii) Such other goods that are offered for sale, but have not been manufactured on the property, are related to the goods that are manufactured on the property.

Scrapyard and Recycling

- 16.10.13 A scrapyard must have boundary walls of a minimum of 2,1 m, and the Municipality may require a wall height in excess of 2,1 m where it is deemed necessary for the public interest;
- 16.10.14 A Operational Management Plan must be submitted for approval, which addresses noise, odour, visual impact and hours of operation, but not limited thereto.
- 16.10.15 No scrap and/or recyclable material may be stored or recycled outside the boundary of the erf.
- 16.10.16 The erf must be neat at all times.

Caretaker's dwelling

- 16.10.17 The following provisions shall apply where a portion of an industrial structure is used for the purposes of housing a caretaker:
- (a) A caretaker's dwelling may not exceed 80 m².
- (b) A caretaker's dwelling may only be utilised in connection with the industrial property.

Informal trading

- 16.10.18 Informal trading is permitted on land as demarcated or leased by the municipality for such purposes, provided that:
- (a) there is no interference with pedestrian or vehicular movement, the amenity of the neighbourhood, or with any municipal utility service;
- (b) a site plan demonstrating compliance with the requirements pertaining to land use parameters is submitted;
- (c) there is, in the municipality's opinion, no threat to public health or safety;
and
- (d) the overnight storage of products on the land is only allowed in an approved structure, if prior approval is obtained from the municipality.

Office space

- 16.10.19 The following provisions shall apply where a portion of an industrial structure is used for the purposes of an office by the occupant(s) of a property:
- (a) The total floor area of the office space shall not exceed 25% of the floor area of the structures on the site;
- (b) An office may only be utilised in connection with the use of the industrial property.

Industrial Café

- 16.10.20 An industrial café may not exceed 100m²

Transmission Apparatus

16.10.21 Applications for the installation of Transmission Apparatus (TA) shall, to the satisfaction of the Municipality, incorporate the following:

- (a). Site Development Plan which clearly illustrates the proposal in the context of the existing landscape and receiving environment, with reference to application guidelines as may be incorporated in the application form;
- (b). Telecommunication Apparatus Infrastructure Plan (indicating but not limited to the following, namely dimensioned plans showing detail of TA, graphic illustration of the proposed facility, elevation details, proposed materials and colours, screening or fencing)
- (c). Site Development Plan & Telecommunication Apparatus Infrastructure Plan to be accompanied by a report detailing the motivation for the selected site, how the siting and design of the facility responds to the SDP;
- (d). Motivation report to be accompanied by relevant proof pertaining to need and desirability (demand & technical requirements);
- (e). Application to satisfactorily demonstrate to the AO / MPT that all alternatives to the site itself have been explored within a 1km radius of the subject property;
- (f). Minimum of two alternative sites and design options to be considered;
- (g). Zoning and land use map to accompany application, that shall also indicate all areas of heritage or environmental significance, if applicable;
- (h). Visual Impact Assessment prepared by a suitably qualified professional, if required by the municipality, that shall incorporate mitigation measures limiting visual impact;
- (i). Landscaping plan to accompany application, if required by the municipality, and
- (j). Statement demonstrating that the installation complies with the applicable health and safety standards

Subdivision and density standards

16.10.21 The following subdivision and density provisions apply:

(a) Minimum subdivision area

Council may specify the minimum size of a subdivisional area in terms of an overlay zone and/or policy, and may prescribe the minimum size of subdivided portions to be achieved in such zone.

(b) Maximum density

Council may specify a maximum density for a land unit in terms of an overlay zone

Guest house (only applicable in Residential Zone 1)

16.10.22 The following provisions shall apply where dwelling house, or second dwelling is used for a guest house;

- (a) The manager and / or owner shall reside in the main or second dwelling (excluding outbuildings) on the property.
- (b) Maximum 5 bedrooms (10 persons) per property may be used for paying transient guests.
- (c) Guest rooms may not be converted to, or used as, separate dwelling units
- (d) Meals may also be provided to bona fide guests on the property.
- (e) The residential character must be retained.
- (f) Subject to obtaining a liquor licence, alcoholic beverages may only be sold to resident guests for consumption with meals on site.
- (g) Home occupation will not be permitted on the same property as a guest house.
- (h) A place of entertainment shall not be permitted.
- (i) No more than 3 staff members shall be employed in support of the establishment at any given time.
- (j) No advertising sign shall be displayed without the written approval of [Council] the municipality other than a single un-illuminated sign or notice affixed to the building or boundary wall or fence, and such sign must be in line with the Overstrand Signage By-Law at any given time.
- (k) No activities constituting a source of public nuisance shall be carried out.
- (l) No disturbance from loud music and other sources are allowed after 22:00.
- (m) The minimum parking provisions as listed in section 17.1.3 shall apply.
- (n) Occupation shall be subject to the submission of a site plan (for record purposes) demonstrating compliance with the requirements pertaining to guest rooms.
- (o) No cooking facilities or prep bowl may be provided in the guest room.

By amending PART 4, CHAPTER 17 as follows;

17.1 PARKING REQUIREMENTS

Off-street parking requirements

17.1.1 The following off-street parking requirements apply unless otherwise stated in this land use [zoning] scheme:

- (a) In cases where parking requirements are not stipulated for a particular use, or in terms of a specific condition imposed by the **[Council] municipality**, parking shall be provided at a minimum ratio in accordance with the **[following]** table titled "Minimum Off-Street Parking Requirements" (see below);
- (b) The **[Council] municipality** shall determine off-street parking requirements for land uses not stipulated in the table "Minimum Off-Street Parking Requirements"; and
- (c) Off-street parking shall be provided:
 - (ii) On the property for which the parking is required;
 - (ii) Subject to the **[Council] municipality's** approval, in public parking facilities available in the vicinity; or
 - (iii) In accordance with 17.1.2. and applicable policies.

Alternative parking [supply] provision

17.1.2 As an alternative to compliance with the off-street parking requirements in terms of this land use [zoning] scheme, an owner may with the approval of the **[Council] Mmunicipality**:

- (a) Acquire an area of land sufficient for the permanent parking requirements elsewhere in a position approved by the **[Council] municipality**; or
- (b) Acquire permanent rights to a parking facility or portion of a parking facility elsewhere in a position approved by the **[Council] municipality**; and shall register a notarial deed of servitude against such land or parking facility to link the properties concerned for the purpose of parking, and the owner shall cause the parking concerned to be constructed and maintained at his cost to the satisfaction of the **[Council] municipality**. The cost of registration of the servitude shall be borne by the owner; or
- (c) Pay **[Council] the municipality** the amount to the value of the parking to be provided, in accordance with the zoning concerned, together with the construction cost, in cases where the provision of parking is precluded in terms of other legislation or site specific constraints or a contribution is made to an approved **[Council] Municipality** parking fund or project for the provision of parking; and
- (d) For the purpose of determining the value of a parking bay a minimum area of 25m² will be utilized.

Combined parking requirements

17.1.3 Where two or more land uses share a common parking area, the **[Council] municipality** may reduce the **[amount] number** of parking **bays [that would be] required for [to be provided]** the independent uses; provided that:

- (a) The **[Council] municipality** is satisfied that the utilisation of the same parking area by different activities, is not concurrent; and
- (b) Bays intended for combined use may not subsequently be reallocated to selected uses, without the approval of the **[Council] municipality**.

Minimum off-street parking requirements

Land use	Standard areas
Dwelling house	<u>Two [2]</u> on-site parking bays per dwelling unit, provided that on erven less than 400 m ² , only one on-site parking bay needs to be provided
Second dwelling	<u>One [1]</u> bay
Group dwelling/town housing	<u>One [1]</u> bay per dwelling unit plus one bay per dwelling for visitors
Flats	1.5 bays per one bedroom dwelling unit Two bays per two and more bedroom dwelling units
Guest house	<u>Two [2]</u> bays per establishment (owner/manager) One bay per bedroom; <u>two</u> persons accommodated Additional parking may be required for any additional facilities to the satisfaction of the Municipality

[Boarding house, Guest house]	[1 bay per bedroom/2 persons accommodated]	
Hotel	One [1] bay per bedroom plus an additional six parking bays per 100 m ² of public access areas . Additional parking may be required for any additional facilities to the satisfaction of the <u>Municipality</u>	
Retirement home	1.25 bay per bedroom plus 0.25 bays per frail-care bed	
Crèche, day care centre	One [1] bay per 10 children plus stop-and-drop facility where a <u>day care centre [crèche]</u> makes provision for more than 30 [20] children or <u>determined by the Municipality</u>	
School	One [1] bay per classroom or office plus a stop-and-drop facility	
Place of instruction (tertiary education facility)	0.5 bays per student plus <u>one</u> bay per classroom or office	
<u>Residential building</u>	<u>Two bays per establishment (owner/manager)</u> <u>One bay per guest room</u> Additional parking may be required for any additional facilities to the satisfaction of the <u>Municipality</u>	
Place of assembly/entertainment/funeral parlour	One [1] bay per <u>four [4]</u> seats	
Recreation/sport	One [1] bay per <u>four [4]</u> seats or persons	
Hospital/clinic (general and private)	One [1] bay per bed plus <u>four [4]</u> bays per consulting room	
Medical consulting rooms	<u>Four [4]</u> bays per 100 m ² GLA*	
Conference centre	One [1] bay per <u>four [2]</u> seats	
<u>Place of worship</u>	One [1] bay per <u>six [6]</u> seats	
Supermarket/shopping centre	<u>Local business</u>	<u>Four bays per 100m² GLA</u>
	<u>General business</u>	<u>Six [6] bays per 100m² GLA</u>
Shops/restaurants	<u>Local business</u>	<u>Four bays per 100m² GLA</u>
	<u>General business</u>	<u>Four bays per 100m² GLA</u>
Offices	<u>Local business</u>	<u>Four bays per 100m² GLA</u>
	<u>General business</u>	<u>Four bays per 100m² GLA</u>

Land use	Standard areas
Motor showroom	<u>Two [2]</u> bays per 100 m ² GLA* and <u>one [1]</u> bay per 100 m ² outdoor display area
Motor repair garage/service station/service centre	<u>One [2]</u> bay per service bay plus <u>two [2]</u> bays per 100 m ² GLA up to 500 m ² , <u>thereafter one per 100 m² GLA</u>
Motor fitment centre	<u>One [2]</u> bay per service bay plus <u>two [2]</u> bays per 100 m ² GLA up to 500 m ² , <u>thereafter one per 100 m² GLA</u>
Car wash	<u>Four [4]</u> bays per wash bay plus <u>two [2]</u> bays per 100 m ² GLA (for office component)
Industry	<u>Two [2]</u> -bays per 100 m ² GLA up to 500 m ² , <u>thereafter one per 100 m² GLA</u>
Warehouse/storage	<u>Two [2]</u> bays per 100 m ² GLA up to 500 m ² , <u>thereafter one per 100 m² GLA</u>
Self-storage units	<u>One [1]</u> bay per 100 m ² GLA

17.1.4 The following minimum requirements, with reference to the parking policy, as amended, and the requirements of the Engineering Department shall apply to parking bays:

- a) a parking bay shall measure a minimum of 2,5 m in width and a minimum of 5,0 m in length, for perpendicular or angled parking, and 6,0 m x 2,5 m for parallel parking;
- b) covered parking areas shall have minimum headroom of 2,3 m and
- c) on- site parking shall remain accessible for customers during business hours.

PHYSICALLY DISABLED ACCESSIBLE PARKING (AS PER PART S OF SANS 10400-S)

Total no. of parking bays	Required number of bays accessible to the physically disabled
<u>General requirement</u>	<u>At least one parking bay per 25 parking bays, or part thereof</u>
<u>At rehabilitation and medical facilities</u>	<u>20% of the parking bays shall be provided for the parking of vehicles used by persons with disabilities</u>

17.1.7 Parking for the physically disabled shall comply with the following requirements:

- (a) Parking bays shall be in accordance with SANS 10400-S, as amended;

- (e) Additional signage indicating the parking bay as reserved for the exclusive use by physically disabled persons may be required by **[Council]** the municipality; and
- (f) Where five or less parking bays are provided, at least one bay shall be 3,5 m wide and marked to provide a parking bay of 2,5 m with an access aisle 1,0 m, but the bay does not need **[not]** to be reserved exclusively for physically disabled persons.

Motorcycle and bicycle spaces

17.1.9 The **[Council]** Municipality may require that parking be provided for motorcycles and bicycles.

17.1.11 Signage, bollards and racks, or other devices for storing bicycles and motorcycles shall be installed to the satisfaction of **[Council]** the municipality.

Parking layout plan.

17.1.12 The **[Council]** municipality may require a parking layout plan to be submitted, indicating the way in which it is intended that motor vehicles shall park, the means of entrance and exit, and landscaping proposals.

17.1.13 The **[Council]** Municipality may approve or disapprove the parking layout plan and impose conditions of approval.

17.2 LOADING BAYS

[17.2.1] The minimum off-street loading must be provided to the satisfaction of the Engineering Department [requirements are 1 bay per 500 m² for the first 1 000 m² of GLA, thereafter 1 bay per 1 000 m²; provided that:

17.2.1 Council may, for the purposes of preventing the obstruction of traffic on any public street or road adjacent to a land unit, require specific provision for the loading, offloading or refueling of vehicles that are likely to occur on the land unit under normal circumstance;

- (a) **Facilities for the loading, offloading or refueling of vehicles shall be provided by the owner to the satisfaction of Council, and no loading, offloading or refueling of vehicles shall be permitted other than in accordance with proposals as approved by the Council;**

Any deviation from the requirements may only be allowed with approval from the engineering department.

17.2.2 The minimum requirements as per the Parking Policy as amended and requirements of the engineering department shall apply to loading bays:]

17.3 INFRASTRUCTURE AND AVAILABILITY OF SERVICES

17.3.1 Engineering services installed by an owner or developer shall comply with the minimum standards for the provision of engineering services as laid down by the **[Council]** municipality from time to time.

17.4 REFUSE ROOMS

17.4.1 The **[Council]** municipality may, for the purposes of collecting refuse, require the owner to install a refuse receptacle on the land unit which shall:

- (a) Be of sufficient size to accommodate the refuse generated from the land unit for one week;
- (b) Be located adjacent to a public street or, at **[Council]** the municipality's discretion, in a position which will provide acceptable access to a refuse collection vehicle;
- (d) Comply with any other reasonable condition **[Council]** the municipality may impose relating to access, health, pollution control, safety or aesthetics.

17.4.2 **[Council]** The Municipality may require an owner of property to provide an embayment for refuse removal vehicles to its satisfaction.

17.4.3 The construction of a refuse area may require the following:

- (a) a boundary wall height of a minimum 2,1 m;
 - (b) a door with a width of 1,2 m;
 - (c) the door must be solid;
 - (d) the area must have a tap and floor level gully;
 - (e) the gully must drain to the sewer and not the storm water system or road;
 - (f) storm water generated outside of the refuse area may not drain into the gully, and
 - (g) no hazardous waste may enter the main sewer system.
- If the refuse area is roofed or if the storage area is in a room or basement within the building, adequate ventilation must be provided.

17.4.4 The following ratios may be used when determining the size of a refuse area

<u>Offices</u>	<u>0,5 m² per 100 m²</u>
<u>Industrial</u>	<u>1,0 m² per 100 m²</u>
<u>Shops/restaurants</u>	<u>2,0 m² per 100 m²</u>
<u>Group housing/general residential</u>	<u>0,5 m² per 100 m²</u>

17.4.5 Any deviation from the requirements may only be allowed with approval of the engineering department.

By amending and renumbering PART 4, CHAPTER 18 as follows:

[Deemed approval for building line and coverage departures

18.1.1 When the Council grants approval of the subdivision of a land unit containing one or more existing structures, so as to locate different structures on separate land units, Council's approval is deemed to have been granted for any building line or coverage departure that arises from the approved subdivision, provided that future structures comply with the requirements of the land use scheme.

Utility services

18.1.2 Where a subdivision is granted, the owner of any land unit of the subdivision shall, without compensation allow:

- (a) Gas mains, electricity, telephone and television cables, water pipes, foul sewers, storm water pipes, ditches and channels from any other land unit or land units to be conveyed across the land unit concerned;
- (b) Installations such as mini-substations, meter kiosks and service pillars to be installed thereon; and
- (c) If considered necessary by the Council, in such manner and position as may from time to time be reasonably required, and shall allow the right of access to the land unit at any reasonable time for the purpose of constructing, removing, reparation or inspecting any works connected with the above.

Bank stability

18.1.3 Where a subdivision is granted, the owner of any land unit shall, without compensation:

- (a) Receive such material or permit such excavation on the land unit as may be required to allow the use of the full width of an abutting street and provide a safe and proper slope to its bank necessitated by differences between the level of the street as finally constructed and the level of the land unit; or
- (b) Alternatively the owner may elect to build retaining structures to the satisfaction of, and within a period to be determined by, the Council.

Building on a subdivision not confirmed

18.1.4 The Council may permit a building or structure to be erected on a land unit forming part of a subdivision that has not been confirmed, provided:

- (a) Such building or structure is not in conflict with this land use scheme or any relevant condition of subdivision;
- (b) The current registered owner of the land unit agrees to the erection of the building or structure concerned; and
- (c) Provided that where a subdivisional approval has lapsed the registered land owner shall apply to Council to consider the legalization of such structure in terms of the relevant legislation.]

18.1 Subdivision of a property with consent use rights or a temporary land use departure

18.1.1 **[18.1.5]** If a property that has been granted a consent use right or temporary land use departure is subsequently subdivided, the consent use right or

temporary land use departure shall apply to only one of the resulting subdivisions, unless the [Council] municipality states otherwise by means of a condition of the subdivision.

Subdivision of Residential properties

Subdivision in an area will be generally be allowed if it is consistent with the planning policies and the average size and density of surrounding residential properties will also be considered.

By amending and renumbering PART 4, CHAPTER 19 as follows:

[Rules for interpretation

19.1.1 The following rules of interpretation shall apply:

- (a) In this zoning scheme, in the register, in any note on the zoning map and in any condition imposed in terms of this zoning scheme, the words and expressions shall have the meanings assigned to them in accordance with the definitions contained in these zoning scheme regulations, except where a contrary interpretation is clear from the context. Interpretation of words not defined in this chapter will have the meanings assigned to them in the “New Shorter Oxford English Dictionary” published by Oxford University Press, except where a contrary interpretation is clear from the context;
- (b) Headings contained in this zoning scheme shall be used for reference purposes, but shall not be construed to govern, limit or modify the meaning or intent of any provision of the zoning scheme;
- (c) The masculine gender includes the feminine and neuter, and visa versa, and the singular includes the plural, unless the context indicates otherwise;
- (d) Whenever reference is made to a law, ordinance or by-law, the reference applies to all substitutions, amendments and additions of that law, ordinance or by-law;
- (e) Whenever reference is made to the use of a building, land unit or property, the reference applies also to the erection of a building, to the use of part of a building and to the use of a land unit, whether a building is erected on the land unit or not;
- (f) It is understood that the terms “must” and “shall” are mandatory, and the term “may” is not mandatory, unless the context clearly indicates otherwise; and
- (g) The Council’s interpretation of the text shall prevail unless the contrary is proven.]

[Methods of measuring distances, levels and heights

19.1.2 The following provisions apply with regard to measuring distances, levels or heights:

- (a) If required by the Council, the owner or applicant shall appoint a registered surveyor to supply or verify information necessary for the Council to make a decision about compliance with distances or heights required in terms of this zoning scheme;

- (b) Where reference is made or implied to the distance between boundaries or between a building and a boundary, this distance shall be measured in the following manner:
 - (i) The boundary or boundaries and all points of the building shall be projected onto a horizontal plane, and all measures shall be made in such a plane; and
 - (ii) The distance between a point on a building and a boundary shall be measured at the shortest distance between the point and the boundary.
- (c) Where reference is made to a portion of a boundary “opposite” a building, such portion shall be defined by drawing lines in a manner described in clause (b), from points on such building, at right angles to such boundary; and
- (d) Where reference is made to a distance, ground level, height of a point on a building or other measurement, then such distance, level or height shall be calculated in accordance with recognised geometric principles. In any case where the distance, level or height involved is so irregular that calculation in accordance with these principles is impractical or leads to a result which is clearly not in accordance with the intent of the zoning scheme, the Council shall determine the distance, level or height concerned for the purpose of administering this scheme.]

[Interpretation of boundaries

- 19.1.3** Where uncertainty exists as to the boundaries of use zones, the following rules apply in the order listed:
- (a) Boundaries shown as following or approximately following any public street or road shall be construed as following the street or road cadastral boundary;
 - (b) Boundaries shown as following or approximately following any land unit boundary shall be construed as following such cadastral boundary;
 - (c) Boundaries shown as following or approximately following natural features shall be construed as following such features; and
 - (d) In the event of further uncertainty as to the boundaries of a use zone, the Council shall make a determination, or may appoint a professional land surveyor of his choice to determine the boundaries at the cost of the land owner.]

[Interpretation of category of use and zoning

- 19.1.4** The Council shall determine the category of use or zoning, and its decision shall be final unless the contrary is proven, where:
- (a) There is uncertainty or dispute about zoning categories;
 - (b) There is conflict between the provisions of a zoning map, this zoning scheme and the register; and
 - (c) There is uncertainty or dispute about the zoning of property.]

By amending Chapter 20 as follows:

CHAPTER [20] 19: GENERAL PROVISIONS APPLICABLE TO ANNEXURES

19.1 [20.1] ANNEXURES

The Annexures shall be maintained and updated by [Council] the municipality. **[after a final rezoning decision is made or land use scheme amendment has been promulgated in terms of Planning Law. The Annexures must also be available to the general public for inspection.]**

Council may only amend or add to these Annexures after a rezoning has been approved, or this scheme has been amended in terms of the Overstrand Municipal By-law on Municipal Land Use Planning.]

ANNEXURE A: NOTATION ON ZONING MAP

The determination of bulk zones for the Hermanus, Gansbaai and Kleinmond areas as indicated on the zoning maps (refer to Annexure A).

Zoning Maps have been compiled for the overall Overstrand Municipal Area Individual Zoning Maps have been compiled for each town / settlement (outlined in red), namely: Rooi-Els, Pringle Bay, Betty's Bay, Kleinmond, Fisherhaven, Hawston, Hermanus West, Hermanus Central, Hermanus East, Stanford, Gansbaai, Pearly Beach, and Rural Areas. Refer to Annexure A and the Overstrand Municipal Website:

<https://www.overstrand.gov.za/en/documents/town-planning/advertisements-2/september-2019-by-law-zoning-scheme-and-overlay-zones/proposed-revisions-to-existing-documents/zoning-maps-1>.

DISCLAIMER:

The Overstrand Municipality does not guarantee the accuracy of the information supplied through the Zoning Maps. Persons who rely on the information provided do so entirely at their own risk. The Overstrand Municipality will not be liable for any claims whatsoever, whether for damage or otherwise, which may arise as a result of inaccuracies in the information supplied. The user is responsible to verify the information supplied, before making any decisions or taking any actions based on the information. Zoning can be verified by means of an official Zoning Certificate which can be obtained from the Overstrand Municipality: Town Planning Department.

The Zoning Maps provided on hard copy or in electronic format (PDF) are not continuously updated. The Overstrand Municipality' GIS system contains the master copy of the Zoning Maps which is maintained and updated continuously.

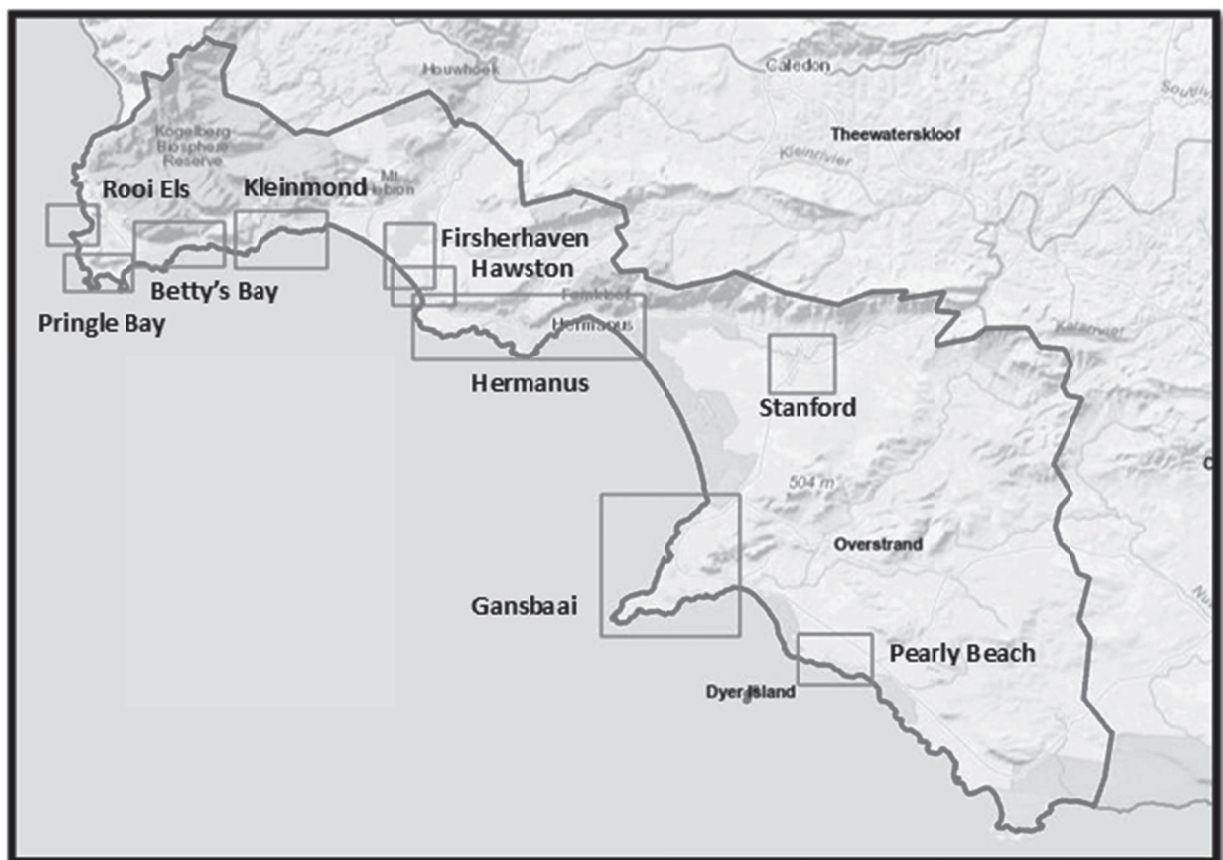
ANNEXURE A: Bulk Zones and Zoning Maps

1. Bulk Zones





2. Zoning Map Areas



ANNEXURE B: LIST OF SPECIAL ZONES

NAME OF SPECIAL ZONE	DEFINITION OF SPECIAL USE	REFERENCE NUMBER (IF APPLICABLE)
Benguela Cove	-	SZ 1
Bosplasiae	-	SZ 2
<u>Driehoek Onrus</u>	-	SZ 3
<u>Farms 215/0,</u>	-	SZ 4
<u>Farm 641/8,</u>	-	SZ 5
<u>Farms 688/1,</u>	-	SZ 6
<u>Farm 692/7,</u>	-	SZ 7
<u>Farm 698/1,</u>	-	SZ 8
<u>Farm 703/14</u>	-	SZ 9
<u>Farm 720/0</u>	-	SZ 10
<u>Farm 919</u>	-	SZ 11
<u>Gansbaai(Grootbos)</u>	-	SZ 12
Hemel-en-Aarde Village	-	SZ 13
Kleinmond Harbour	-	SZ 14
Redevelopment Area	-	SZ 15
Mtimkhulu Village	-	SZ 16
<u>Volmoed</u>	-	SZ 17

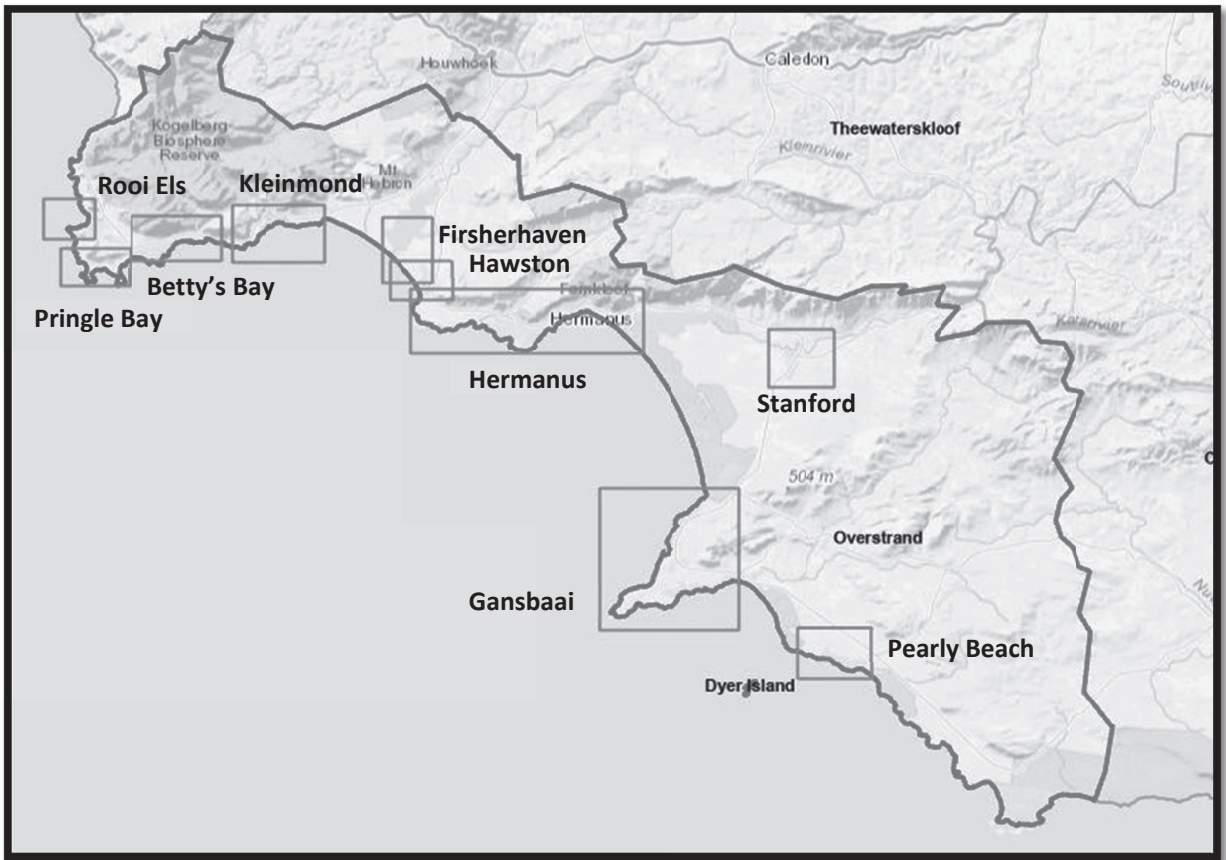
ANNEXURE C: LIST OF OVERLAY ZONES

NAME OF OVERLAY ZONE	NUMBER OF OVERLAY ZONE	REFERENCE NUMBER (IF APPLICABLE)
<u>Environmental Management Overlay Zone</u>	<u>EMOZ1</u>	
<u>Heritage Protection Overlay Zone and</u>	<u>HPOZ 2</u>	
<u>Stanford Heritage Overlay Zone</u>		
Repealed - Stanford Urban Conservation Area Overlay Zone	[OZ 1-S/CA]	

Overlay Zone Maps have been compiled for the overall Overstrand Municipal Area. Where applicable, individual Overlay Zone Maps have been compiled for each town / settlement (outlined in red), namely: Rooi-Els, Pringle Bay, Betty's Bay, Kleinmond, Fisherhaven, Hawston, Hermanus West, Hermanus Central, Hermanus East, Stanford, Gansbaai, Pearly Beach, and Rural Areas. Refer to Annexure C and the Overstrand Municipal Website:

<https://www.overstrand.gov.za/en/documents/town-planning/advertisements-2/existing-documents/draft-documents>.

ANNEXURE C: Overlay Zone Maps



OVERSTRAND MUNICIPALITY
HERITAGE PROTECTION OVERLAY ZONE REGULATIONS
(ANNEXURE C: HPOZ)

PREAMBLE

WHEREAS section 156(1) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), confers on municipalities the executive authority and right to administer local government matters listed in Schedules 4B and 5B to the Constitution; and

WHEREAS Part B of Schedule 4 to the Constitution of the Republic of South Africa lists municipal planning as a local government matter; and

WHEREAS section 152(1) of the Constitution sets out the objects of local government which include to promote a safe and healthy environment; and

WHEREAS section 156(2) of the Constitution empowers municipalities to make and administer laws for the effective administration of matters that it has the right to administer; and

WHEREAS Chapter 15 of the Overstrand Municipality's Land Use Scheme empowers the Overstrand Municipality to prepare, approve, amend or delete overlay zones for specific areas;

NOW THEREFORE the Overstrand Municipality gives notice of its intention to adopt these Heritage Protection Overlay Zone Regulations in terms of Section 156(2) of the Constitution.

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CHAPTER 1: INTERPRETATION, OBJECTS AND APPLICATION OF THE REGULATIONS

1 Definitions

- 1.1 In these regulations, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in any of the undermentioned laws has the meaning assigned to it in that law:
- 1.1..1 the Overstrand Municipality By-Law on Municipal Planning, 2020 and Overstrand Municipality Land Use Scheme, 2020;
- 1.1..2 the National Heritage Resources Act, 1999 (Act 25 of 1999);
- 1.1..3 the National Environmental Management Act, 1998 (Act 107 of 1998);
- 1.1..4 the National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008);
- 1.1..5 the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004);
- 1.1..6 the National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003);
- 1.1..7 the National Environmental Management: Waste Act, 2008 (Act 59 of 2008);and
- 1.1..8 the National Water Act, 1998 (Act 36 of 1998).
- 1.2 "land use scheme" means the Overstrand Municipality Land Use Scheme 2020, or as amended;
- 1.3 "HPOZ" means an Heritage Protection Overlay Zone as contemplated in Schedule 2 of the Overstrand Municipality By-Law on Municipal Planning, 2020;
- 1.4 "HWC" means Heritage Western Cape;

- 1.5 "NHRA" means the National Heritage Resources Act, 1999;
- 1.6 "permissible activity" means an activity or use that is permissible within a particular HPOZ only with the Municipality's written consent;
- 1.7 "prohibited activity" means an activity or use that is prohibited within a particular HPOZ;
- 1.8 "scenic corridors" means the properties immediately abutting scenic drives which are routes traversing natural and cultural historical landscapes of considerable significance and which are located outside approved urban edges;
- 1.9 "scenic drives" means those routes linking scenic corridors which are primarily located within approved urban edges and which thus contribute to the continuity of a scenic route network;
- 1.10 "SAHRA" means the South African Heritage Resources Agency;

2 Object of regulations

- 2.1 The object of these regulations is:
- 2.1.1 To provide a mechanism for land use management, additional to existing statutory land use controls, whereby Council may give effect to specific guidelines in a spatial development framework or policy plan or address a specific management issue.

3 Application of regulations

- 3.1 These regulations apply, in addition to any other laws that may apply, to the Heritage Protection Overlay Zones within the area of jurisdiction of the Overstrand Municipality and bind all persons and organs of state within this area of jurisdiction.
- 3.2 These regulations do not invalidate any land use rights or authorisations that existed when these regulations came into effect but may place additional constraints on existing rights.

CHAPTER 2: GENERAL PROVISIONS FOR OVERSTRAND'S HERITAGE PROTECTION OVERLAY ZONES

- 4 The Council may apply the general provisions stipulated in this section in respect of all Heritage Protection Overlay Zones and the specific provisions to the HPOZ's identified in Chapter 3.
- 5 It should be noted that while the Municipality will make its own decisions in respect of proposed development inside the identified HPOZ's under the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020, it will be further constrained by these regulations.
- 6 HWC will still be required to assess all applications falling under the NHRA. The approval of any alterations or additions to structures identified as having Grade 3A, 3B or 3C heritage status will thus still have to be managed by HWC until the Municipality is deemed to be competent under the NHRA to conduct heritage related regulatory functions in accordance with Sections 30, 31, 34 and/or 38 of the NHRA.
- 7 Land use and building plan application or related application pertaining to a property or activity located within a Heritage Overlay Zone must be referred to the Overstrand Heritage and Aesthetics Committee and/or Stanford Heritage Committee or a registered conservation body for comment prior to a decision being taken for the approval or refusal of such an application by the Municipality.

CHAPTER 3: SPECIFIC HERITAGE PROTECTION OVERLAY ZONE REGULATIONS

- 8 **SCENIC CORRIDOR HERITAGE PROTECTION OVERLAY ZONE ("Scenic Corridor HPOZ")**
 - 8.1 **Spatial delineation:** Refer to Plans A, B & C.
 - 8.2 **Purpose:** To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:
 - 8.2..1 The first purpose is to maintain and enhance the scenic drive network in the Overstrand, which is a heritage resource of considerable environmental, historic and aesthetic significance and which contributes substantially to the economic base of the region.

- 8.2..2 The second purpose is to promote the tourism, environmental and amenity potential of the Overstrand scenic route network by enhancing the user's experience and understanding.
- 8.2..3 The third purpose is to ensure that the actual route is embedded within the landscape rather than imposed upon it.
- 8.2..4 The regulations refer only to scenic corridors which fall outside demarcated urban areas unless otherwise demarcated on the relevant plans for the scenic corridors HPOZs.
- 8.2..5 Maps A, B and C also identify regional and local routes of scenic significance. These routes are identified as they play an important linkage role in the overall scenic route network. Only the regulations relating to edge treatments below and the strict adherence to the Municipality's signage bye-law apply.
- 8.2..6 **Protection of scenic corridors**
- 8.2..6.1 New buildings must not block views from scenic routes, particularly views towards the mountains and the coastline and towards places/sites identified as having visual or heritage significance, where possible.
- 8.2..6.2 Comment must be obtained from the Overstrand Heritage and Aesthetics Committee, Stanford Heritage Committee and/or a registered conservation body on potential visual impacts before the Municipality approves any applications within this HPOZ.
- 8.2..6.3 Development on ridge lines and on steep slopes greater than 1:4 must be avoided in this zone.
- 8.2..6.4 New interventions must be modest and restrained in scale, limited in height, recessive in character and appropriate to the natural and cultural landscape.

- 8.2..6.5 New developments must be associated and linked with existing settlements, rather than being built on isolated sites on undeveloped land.
- 8.2..6.6 Buildings must be aligned parallel to the contours. Hard and soft landscaping must be used to tie the buildings into the landscape.
- 8.2..6.7 Building platforms on sloping sites must be kept to a minimum. Buildings on high stilts in excess of 2,4 m, as measured from the base level and as defined in the land use scheme, must be avoided. New levels must be designed to fit into the surrounding land form. Mitigation measures must be identified to limit visual impacts.
- 8.2..6.8 Outdoor spaces must be designed so that the landscape appears to flow throughout the site. *Extensions on coverage will be discouraged.*
- 8.2..6.9 The layout and design of new buildings must respect local traditions and settlement patterns in terms of the placement and alignment of buildings on sites.
- 8.2..6.10 Access roads and pathways must be designed to avoid excessive cutting and filling and to ensure harmonious adaptation to the existing topography.
- 8.2..7 **Setback lines in wilderness, rural and agricultural contexts**
- 8.2..7.1 No departure from the 30 m building line applicable to Agricultural Zones will be considered without comment from the Overstrand Heritage and Aesthetics Committee, Stanford Heritage Committee and/or a registered conservation body. Mitigation measures must be identified for any departure from this provision.
- 8.2..8 **The control of edge treatments along scenic routes**
- 8.2..8.1 Visually intrusive structures such as billboards are prohibited adjacent to scenic routes.

- 8.2..8.2 Precast concrete, “vibracrete” walls, unpainted cement block walls and razor wire treatment are prohibited along scenic routes.
- 8.2..8.3 Appropriate road edge and storm water channel treatments must be designed to fit in with the rural context.
- 8.2..8.4 Gateways must be recessive in character and limited in scale.
- 8.2..8.5 Entrance gateways must step back from the boundary line and must not exceed 10 m in width.
- 8.2..8.6 Visually impermeable walls or fencing, substations, electrical infrastructure, kiosks, trees and hedges which block significant mountain and coastal views and sites of heritage significance will not be permitted.
- 8.2..9 **The control of signage along scenic routes**
- 8.2..9.1 Signage must be in accordance with the Overstrand Signage By-Law.
- 8.2..9.2 Signage should be located against a backdrop to avoid silhouette effects on the skyline. Low signs are less visually obtrusive. Signs should be fixed to buildings where possible to avoid the proliferation of poles.
- 8.2..10 **The control of invasive vegetation adjacent to scenic routes**
- 8.2..10.1 Exotic trees may be permitted only if they contribute to place character. No alien invasive vegetation will be permitted.

9 COASTAL STRIP HERITAGE PROTECTION OVERLAY ZONE ("COASTAL STRIP HPOZ")

9.1 **Spatial delineation:** Refer to Plans A, B & C.

9.2 **Purpose:** To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:

9.2..1 To protect and enhance the nature of the transition zone between the built fabric along the coastal strip, including the first line of erven facing the coast, the coastal walkway and the coastline;

9.2..2 To protect the natural, environmental and scenic qualities along the coastal strip;

9.2..3 To protect lateral views between the mountain and coastline by ensuring the continuation of existing view lines and by controlling the massing and form of buildings adjacent to the coastal strip;

9.2..4 To ensure the retention of the relatively fine-grain form of development characteristic of the Overstrand holiday home vernacular evident along the coastal strip; and

9.2..5 To ensure the retention of the existing structures identified as having intrinsic and contextual significance.

9.2..6 **Land use and building plan applications**

9.2..6.1 Land use or building plan applications, if applicable, should be submitted to the Overstrand Heritage and Aesthetics Committee and Stanford Heritage Committee or a registered conservation body for comment.

9.2..7 **Grain and texture**

9.2..7.1 The grain and texture of the existing built form, characterised by relatively low building-to-plot ratios; limited building footprints; the predominance of single-storey structures; and fragmented rather than monolithic building forms must be adhered to.

- 9.2..8 **Additions**
- 9.2..8.1 Where new additions are to be built onto structures identified as being conservation worthy, such additions must occur behind the front façade of the main dwelling and must not in any way overwhelm the original structure in terms of massing and height.
- 9.2..8.2 Such additions must be sensitive and appropriate to the context.
- 9.2..9 **Building heights**
- 9.2..9.1 Building heights are restricted to 8,0m, as measured from base level to the top of the structure.
- 9.2..10 **Interface between public and private realms**
- 9.2..10.1 A positive interface between the private site and public realm must be established.
- 9.2..10.2 Visually impermeable boundary walls higher than the permitted 2,1 m will not be allowed.
- 9.2..10.3 No prefabricated materials, including vibracrete walls and false stone walls, will be permitted to face onto the coastline in this zone.
- 9.2..11 **Roof treatment**
- 9.2..11.1 Dormers must not constitute more than one-third of the roof space facing onto the coastline in the new and infill developments.
- 9.2..12 **Building massing and solid to void relationship**
- 9.2..12.1 Large monolithic structures with a horizontal emphasis should be discouraged.

- 9.2..12.2 Buildings should be fragmented and disaggregated in form, and apertures must have a vertical emphasis.
- 9.2..12.3 Large glazed surfaces must be located at least 0,5 m behind the front façade of the building.
- 9.2..13 **Architectural styles**
- 9.2..13.1 Architectural styles at variance with the local indigenous Overstrand vernacular will not be permitted.
- 9.2..13.2 Buildings must be predominantly orthogonal in form and placed parallel to the street edge.
- 9.2..14 **Vegetation**
- 9.2..14.1 The felling of mature trees which contribute to area character (the Norfolk pines and flowering gums (*Corymbia ficifolia*) in Northcliff and Eastcliff will not be permitted without the written consent of the Municipality.
- 9.2..14.2 Local indigenous plant material must be used along the interface between private dwellings and the public realm.
- 9.2..15 **Road edge treatment**
- 9.2..15.1 Alternatives to conventional channel treatment must be used, such as grass swales to bind the roadway into the adjacent landscape.
- 9.2..16 **Building massing and solid to void relationship**
- 9.2..16.1 Large monolithic structures with a horizontal emphasis will not be permitted.

- 10 **BETTY'S BAY VLEI AREA HERITAGE PROTECTION OVERLAY ZONE (Rondevlei, Groot Wit Vlei, Malkopsvlei and the drainage system associated with Davidskraal between the Harold Porter Gardens and the coastline) ("BETTY'S BAY VLEI AREA HPOZ")**
- 10.1 **Spatial delineation:** Refer to Plans 1 & 2.
- 10.2 **Purpose:** To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:
- 10.2..1 To protect and enhance the role of the vlei system as an integral component of the ecological seepage system between mountain and sea, and to maintain and enhance the distinctive visual spatial quality of the system, particularly the edge conditions; and
- 10.2..2 To ensure appropriate building forms and ecologically sensitive building practices along this sensitive interface zone.
- 10.2..3 **Control of land uses**
- 10.2..3.1 Land use and building plan applications in the HPOZ will be considered with comment from the Overstrand Heritage and Aesthetics Committee or a registered conservation body, only if applicable.
- 10.2..3.2 No land use application in terms of the land use scheme which threaten the ecological integrity of the vlei and associated seepage system will be considered without comment from the Overstrand Environmental Services.
- 10.2..3.3 The creation of access ways to the water's edge, across public land and through the reed systems will not be permitted without comment from the Overstrand Environmental Services.
- 10.2..3.4 Strip foundations which interfere with the natural water drainage adjacent to the wetland areas will not be permitted without the prior approval from the Overstrand Environmental Services.

10.2..4 **Inappropriate massing, scale, form, architectural character, materials and colours**

10.2..4.1 New structures must be limited in scale and disaggregated in form.

10.2..4.2 Building heights must not exceed 8,0 m, as measured from the base level.

10.2..4.3 Materials and colours, especially on roofs, must be earth-toned or blend into the natural landscape rather than contrast with it.

10.2..4.4 A wall-dominated recessive architectural treatment must be adopted. Any continuous glazed surface larger than 25% of the façades facing onto the public zone must be recessed at least 0,5 m from the façade of the building.

10.2..5 **Boundary treatments**

10.2..5.1 Boundary treatments comprising precast concrete, vibracrete walls, unpainted cement block walls, security fencing (higher than 2,1 m) and razor wire treatment will not be permitted at the interface between private erven and the vlei areas.

10.2..5.2 Visually impermeable boundary treatments higher than 2,1 m will not be permitted.

10.2..6 **The extent of vegetation clearance**

10.2..6.1 The extent of vegetation clearance around residential units must be kept to a minimum and must be determined primarily with regard to fire safety and fire prevention parameters.

10.2..6.2 A demarcated area, approximately 10 m beyond the building footprint, must be marked off and staked to ensure fire prevention and that the surrounding fynbos and reed bed area remains undisturbed.

10.2..6.3 During the construction period, storage areas for building materials, rubble and a work platform must be designated in areas that will remain disturbed after completion, such as future garages and driveways.

10.2..6.4 No interventions in the reed bed areas surrounding the vleis will be permitted.

11 HANGKLIP SMALLHOLDING AREA HERITAGE PROTECTION OVERLAY ZONE ("HANGKLIP SMALLHOLDING HPOZ")

11.1 **Spatial delineation:** Refer to Plans 3 and 4.

11.2 **Purpose:** To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:

11.2..1 To protect and enhance the high visual and natural environmental quality of the smallholdings area at the strategic interface with the Kogelberg Biosphere Reserve.

11.2..2 To protect and enhance the green linkages between mountain and coastline.

11.2..3 To ensure that the natural green context remains the dominant element and that the built environment remains subsidiary.

11.2..4 To protect the sense of openness and the sense of fit between the built form and environmental context.

11.3 **Control of land uses**

11.3..1 Land use and building applications, if applicable, should be referred to the Overstrand Heritage and Aesthetics Committee or a registered conservation body for comment.

11.3..2 Land uses which are not of an agricultural or rural nature (apart from the land uses permitted in terms of the land use scheme) will be discouraged in the smallholding area.

11.4 **The location of new developments**

- 11.4..1 New structures must not be sited in visually sensitive areas, steep (greater than 1:4) or elevated slopes, ridgelines and hill crests.

11.5 **The scale and massing of new developments**

- 11.5..1 New structures must be integrated into the landscape and must be recessive in form and character.

- 11.5..2 Building on slopes must be stepped down the slope and buildings must not be built on stilts higher than 2,4 m above the base level. Mitigation measures must be applied to minimise visual impact.

- 11.5..3 Residential buildings must not exceed 8,0 m above the base level to the top of the structure.

- 11.5..3.1 A wall-dominated recessive architectural treatment must be adopted. Any continuous glazed surface larger than 25% of the façades facing onto the public zone must be recessed at least 0,5 m from the façade of the building.

- 11.5..4 Materials and colours, especially on roofs, must be earth-toned or blend into the landscape rather than contrast with it.

11.6 **Inappropriate boundary treatments**

- 11.6..1 Boundary treatments comprising precast concrete, vibracrete walls, unpainted cement block walls, security fencing (higher than 0,5 m above the 2,1 m wall height) and razor wire treatment are prohibited in the smallholding area. Visually impermeable boundary treatments higher than 2,1 m will not be permitted.

- 11.6..2 Appropriate road edge and storm water channel treatment must be designed to fit in with the rural context.

- 11.6..3 Gateways and entrances must be recessive in character and limited in scale.

- 11.6.4 Solid masonry entrance gateways must step back from the boundary line and must not exceed 5 m on either side of the gate opening.
- 11.6.5 Where security fencing is unavoidable, such fencing must be visually permeable.
- 11.7 **The treatment of access ways**
- 11.7.1 The alignment and the use of materials for access ways must minimise visual impact, particularly from public routes and the beach area.
- 11.7.2 Where access ways have to cross wetland areas, every attempt must be made to enable access ways to be shared.
- 11.8 **Signage**
- 11.8.1 All signage must comply with the Overstrand Signage By-Law.
- 11.9 **The extent of vegetation clearance**
- 11.9.1 The extent of vegetation clearance around residential units must be kept to a minimum and must be determined primarily around fire prevention parameters.
- 11.9.2 A demarcated area, approximately 10 m beyond a building footprint, must be marked off and staked to ensure that the surrounding fynbos remains undisturbed.
- 11.9.3 Storage areas for building materials, rubble and a work platform for ground work must be designated in areas that will remain disturbed after completion, such as future garages and driveways.

11.10 **The management of development in the smallholding area**

- 11.10.1 Any new subdivision, permitted in terms of the land use scheme, must be subject to a Site Development Plan (SDP) which specifies siting, massing, scale, materials, colours and the treatment of access ways in terms of the regulations stipulated above.

12 **ROOI ELS HERITAGE PROTECTION OVERLAY ZONE ("ROOI ELS HPOZ")**

- 12.1 **Spatial delineation:** Refer to Plan 4.

- 12.2 **Purpose:** To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance, including special places and landmarks:

12.2.1 To protect and enhance the visual spatial threshold at the point of entry to the Overstrand Municipality and adjacent to the Kogelberg Biosphere Reserve.

12.2.2 To protect and enhance local natural landmark features such as the koppies and the green edge facing onto the vlei area and the coastline.

12.2.3 To protect and enhance the green linkages between the mountain and coastline.

12.2.4 To ensure that the natural green context remains the dominant element and that the built environment remains subsidiary to the landscape, rather than dominating it.

12.3 **Land use and building plan applications**

- 12.3.1 Land use and building applications, if applicable, should be submitted to the Overstrand Heritage and Aesthetics Committee or a registered conservation body for comment.

12.4 **Grain and texture**

12.4..1 New building interventions must respect the grain and texture of the existing built form in terms of relatively low building footprints and buildings which are integrated into the surrounding landscape and which are stepped-down slopes rather than being perched on stilts above the slopes.

12.4..2 Buildings must be fragmented and disaggregated and not be monolithic in form.

12.4..3 The footprint of residential buildings may not exceed 50% of the site area.

12.5 **Building on stilts**

12.5..1 Stilts for building platforms must not exceed 2,4 m in height above the base level. Mitigation must be applied to limit visual impacts.

12.6 **Height of structures**

12.6..1 The 8,0 m height restriction, as measured from the base level to the top of the structure, applies.

12.6..2 The definition of basements as contained in the new integrated land use scheme must be strictly applied to ensure that no three-storey structures present themselves to the scenic drive.

12.7 **Use of materials and colours**

12.7..1 Materials and colours, especially on roofs, must blend into the landscape rather than contrast with it.

12.8 **Boundary treatment**

12.8..1 No solid, visually impermeable boundary treatments above 2,1 m will be permitted.

13 GANSBAAI HERITAGE CORE HERITAGE PROTECTION ZONE ("GANSBAAI CORE HPOZ")

13.1 **Spatial delineation:** Refer to Plan 5.

13.2 **Purpose:** To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:

13.2..1 To protect and enhance the relationship between the historical core area and the harbour.

13.2..2 To protect the number of graded heritage sites and significant streetscapes in the area.

13.2..3 To promote a positive public space environment and the retention of views towards the harbour and across the town.

13.3 **Land use and building plan applications**

13.3..1 Land use and building plan applications, if applicable, should be submitted to the Overstrand Heritage and Aesthetics Committee or a registered conservation body for comment.

13.4 **Additions**

13.4..1 Where new additions are to be built onto structures identified as being conservation worthy, such additions must occur behind the front façade of the main building and must not in any way overwhelm the original structure in terms of massing and height.

13.5 **Interface between public and private realms**

13.5..1 A positive interface between the private erf and public realm must be established in the residential areas.

13.5..2 No prefabricated materials, including vibracrete walls and false stone walls, will be permitted in this zone.

13.6 **Building massing and solid to void relationship**

13.6..1 Large monolithic structures with a horizontal emphasis should be discouraged in the residential zones. Within business and general residential zones, any development above the third floor must be set back at least 1,5 m from the front façade of the building and roofs must have a 45 degree roof pitch.

13.6..2 Buildings should be fragmented in form, and apertures must have a vertical emphasis.

13.6..2.1 A wall-dominated recessive architectural treatment must be adopted. Any continuous glazed surface larger than 25% of the façades facing onto the public zone must be recessed at least 0,5 m from the façade of the building.

13.7 **Architectural styles**

13.7..1 Architectural styles at variance with the local indigenous Overstrand vernacular will not be permitted and contemporary interpretations will be encouraged.

13.7..2 Buildings must be predominantly orthogonal in form and placed parallel to the street edge.

13.8 **Vegetation**

Local indigenous plant material must be used along the interface between the private dwelling and the public realm.

13.9 **Road edge treatment**

13.9..1 Alternatives to conventional kerb and channel treatment must be used to minimise severance impact and to bind the roadway into the adjacent landscape.

14 HAWSTON HERITAGE CORE HERITAGE PROTECTION OVERLAY ZONE ("HAWSTON HERITAGE CORE HPOZ")

14.1 **Spatial delineation:** Refer to Plan 6.

14.2 **Purpose:** To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:

14.2..1 To protect the banks of the central watercourse and Paddavlei area and the associated milkwood forest and the adjacent cemetery. The area has high social, historical and visual significance.

14.2..2 To protect the few remaining vernacular cottages in the older part of the village between Vlei Street and Harbour Road and the associated streetscapes.

14.3 **Control of land uses and activities**

14.3..1 Land use and building plan applications, if applicable, should be submitted to the Overstrand Heritage and Aesthetics Committee or a registered conservation body for comment.

14.3..2 Official public access must be in terms of the EMOZ.

14.3..3 Land uses and activities (e.g. tree felling) which would in any way impact negatively on public access to the area, its amenity value and the appreciation of its historical, social and visual significance will not be permitted.

14.4 **Boundary treatments**

14.4..1 No boundary treatment/fencing which would impact the unhindered public access (as established by the Municipality) to the central watercourse and Paddavlei and associated milkwood forest and cemetery will be permitted.

**15 BAARDSKEERDESBOS HERITAGE PROTECTION OVERLAY ZONE
("BAARDSKEERDESBOS HPOZ")**

15.1 **Spatial delineation:** Refer to Plan 7.

15.2 **Purpose:** To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:

15.2..1 To protect the number of vernacular dwellings in the village which are relatively intact, although under threat, both from natural deterioration and inappropriate development.

15.2..2 To retain the low density rural quality of the village in its agricultural setting.

15.2..3 To maintain existing house-street relationships, particularly the contribution of private gardens to the public realm.

15.2..4 To ensure that infrastructural developments, particularly road and storm water treatments, are appropriate to the rural quality of the area.

15.2..5 To ensure appropriate new alterations and additions, particularly in terms of height and massing and the use of materials.

15.2..6 To ensure the retention of the "leiwater" system, which contributes to the rural character of the area.

15.3 Land use and building plan applications

15.3..1 Land use and building plan applications, if applicable, should be submitted to the Overstrand Heritage and Aesthetics Committee or a registered conservation body for comment.

15.4 Grain and texture

15.4..1 The grain and texture of the existing built form, characterised by relatively low building-to-plot ratios; limited building footprints; the predominance of single-

storey structures; and fragmented, disaggregated rather than monolithic building forms must be adhered to.

15.5 **Building heights**

15.5.1 Building heights are restricted to 8,0 m from the base level to the top of the structure.

15.6 **Additions**

15.6.1 Where new additions are to be built onto structures identified as being conservation worthy, such additions must occur behind the front façade of the main building and must not in any way overwhelm the original structure in terms of massing and height.

15.7 **Interface between public and private realms**

15.7.1 A positive interface between the private erf and public realm must be established.

15.7.2 No prefabricated materials, including vibracrete walls and false stone walls, will be permitted in this zone.

15.8 **Roof treatment**

15.8.1 Dormer windows must not constitute more than one-third of the roof space.

15.8.2 Roof colours must be earth-toned. Strong contrasting colours must be avoided.

15.9 **Building massing and solid to void relationship**

15.9.1 Large monolithic structures with a horizontal emphasis will be discouraged.

15.9.2 Buildings must be fragmented and disaggregated in form, and openings must have a vertical emphasis.

15.9..3 Large glazed surfaces in excess of 1,5 m² must be located at least 0,5 m behind the front façade of the building.

15.10 **Architectural styles/colours**

15.10..1 Architectural styles at variance with the local indigenous Overstrand vernacular will not be permitted, and contemporary interpretations of the local vernacular will be encouraged. Pastiche architecture or copies of the original architecture are discouraged.

15.10..2 Buildings must be predominantly orthogonal in form and placed parallel to the street edge.

15.10..3 Wall colours must be pastel coloured or earth-toned, depending on the precinct character.

15.11 **Vegetation**

15.11..1 Local indigenous plant material must be used along the interface between the private dwelling and the public realm.

15.12 **Road edge treatment**

15.12..1 Alternatives to conventional kerb and channel treatment, including grass swales, must be used to minimise severance impacts and to bind the roadway into the adjacent landscape.

16 HISTORIC CORE OF HERMANUS HERITAGE PROTECTION OVERLAY ZONE ("HERMANUS HISTORIC CORE HPOZ")

16.1 **Spatial delineation:** Refer to Plan 8.

16.2 **Purpose: To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:**

16.2..1 To protect and enhance the context of the high concentration of heritage sites; the role of the old harbour; Bientangs cave; the high scenic quality of the coastline; the recreational facilities related to the coastal walkway and associated whale watching points; the relatively fine-grained, low-rise nature of the building fabric; and the integration of these place-making elements.

16.2..2 These heritage features all contribute to an area of particular character, reflecting many of the heritage themes identified in the Overstrand area and worthy of the status of a HPOZ in terms of the land use scheme.

16.3 **Land use and building plan applications**

16.3..1 Land use and building plan applications, if applicable, should be submitted to the Overstrand Heritage and Aesthetics Committee or a registered conservation body for comment.

16.4 **Height, massing and orientation**

16.4..1 No building within the heritage area is to exceed 14 m. The upper storey must be set back a minimum of 1,5 m from the main façade, have a roof pitch of 45 degrees and use light-weight materials to reduce visual impact.

16.4..2 The relatively fine-grain nature of the building fabric must be respected in any new development.

17 ONRUST PENINSULA, LAGOON AND CAMPSITE AREA HERITAGE PROTECTION OVERLAY ZONE (“ONRUST HPOZ”)

17.1 **Spatial delineation:** Refer to Plan 9.

17.2 **Purpose:** To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:

17.2..1 To protect the views from the main access road to the beach area and sea.

17.2..2 To protect the green natural environmental frame of the lagoon area.

17.2..3 To protect the public space environment of the Point area, particularly the natural flow between the public and private realms; the lack of boundary walls and formalised kerb and channel treatment; the preponderance of milkwood trees; and the relatively fine-grain nature of the residential fabric.

17.2..4 To protect the framed sea views on the Point area to the south of Beach Road.

17.2..5 To protect the natural interface between the camping ground and the coastline and the context of the coastal walkway.

17.3 **Land use and building plan applications**

17.3..1 Land use and building plan applications, if applicable, should be submitted to the Overstrand Heritage and Aesthetics Committee or a registered conservation body for comment.

17.4 **Grain and texture**

17.4..1 The grain and texture of the existing built form, characterised by relatively low building-to-plot ratios; limited building footprints; the predominance of single- and double-storey structures; and fragmented rather than monolithic building forms must be adhered to.

17.5 **Building heights**

17.5..1 Building heights are restricted to 8,0 m from the base level to the top of the structure.

17.6 **Additions**

17.6..1 Where new additions are to be built onto structures identified as being conservation worthy, such additions must occur behind the front façade of the main building and must not in any way overwhelm the original structure in terms of massing and height.

17.7 **Interface between public and private realms**

17.7..1 A positive interface between the private erf and public realm must be established.

17.7..2 High, visually impermeable boundary walls must not be permitted.

17.7..3 Boundary walls facing the coastline must be a maximum of 2.1 m.

17.7..4 No prefabricated materials, including vibracrete walls and false stone walls, will be permitted in this zone.

17.7..5 Garages and carports must be located behind the front façade of the building.

17.8 **Roof treatment**

17.8..1 Dormer windows must not constitute more than one-third of the roof space facing onto the coastline.

17.9 **Building massing and solid to void relationship**

17.9..1 Large monolithic structures with a horizontal emphasis will be discouraged.

17.9..2 Buildings must be fragmented and disaggregated in form, and apertures must have a vertical emphasis.

17.9..3 Large glazed surfaces in excess of 1,5 m² must be located at least 0,5 m behind the front façade of the building.

17.10 **Architectural styles**

17.10..1 Architectural styles at variance with the local indigenous Overstrand vernacular will not be permitted and contemporary interpretations will be encouraged.

17.10..2 Buildings must be predominantly orthogonal in form and placed parallel to the street edge.

17.11 **Vegetation**

17.11..1 Local indigenous plant material must be used along the interface between the private dwelling and the public realm.

17.11..2 The removal or excessive pruning of mature trees in excess of 1,8 m in height which contribute to the public realm will not be permitted. Comment from the Overstrand Heritage and Aesthetics Committee or a registered conservation body is required.

17.12 **Road edge treatment**

17.12..1 Alternatives to conventional kerb and channel treatment, including grass swales, must be used to minimise severance impacts and to bind the roadway to the adjacent landscape.

18 STANFORD HERITAGE PROTECTION OVERLAY ZONE ("STANFORD HPOZ")

18.1 **Spatial delineation:** Refer to Plan 10.

18.2 **Purpose: To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:**

18.2..1 To protect and enhance the wide range of heritage sites and streetscapes of considerable heritage significance which contribute to the unique townscape character.

18.2..2 To protect and enhance the role of Market Square and Queen Victoria Street as major structuring elements within the historic core of Stanford which reflect a number of architectural and historical features and establish the character and sense of place in Stanford.

18.2..3 To enable adjustments in the standard provisions of the land use scheme, especially related to the provision of parking and the implementation of setback lines, to ensure the enhancement of identified streetscapes of heritage and architectural value.

18.2..4 To protect and enhance the relationship of the village to the Klein River and the natural spring, "Die Oog", to the south-east, which underpins the role of water in the origins and evolution of the place.

18.2..5 To protect and enhance the character of the historical built environment (established by street, subdivision and building patterns, including building setbacks, orientation, scale, massing and form, street interface and access) and avoid negative impacts on townscape and streetscape character in general and on architecturally and historically significant buildings in particular. This applies to new development, alterations to existing structures, road engineering interventions and boundary treatments and include security fencing, signage and landscaping.

18.2..6 To protect and enhance historical building typologies. Inappropriate typologies must be avoided in the historical core of Stanford with its significant spatial character. The historical present, streetscape and street block character and the role of buildings as landmarks, street liners or corner buildings in

contributing to this character must be respected. Appropriate modern interpretations will be considered by the Municipality with comment from Stanford Heritage Committee.

- 18.2..7 To protect and enhance the leiwater system which contributes substantially to the area's character.

18.3 Land use and building plan applications

- 18.3..1 Land use and building plan applications, if applicable, within the defined Stanford HPOZ area must be submitted to the Stanford Heritage Committee for comment.

18.4 Height, massing and orientation

- 18.4..1 No new building in the Stanford HPOZ should exceed 6,8 m in height, except on erven zoned for commercial use in the commercial core in Queen Victoria Street between Daneel Street and Church Street where a maximum height of 8,0 m is permitted above the base level.
- 18.4..2 No portion of any building shall exceed the prescribed maximum height from base level, save for the general encroachments as prescribed in the applicable land use scheme.
- 18.4..3 The maximum height in the SR zone shall be as follows:
- 18.4..3.1 From the finished floor level to the top of the wall plate: 4.5 m.
- 18.4..3.2 From base level to the top of the structure: 6.8 m.
- 18.4..4 Dormer windows visible from the street must be carefully scaled and must not exceed one-third of the roof space. Skylight type windows flush with the roof surface are permitted.
- 18.4..5 Building forms must be orthogonal in nature and must be positioned parallel to the street boundary.

18.5 **Parking provision**

- 18.5.1 Parking provision standards/ratios may be relaxed when, in the opinion of the Municipality, the imposition of obligatory parking ratios will have a negative impact on building–street relationships and the continuity of the streetscape where such streetscapes are considered to have heritage significance. A minimum parking ratio of 4 bays per 100 m² GLA will apply in the commercial zone.
- 18.5.2 Shared parking between properties or owners should be encouraged in commercial zones to avoid excessive parking areas, which fragment the streetscape.
- 18.5.3 Relaxation of parking provisions will be subject to the alternative parking arrangements provided for in the land use scheme.
- 18.5.4 Parking should be located to the rear of the buildings where possible to avoid gaps in building frontages, particularly in commercial areas.

18.6 **Building setback lines**

- 18.6.1 In the case of an existing building which is being altered/extended, the existing building line shall be maintained, except where the existing condition deviates from the pattern and rhythm of the street, subject to such exceptions that the Municipality may specially approve.
- 18.6.2 In the case of new building construction work to be undertaken on a vacant site or portion of a vacant site or alterations to an existing building, a building line must be prescribed by the Municipality to protect the building line generally observed in the immediate context and with neighbour's approval. In such cases the prescribed building line shall not be considered a departure.
- 18.6.3 Garages must be set back 4,0 m from the street boundary.

18.7 **Disaggregation of buildings and the need to prevent monolithic structures**

- 18.7.1 Scaling devices such as lower walls should be used to disaggregate building massing and large monolithic building forms.

18.7..2 Large buildings should be disaggregated to form smaller-scaled structures.

18.8 **Roof pitches and materials**

18.8..1 Roof pitches must be within the range of minimum 30° and maximum 45°. Parapet and lean-to roofs must have a maximum 15° pitch.

18.8..2 Any mono-pitched roofs, excluding verandas, must be hidden behind front and side parapet walls.

18.8..3 Roof cover materials must be either Victorian-profile corrugated metal sheeting or thatch with cement capping. Lip-lock and IBR type or similar (fiber cement products) roofing is permitted if not visible from the street and only on roofs with a pitch less than 5°. Roof colours must be: Cape Victorian Green, dark green, brick red, black or grey.

18.9 **Solid/opening relationships**

18.9..1 Doors, windows and openings must not exceed 30% of any façade facing the street and must be vertically proportioned. Recessed façades may exceed the 30% opening subject to approval by the Municipality with comment from the Stanford Heritage Committee.

18.10 **External walls**

18.10..1 The following materials are permitted:

18.10..1.1 Dressed or semi-dressed local stone.

18.10..1.2 Painted, plastered masonry (smooth or traditional sponged or stippled plaster).

18.10..1.3 Aluminium doors, windows or frames must be powder coated or may be colour-anodised aluminium. Steel and plastic doors, windows and frames are not permitted on buildings which have a heritage grading.

18.10..1.4 Paint colours must be white or pastel shades. Differentiated colours to emphasise architectural features and on recessed walls set back from the street boundary may be permitted provided that comment is obtained from Stanford Heritage Committee. Striped veranda roofs are permitted.

18.10..2 The following materials are not permitted:

18.10..2.1 unplastered brick or concrete;

18.10..2.2 external bagged finishes;

18.10..2.3 external face brick;

18.10..2.4 fibre cement roof sheeting;

18.10..2.5 precast concrete; and

18.10..2.6 artificial stone or slate-wall finishes of all kinds except on plinths.

18.11 **Boundary walls**

18.11..1 The maximum height of boundary walls and fences on street boundaries must be 1.2 m, measured from ground level. For security reasons, visually permeable fencing not more than 50% solid with openings of at least 20 mm will be permitted up to a height of 1,8 m on the street boundary. The solid vertical components must not exceed 50 mm in width.

18.11..2 The maximum height of walls and fences (other than on street boundaries) must be 1,8 m, reducing to 1,2 m at the street building line with the proviso established above.

18.11..3 Building plans of walls or fences must be submitted to the Municipality for written permission, with comment from the Stanford Heritage Committee, prior to any construction work.

18.11..4 No artificial stone cladding will be permitted. Walls and fences on boundaries shall only be constructed with the following materials:

- 18.11..4.1 plastered and painted brick or block work;
- 18.11..4.2 uncoated or plastic coated wire mesh;
- 18.11..4.3 wrought iron;
- 18.11..4.4 cast iron;
- 18.11..4.5 wood; or
- 18.11..4.6 hedging.

18.12 **Verandas**

- 18.12..1 Verandas parallel to and facing the street must not be enclosed by more than one-third on the street side.

18.13 **Ancillary elements**

- 18.13..1 Solar panels must be secured flat against the roof if visible from the street.
- 18.13..2 Air conditioners must consist of split units with the motor-unit placed not higher than 1,0 m from the ground.
- 18.13..3 Water tanks and exterior elements must not be visible from the street nor protrude above the eaves or ridge line and must be in compliance with the land use scheme.
- 18.13..4 No freestanding transmission tower or energy renewable structure will be allowed within the HPOZ.

18.14 **Trees and hedge rows**

- 18.14..1 No street trees or vegetation in public spaces may be cut without written permission from the Municipality and comment from the Stanford Heritage Committee.

18.15 **The leiwater system**

18.15..1 No alteration of the leiwater system will be permitted without the permission of the Municipality and comment from the Stanford Heritage Committee.

18.16 **Signage**

18.16..1 All signage must comply with the Overstrand Signage By-Law and be submitted to the Stanford Heritage Committee for comment.

18.16..2 Signage must respond positively to the architecture of the building to which it is attached. It must not cover any architectural or historical features.

18.17 **Public works**

18.17..1 All road works (including verges, sidewalks, kerbs, storm water channels, culverts and street lighting) as well as pump stations, substations and electrical kiosks must be in sympathy with the heritage townscape and must be submitted, where deemed necessary by the Municipality, to the Stanford Heritage Committee (or equivalent body) for comment before finalisation of the design.

**19 LANDSCAPES OF VERY HIGH NATURAL, SCENIC AND HERITAGE SIGNIFICANCE
HERITAGE PROTECTION OVERLAY ZONE ("LANDSCAPES HPOZ")**

19.1 **Spatial delineation:** Refer to Plans A, B & C.

19.2 **Purpose: To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:**

19.2..1 To protect and enhance landscapes identified as having high natural, scenic and heritage significance and which contribute to the character and sense of place in the Overstrand and its economic base.

19.2..2 To promote the cultural, tourism, environmental and amenity potential of significant Overstrand landscapes.

19.3 **Land use and building plan applications**

19.3..1 Land use and building plan applications, if applicable, must be submitted to the Overstrand Heritage and Aesthetics Committee, Stanford Heritage Committee and Heritage Western Cape, and/or a registered conservation body, for comment.

19.3..2 If any intervention in landscapes identified as having high significance could have an impact on the visual and cultural landscape, the Municipality may require a Visual Impact Assessment or an equivalent assessment to determine the nature and scale of such impacts and to identify mitigation measures.

CHAPTER 4: APPLICATION AND APPROVAL PROCEDURES

20 The Overstrand Municipality By-Law on Municipal Planning, 2020, will apply in respect of all applications, processes and decisions contemplated in these regulations.

21 In considering an application for written consent in order to undertake an activity in terms of the Heritage Protection Overlay Zone, the Municipality may require from an applicant whatever information it deems necessary in order for an informed decision to be made regarding the application.

22 This could include, *inter alia*:

22.1 statements of significance;

22.2 heritage research;

22.3 photographs, including contextual photographs;

22.4 results of public consultation;

22.5 impact assessments; and

22.6 comment from affected and interested bodies.

23 In approving an application, the Municipality may put in place any additional conditions it believes appropriate for the protection and enhancement of the heritage place.

24 This may include, *inter alia*:

24.1 requirements for landscaping;

24.2 use of materials and finishes;

24.3 management plans;

24.4 requirements for financial guarantees or deposits;

- 24.5 recycling or reuse of materials through a materials bank;
 - 24.6 implementation of development timeframes;
 - 24.7 mitigation measures;
 - 24.8 method statements; and
 - 24.9 the need for the work to be supervised by an appropriately qualified SACAP registered professional.
- 25 Written approval may take the form of a municipal stamped plan and/or a permit from HWC (where NHRA legislation applies) in combination with a municipal stamped plan.
- 26 Approval in terms of the Heritage Protection Overlay Zone does not exempt an applicant from obtaining any other approvals required in law.
- 27 Additional requirements may include further constraints or conditions in respect of, *inter alia*:
- 27.1 the maintenance of buildings;
 - 27.2 changes/restrictions on:
 - 28.2.1 coverage;
 - 28.2.2 height;
 - 28.2.3 floor area ratios;
 - 28.2.4 building lines;
 - 28.2.5 parking ratios;
 - 28.2.6 the display of advertisements and the erection of advertising boards and signage;
 - 28.2.7 irrigation furrows;
 - 28.2.8 historic garden walls and fences; and
 - 28.2.9 any other aspect which the Municipality may deem necessary in a particular case.

- 28 The Municipality shall not give its approval to any development activity or land use if such activity or use, which may include, *inter alia*, construction, demolition, alteration, expansion or defacing, is deemed to be detrimental to the protection and/or maintenance of the significance of the heritage place or heritage area in which such activity is proposed.

CHAPTER 5: ENFORCEMENT

- 29 The provisions contained in the Overstrand Municipality By-Law on Municipal Planning, 2015 as they relate to enforcement, offences, penalties and notices will apply to these Regulations.

CHAPTER 6: MISCELLANEOUS

- 30 Delegation by Council/Municipal manager

- 30.1 The Council and/or Municipal Manager may delegate any of the powers granted to it/him/her under these regulations to any other municipal official.

- 31 Short title

These regulations are called the Overstrand Municipality Heritage Protection Overlay Zone Regulations, 2020.

- 32 Commencement

These regulations commence on the date on which they are published in the Provincial Gazette.

OVERSTRAND MUNICIPALITY
ENVIRONMENTAL MANAGEMENT OVERLAY ZONE
REGULATIONS
(ANNEXURE C: EMOZ)

PREAMBLE

WHEREAS section 156(1) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), confers on municipalities the executive authority and right to administer local government matters listed in Schedules 4B and 5B to the Constitution; and

WHEREAS Part B of Schedule 4 to the Constitution of the Republic of South Africa lists municipal planning as a local government matter; and

WHEREAS section 152(1) of the Constitution sets out the objects of local government which include to promote a safe and healthy environment; and

WHEREAS section 156(2) of the Constitution empowers the Overstrand Municipality to make and administer laws for the effective administration of matters that it has the right to administer; and

WHEREAS Chapter 15 of the Overstrand Municipality's Land Use Scheme empowers the Overstrand Municipality to prepare, approve, amend or delete overlay zones for specific areas;

NOW THEREFORE the Overstrand Municipality gives notice of its intention to adopt these Heritage Protection Overlay Zone Regulations in terms of Section 156(2) of the Constitution.

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CHAPTER 1: INTERPRETATION, OBJECTS AND APPLICATION OF THE REGULATIONS:**1. Definitions**

- 1.1 In these Regulations, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in any of the under mentioned laws has the meaning assigned to it in that law:
- 1.1.1 the Overstrand Municipality By-Law on Municipal Planning, 2015 or succeeding legislation
 - 1.1.2 the National Environmental Management Act, 1998 (Act 107 of 1998) or succeeding legislation
 - 1.1.3 the National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008) or succeeding legislation
 - 1.1.4 the National Environmental Management Air Quality Act, 2005 (Act 39 of 2004) or succeeding legislation
 - 1.1.5 the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004) or succeeding legislation
 - 1.1.6 the National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003) or succeeding legislation
 - 1.1.7 the National Environmental Management: Waste Act, 2008 (Act 59 of 2008) or succeeding legislation
 - 1.1.8 the National Water Act, 1998 (Act 36 of 1998) or succeeding legislation
- 1.2 “access point” means an officially signposted terminal point whereby a member of the public enters or exits an EMOZ, by means of a vehicle, conveyance or on foot;
- 1.3 “access route” means streets, public lanes, footpaths, hiking trails or cycle trails;
- 1.4 “access infrastructure” means buildings such as ablutions, structures such as pathways, signs, refuse bins, benches, viewing platforms, bridges and so forth that the Overstrand Municipality has constructed / erected to facilitate access to Municipal properties and the coastal public property;
- 1.5 “coastal access land” means strips of municipal Open Space properties between the residential cadastral boundary and the high water mark of the sea, including the natural environment, access infrastructure and development nodes and where applicable to areas beyond such strips of municipal Open Space, refers to categories of land defined in the National Environmental Management: Integrated Coastal Management Act, 2008;

- 1.6 “development node” means public parking areas, commercial / retail / trading / tourism nodes, public resorts, blue flag beaches, swimming beaches, dog friendly beaches, public ablutions and other amenities, public boat launching sites, parks and recreation facilities, cultural / heritage buildings, utility areas supporting access or services or proclaimed harbours;
- 1.7 "EMOZ" means an Environmental Management Overlay Zone as contemplated in the Schedule 2 of the Overstrand Municipality By-Law on Municipal Planning, 2020;
- 1.8 “EMP” means an Environmental Management Plan or Environmental Management Programme as listed in the National Environmental Management Act, 1998 (Act 107 of 1998) Environmental Impact Assessment (EIA) Regulations;
- 1.9 “disaster” means a progressive or sudden, widespread or localised, natural or human caused occurrence which (a) caused or threatens to cause: (i) death, injury or disease; (ii) damage to property, infrastructure or the environment; or (iii) disruption of the life of a community; and (b) is of a magnitude that exceeds the ability of those affected by the disaster to cope with its effects using only their own resources;
- 1.10 "ICMA" means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);
- 1.11 “infrastructure” means any temporary or permanent structure made by humans;
- 1.12 “integrated development plan” means the integrated development plan (including the spatial development framework) prepared by the Municipality in accordance with the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);
- 1.13 "land use scheme" means the Overstrand Municipality Land Use Scheme, or as amended;
- 1.14 “NEMA” means the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- 1.15 "NEM:AQA" means the National Environmental Management Air Quality Act, 2005 (Act 39 of 2004);
- 1.16 "NEMBA" means the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004);
- 1.17 "NEMPAA" means the National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003);

- 1.18 "NEMWA" means the National Environmental Management: Waste Act, 2008 (Act 59 of 2008);
- 1.19 "NWA" means the National Water Act, 1998 (Act 36 of 1998);
- 1.20 "permissible activity" means an activity listed in Schedule B to these regulations that is permissible within a particular EMOZ only with the Council's written consent;
- 1.21 "prohibited activity" means an activity listed in Schedule A to these regulations that is prohibited within a particular EMOZ;
- 1.22 "spatial development framework" means a spatial development framework referred to in section 26 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);
- 1.23 "littering" means the act of discarding waste in public areas, other than in a public litter container;
- 1.24 "maintenance" means actions performed to keep a structure or system functioning or in service on the same location, capacity and footprint;
- 1.25 "maintenance management plan" means a management plan for maintenance purposes defined or adopted by the competent authority;
- 1.26 "pathway" means an area that has been planned and signposted by the Municipality to facilitate pedestrian or bicycle traffic, where vegetation has been cleared to facilitate public access and where a sandy, gravel covered or concrete surface exists;
- 1.27 "staying overnight" means sleeping or otherwise taking shelter in any building, informal structure, infrastructure or vegetation on Municipal open space properties between the hours of 20:00 and 06:00;
- 1.28 "utility services" means the provision by the Municipality of basic services in the discharge of its constitutional responsibilities including water, electricity, waste removal, storm water management, municipal public transport and municipal public works.

2. Object of Regulations:

2.1 The object of these regulations is –

2.1.1 To provide a mechanism for land use management, additional to existing statutory land use controls, whereby Council may give effect to specific guidelines in a spatial development framework or policy plan or address a specific management issue.

3. Application of Regulations:

3.1 These regulations apply, in addition to any other laws that may apply, to the Environmental Management Overlay Zones within the area of jurisdiction of the Overstrand Municipality and bind all persons and organs of state within this area of jurisdiction.

3.2 These regulations do not invalidate any land use rights or authorisations that existed when these regulations came into effect but may place additional constraints on existing rights.

CHAPTER 2: SPECIFIC ENVIRONMENTAL MANAGEMENT OVERLAY ZONE REGULATIONS:**4. COASTAL PROTECTION ENVIRONMENTAL MANAGEMENT OVERLAY ZONE ("COASTAL PROTECTION EMOZ"):**

4.1. Spatial delineation: Refer to Plan 1.

4.2. Activities that are prohibited within the Coastal Protection EMOZ are listed in Schedule "A" to these Regulations.

4.3. Activities that may be permitted only with Council's written consent within the Coastal Protection EMOZ are listed in Schedule "B" to these Regulations.

4.4. General regulations applicable to the Environmental Management Overlay Zones (EMOZs) of the Overstrand Municipality are listed in Schedule "C" to these regulations.

4.5. Purpose 1: Managing the integrity of coastal ecosystems, ecosystem services, coastal dynamic processes and biodiversity within Coastal Reserves:

4.5.1. Limitation of Access and Regulation of Behaviour in Coastal Reserves:

4.5.1.1. Council or the delegated management authority may close any access point or route that has or will have an adverse impact on the environment or that is deemed to be an unlawful or unauthorised access point or route;

4.5.1.2. Council or the delegated authority management authority may order the removal of structures in unauthorised access points or routes and the rehabilitation of such sites at the expense of the responsible party;

4.5.1.3. Council may from time to time promulgate bylaws prohibiting specific actions and behaviour within coastal reserves and impose penalties for transgression of such bylaws;

4.5.2. Co-Management Agreements:

4.5.2.1. The Municipality may enter into co-management agreements with third parties for the management of Coastal Reserves.

4.5.3. Management of Indigenous Coastal Vegetation:

4.5.3.1. The Municipality may trim or order the trimming of vegetation within the Coastal Reserve which overhangs the boundaries of residential properties.

4.5.3.2. The Municipality may implement measures to manage vegetation within a Coastal Reserve by burning (with the consent of the Chief Fire Protection Officer), thinning, pruning, brush-cutting, chipping and removing vegetation where appropriate.

4.5.4. Management of Coastal Forests:

4.5.4.1. The Municipality may categorise, designate and manage specific coastal forest areas as Coastal Forest Reserve / Recreational Area / Special Management Area, depending on the existing state of transformation of such ecosystems and in accordance with the provisions of management plans for such areas as approved.

4.5.5. Reinstatement of Coastal Corridors:

4.5.5.1. Council may terminate or reduce the validity period or decline the renewal/ extension of encroachment agreements, coastal leases or any other management agreement with any third party where it would be to the benefit of the ecology within the Coastal Protection EMOZ and/or in the public interest.

4.5.6. Management of Locally Problematic Alien Invasive Species & Emerging Weeds:

4.5.6.1. Council may consider and approve a list of locally problematic alien invasive species and emerging weeds which pose a risk to the environment within the Coastal Reserve or that present budgetary and costs implications for the Municipality in order to manage.

4.5.6.2. The Management Authority may issue removal notices for locally listed alien invasive species and emerging weeds which are found on properties within or adjacent to coastal reserves including on state owned land.

4.6. Purpose 2: Managing public access for the enhancement of social, economic and recreational opportunities within the coastal environment:

4.6.1.1. Development Nodes & Arterial Routes in Existing Urban Areas:

4.6.1.1.1. Public access to the coastal environment:

4.6.1.1.1.1. Public access to the coastal environment is provided by means of development nodes and arterial routes which may be located within Coastal Reserves or exist as separate cadastral units within the Coastal Protection Zone.

4.6.1.1.2. **Reasonable and equitable access to the coast**

4.6.1.1.2.1. The Municipality may limit access within the Coastal Reserves to the use of designated development nodes and arterial routes (above the high water mark of the sea) only;

4.6.1.1.2.2. The Municipality may designate existing development nodes and arterial routes on spatial plans per suburb in the Municipal area, signpost such areas and provide for their operational management in maintenance management plans.

4.6.1.1.3. **Primary Uses of Arterial Routes:**

4.6.1.1.3.1. The following primary uses of arterial routes will be permitted:

- Municipal streets,
- public lanes,
- footpaths,
- hiking trails,
- cycle trails, and associated structures or services such as water pipelines, sewage lines, park benches, refuse bins, viewing platforms and bridges.

4.6.1.1.4. **Primary Uses of Development Nodes:**

4.6.1.1.4.1. The following primary uses will be permitted in development nodes:

- Public Parking Areas
- Commercial / Retail / Trading / Tourism Nodes
- Public Resorts
- Blue Flag Beaches
- Swimming Beaches
- Dog Zoning Beaches
- Public Ablutions & Other Amenities
- Public Boat Launching Sites
- Parks & Recreation Facilities
- Cultural / Heritage Buildings
- Utility service areas supporting access or services
- Proclaimed Harbours.

4.6.1.1.5. **Environmental Management Plans & Audits**

4.6.1.1.5.1. Council may at its' own discretion require the submission of Environmental Management Plans and other environmental studies for activities, buildings, and infrastructure within development nodes, which require the Council's written consent.

4.6.1.1.5.2. Council may at its own discretion require the submission of independent environmental audit reports in respect of activities that are managed in terms of environmental management plans.

4.6.1.1.6. **Public Protection:**

4.6.1.1.6.1. Access to coastal public property via municipal approved development nodes and arterial routes is subject to the following conditions:

4.6.1.1.6.2. Council may prescribe appropriate and inappropriate behaviour on coastal access land and publish bylaws for the regulation of public behaviour on coastal access land.

4.6.1.1.6.3. Council may install monitoring and surveillance equipment in order to safeguard public access to coastal property and to curb criminal activity.

4.6.1.1.6.4. Council may specify appropriate hours of access to coastal access land and regulate such access where required.

4.6.1.1.6.5. Council may designate certain areas as smoking free zones.

4.7. Purpose 3: Managing the character, sense of place and aesthetic value of coastal property:

4.7.1.1. **Management of Encroachment**

4.7.1.1.1. Council may institute measures to safeguard coastal reserves against encroachment from private properties and to prosecute persons that cause such encroachments.

4.7.1.1.2. Council may approve procedures for the removal of infrastructure that is placed in coastal reserves without the written consent of the council or the delegated authority.

4.7.1.1.3. Council may authorize procedures for the recovery of costs from persons that are responsible for encroachments, dumping or the modification of coastal vegetation.

4.7.1.2. **Development Nodes:**

- 4.7.1.2.1. Design and development of new buildings, infrastructure and utility services within development nodes must complement the natural character of the coastal reserves or improve the sense of place when existing development is replaced.
- 4.7.1.2.2. Applications for new development nodes within coastal reserves must be accompanied by environmental impact assessments and environmental management plans.
- 4.7.1.2.3. Transmission infrastructure should be limited to rooftop base stations unless authorized by an environmental authorization and consent use application.

4.7.1.3. **Arterial Routes:**

- 4.7.1.3.1. Infrastructure located on arterial routes must as far as possible be constructed of natural materials and blend into the landscape.
- 4.7.1.3.2. Infrastructure must take cognizance of natural /cultural / historical features and be constructed in accordance with any specific management plan for such sites.

4.7.1.4. **Coastal Buffer Areas:**

- 4.7.1.4.1. Where natural coastal corridors have been destroyed by residential development, Council may issue notices for the reinstatement / rehabilitation of vegetated coastal corridors.
- 4.7.1.4.2. Residential properties, gardens and infrastructure may not encroach on coastal public open space and the Municipality may issue notices for the restoration/rehabilitation of any such encroachment in coastal public open space;
- 4.7.1.4.3. Council may prohibit the relaxation of building lines or the placement of buildings, structures and infrastructure within building lines on properties located adjacent to coastal reserves or coastal development nodes.

4.7.1.5. **Urban Infill Development Areas/ Subdivisions / Private Development Areas within the [CPEMOZ]:**

- 4.7.1.5.1. All new development proposals within these areas must comply with the following requirements to the satisfaction of the municipality:

- 4.7.1.5.1.1. contain design standards for optimum number of access points per property cluster in order to provide access to coastal public property;
- 4.7.1.5.1.2. reserve coastal public access servitudes in favour of the general public;
- 4.7.1.5.1.3. include a coastal public access management plan that will address but not be limited to the provision of public amenities, access infrastructure, demarcation, signage, control of activities and waste management;
- 4.7.1.5.1.4. include a maintenance management plan for coastal public access infrastructure and make provision for different types of access points including, but not limited to:
 - 4.7.1.5.1.4.1. surfaced vehicular roads within the road reserve and for parking areas;
 - 4.7.1.5.1.4.2. pedestrian paths, walkways, boardwalks, bridges and / or hiking trails;
 - 4.7.1.5.1.4.3. disability friendly access buildings & infrastructure.
- 4.7.1.6. **New Rural Coastal Developments / 'Development Islands':**
 - 4.7.1.6.1. New development is to be located, designed and operated in a manner that retains or enhances existing public access to the coastline or where loss of public access cannot practicably be avoided development must provide the same or a greater amount of new access opportunities in, or in close proximity to, the site.
 - 4.7.1.6.2. Public access to the coastline must be protected through appropriate zoning of land (for example to Public Open Space Zone I) and the designation of such land as Public Places under the municipal land use scheme.
 - 4.7.1.6.3. The maintenance and/or enhancement and regulation of access as well as public recreational use is to be regulated by means of:
 - 4.7.1.6.3.1. signposting coastal access entry points to coastal public property;
 - 4.7.1.6.3.2. maintaining that land so as to ensure that the public has access to the coastal public property, including parking areas, toilets, boardwalks and other amenities, taking into account the needs of physically disabled persons.

4.7.1.7. **Management of New Informal Settlements:**

4.7.1.7.1. Council may approve procedures and assign authority for the issuing of first respondent removal notices in the case of informal settlements which arise in any portion of the Coastal Protection Zone.

4.7.1.7.2. The Municipality shall, within 24 hours of issuing a notice, inform an organ of state with jurisdiction over the land on which the structure has been erected and hand the matter over to the organ of state for further action.

4.8. Purpose 4: Instituting appropriate controls for the protection of people, property, and economic activities within the coastal environment:

4.8.1.1. **Management Plans for Coastal Reserves affected by Natural Hazards, Climate Change and Sea Level Rise:**

4.8.1.1.1. Council may prepare management plans for coastal reserves affected by natural hazards, climate change and sea level rise and may enter into Memoranda of Agreement with third parties for the co-management of such hazards;

4.8.1.1.2. The following development restrictions are to be imposed in the areas that are identified and mapped in high, medium, low, general risk and estuarine zones depicted by Provincial Coastal Management Lines. **Note that where buildings lie partly in two coastal risk overlay zones, the higher risk zone will apply:**

Urban High Risk Zone	
Zone intention	<ul style="list-style-type: none"> ● Limit public and private liability ● Increase public awareness of the potential risks to property and human life ● Prevent intensification of development in high risk zone, but allow exercising of existing rights albeit with the knowledge of the associated risks ● Maintain coastal quality ● Prevent encroachment that will impact on the integrity of the shoreline ecology and exacerbate negative impacts ● Enable safe evacuation in an emergency
Primary use	As per base land use controls
Not supported	Schools, Libraries, Health facilities
With special consent	Public Resorts, WWTW.
Urban Medium Risk Zone	
Zone intention	<ul style="list-style-type: none"> ● Reduce public and private liability ● Minimise risk to human life.
Primary use	As per base land use controls
Not supported	Schools, Libraries, Health facilities
With special consent	Infill-subdivisions, Public Resorts, WWTW.
Urban Low Risk Zone	
Zone intention	<ul style="list-style-type: none"> ● Reduce public and private liability ● Avoid reasonable risk to human life. ● Prevent intensification of development in low risk zone, but allow exercising existing rights in terms of the scheme.
Primary use	As per base land use controls
Not supported	Schools, Libraries, Health facilities
With special consent	Infill-subdivisions, Public Resorts, WWTW.

General Risk Zone (Rural Areas)	
Zone intention	<ul style="list-style-type: none"> • Maintain coastal quality • Allow exercising of existing rights in respect of single residential dwelling on agricultural land, in terms of the land use scheme and
Primary use	As per base land use controls
Not supported	General residential (urbanisation), Commercial, Industry, School
With special consent	Intensification of development within development islands, Agricultural support functions, Public resorts
General Estuarine Risk Zone	
Zone intention	<ul style="list-style-type: none"> • Maintain coastal quality • Reduce public liability • Reduce risk to human life • Prevent intensification of development in general risk zone, but allow exercising of existing rights • Prevent encroachment that will impact on the integrity of the shoreline ecology • Enable safe evacuation in an emergency
Primary use	As per base land use controls
Not supported	WWTW, Industry
With special consent	Infill-subdivisions, Public Resorts

4.8.1.2. Development Management Parameters applicable to Risk Zones:

4.8.1.2.1. The following development management parameters apply to High Risk Urban Areas:

4.8.1.2.1.1. Structures must preferably be elevated on pilings, posts, piers-and- joists, column or similar foundations.

4.8.1.2.1.2. All structures on properties larger than 400m² in the high risk zone require approval from a professionally registered engineer. Structures on smaller properties may obtain similar design approval based on predetermined standard conditions.

- 4.8.1.2.1.3. Structures must preferably be elevated on pilings, posts, piers-and- joists, column or similar foundations – with the lowest floor of habitable structures/buildings constructed above a pre-determined risk level.
- 4.8.1.2.1.4. Lower uninhabitable floors (i.e. garages, basements) of structures/buildings must be permeable – i.e. have openings to allow for the entry and exist of flood waters – to allow effective interior and exterior hydrostatic pressure equalisation during and post inundation.
- 4.8.1.2.1.5. Habitable basements or rooms will only be permitted if an engineer has made the necessary design arrangements to ensure that coastal risk is addressed and reduced by implementing responsible mitigation measures to the satisfaction of the Municipality.
- 4.8.1.2.1.6. Consideration during conceptual building design must be given to issues of privacy, overshadowing and visual impact and the apportionment and positioning of higher risk site areas for parking, open space and recreational areas.
- 4.8.1.2.1.7. Any new development must be designed and positioned within reason to limit potential flood damage and risk to human life, including but not limited to positioning buildings in suitably acceptable elevated portions of properties.
- 4.8.1.2.1.8. Building design must demonstrate reasonable risk reduction measures and should include innovative solutions (adaptable buildings, re- locatable buildings, flood-proofed buildings, flood resistant and resilient construction etc.) without increasing and transferring risks to adjacent properties.
- 4.8.1.2.1.9. After construction, any exposed ground area must be stabilised by the use of ground covering plants or mulches to minimise the risk of erosion.
- 4.8.1.2.1.10. On request from the municipality, a storm water management plan might be required to be submitted along with building plans.
- 4.8.1.2.1.11. Hardened surfaces to be minimised and suitable permeable alternative utilised to maximise natural infiltration and reduce overland flow and associated velocities with concomitant risk of erosion and damage.
- 4.8.1.2.1.12. Only fully enclosed / self-contained effluent storage and treatment systems will be permitted if links to sewer mains are not possible. These must be located either on

the landward side of structures or either side of structures, and recommended by Registered Engineer to ensure suitable sealing and safety.

- 4.8.1.2.1.13. Where possible, development should be sited to minimise the removal of trees and endemic vegetation.
- 4.8.1.2.1.14. Existing coastal processes, including dune migration and littoral drift should not be impeded and indigenous vegetation must be maintained.
- 4.8.1.2.1.15. Dunes must be protected and rehabilitated where necessary to reinforce and strengthen natural barriers.
- 4.8.1.2.1.16. Fencing or other barriers must preferably be permeable to accommodate storm events and limit structural damage and associated negative impacts on the environment.
- 4.8.1.2.2. **The following development management parameters apply to Medium Risk Urban Areas:**
- 4.8.1.2.2.1. Structures must preferably be elevated on pilings, posts, piers-and- joists, column or similar foundations.
- 4.8.1.2.2.2. Lower floors of structures/buildings must be permeable – i.e. have openings to allow for the entry and exist of flood waters – to allow effective interior and exterior hydrostatic pressure equalisation during and post inundation.
- 4.8.1.2.2.3. Consideration during conceptual building design must be given to issues of privacy, overshadowing and visual impact and the apportionment and positioning of higher risk site areas for parking, open space and recreational areas.
- 4.8.1.2.2.4. Any new development must be designed and positioned within reason to limit potential flood damage and risk to human life, including but not limited to positioning buildings in suitably acceptable elevated portions of properties.
- 4.8.1.2.2.5. Development must be designed and constructed, within the framework of applicable building controls, in such a way that buildings and structures are positioned furthest from the foreshore whether limited by rear space, side space or the building line (up to the maximum allowed in the applicable scheme).

- 4.8.1.2.2.6. Building design must demonstrate reasonable risk reduction measures and should include innovative solutions (adaptable buildings, re-locatable buildings, flood-proofed buildings, flood resistant and resilient construction etc.) without increasing and transferring risks to adjacent properties.
- 4.8.1.2.2.7. After construction, any exposed ground area must be stabilised by the use of ground covering plants or mulches to minimise the risk of erosion.
- 4.8.1.2.2.8. On request from the municipality, a storm water management plan might be required to be submitted along with building plans.
- 4.8.1.2.2.9. Hardened surfaces to be minimised and suitable permeable alternative utilised to maximise natural infiltration and reduce overland flow and associated velocities with concomitant risk of erosion and damage.
- 4.8.1.2.2.10. Only fully enclosed / self-contained effluent storage and treatment systems will be permitted if links to sewer mains are not possible. These must be located either on the landward side of structures or either side of structures, and recommended by Registered Engineer to ensure suitable sealing and safety.
- 4.8.1.2.2.11. Where possible development should be sited to minimise the removal of trees and endemic vegetation.
- 4.8.1.2.2.12. Existing coastal processes, including dune migration and littoral drift should not be impeded and indigenous vegetation must be maintained.
- 4.8.1.2.2.13. Fencing or other barriers must preferably be permeable to accommodate storm events and limit structural damage and associated negative impacts on the environment.
- 4.8.1.2.3. **The following development management parameters apply to Low Risk Urban Areas:**
- 4.8.1.2.3.1. Structures must preferably be elevated on pilings, posts, piers-and- joists, column or similar foundations.
- 4.8.1.2.3.2. Lower floors of structures/buildings must be permeable – i.e. have openings to allow for the entry and exist of flood waters – to allow effective interior and exterior hydrostatic pressure equalisation during and post inundation.

- 4.8.1.2.3.3. Consideration during conceptual building design must be given to issues of privacy, overshadowing and visual impact and the apportionment and positioning of higher risk site areas for parking, open space and recreational areas.
- 4.8.1.2.3.4. Building design must demonstrate reasonable risk reduction measures and should include innovative solutions (adaptable buildings, re-locatable buildings, flood-proofed buildings, flood resistant and resilient construction etc.) without increasing and transferring risks to adjacent properties. After construction, any exposed ground area must be stabilised by the use of ground covering plants or mulches to minimise the risk of erosion.
- 4.8.1.2.3.5. On request from the municipality, a storm water management plan may be required to be submitted along with building plans.
- 4.8.1.2.3.6. Hardened surfaces to be minimised and suitable permeable alternative utilised to maximise natural infiltration and reduce overland flow and associated velocities with concomitant risk of erosion and damage.
- 4.8.1.2.3.7. Only fully enclosed / self-contained effluent storage and treatment systems will be permitted if links to sewer mains are not possible. These must be located either on the landward side of structures or either side of structures, and recommended by Registered Engineer to ensure suitable sealing and safety
- 4.8.1.2.4. **The following development management parameters apply to General Rural Risk and Estuarine Risk Areas:**
- 4.8.1.2.4.1. Structures must preferably be elevated on pilings, posts, piers-and- joists, column or similar foundations in a manner that does not impede the lateral flow of water and that does not increase the opportunity for the accumulation of flood related debris – with the lowest floor of the structure to be above a pre-determined risk level.
- 4.8.1.2.4.2. Lower floors of structures/buildings must be permeable – i.e. have openings to allow for the entry and exist of flood waters – to allow effective interior and exterior hydrostatic pressure equalisation during and post inundation.
- 4.8.1.2.4.3. Building design must demonstrate reasonable risk reduction measures and should include innovative solutions (adaptable buildings, re-locatable buildings, flood-proofed buildings, flood resistant and resilient construction etc.) without increasing and transferring risks to adjacent properties.

- 4.8.1.2.4.4. Any new development must be designed and positioned within reason to limit potential flood damage and risk to human life, including but not limited to positioning buildings in suitably acceptable elevated portions of properties.
- 4.8.1.2.4.5. Any new development must be set as far back from the estuarine functional zone as possible. Either rear space or building line, whichever is furthest away from the estuary, will be relaxed (up to the maximum allowed in the applicable scheme).
- 4.8.1.2.4.6. After construction, any exposed ground area must be stabilised by the use of ground covering plants or mulches to minimise the risk of erosion.
- 4.8.1.2.4.7. On request from the municipality, a storm water management plan might be required to be submitted along with building plans.
- 4.8.1.2.4.8. Hardened surfaces to be minimised and suitable permeable alternative utilised to maximise natural infiltration and reduce overland flow and associated velocities with concomitant risk of erosion and damage.
- 4.8.1.2.4.9. Only fully enclosed / self-contained effluent storage and treatment systems will be permitted if links to sewer mains are not possible. These must be located either on the landward side of structures or either side of structures, and recommended by Registered Engineer to ensure suitable sealing and safety.
- 4.8.1.2.4.10. Where possible development should be sited to minimise the removal of trees and endemic vegetation.
- 4.8.1.2.4.11. Fencing or other barriers must preferably be permeable to accommodate storm events and limit structural damage and associated negative impacts on the environment.
- 4.8.1.2.4.12. Existing coastal processes and indigenous vegetation within the estuarine functional zone must be maintained.

5. **MOUNTAIN CATCHMENT ENVIRONMENTAL MANAGEMENT OVERLAY ZONE**
("MOUNTAIN CATCHMENT EMOZ"):

5.1. Spatial delineation: Refer to Plan 2.

5.2. Activities that are prohibited within the Mountain Catchment EMOZ are listed in Schedule "A" to these Regulations.

5.3. Activities that may be permitted only with Council's written consent within the Mountain Catchment EMOZ are listed in Schedule "B" to these Regulations.

5.4. General regulations applicable to the Environmental Management Overlay Zones (EMOZs) of the Overstrand Municipality are listed in Schedule "C" to these regulations.

5.5. Purpose: To protect and conserve the ecology and water provision functions of priority unprotected mountain catchments, to ensure optimal water security for the Overstrand communities and to preserve the significant eco-cultural tourism value of the Overstrand's natural mountain landscape character.

5.5.1. In the light of the serious threat that Invasive Alien Species presents to the environment and the risks it poses to the municipality, its ratepayers and to present and future generations, the municipality will promulgate overarching Regulations in this regard for the entire Overstrand area.

5.5.2. The municipality may prioritise and facilitate areas of a Mountain Catchment EMOZ for focussed, priority Invasive Alien vegetation control programmes where necessary.

5.5.3. The municipality may prioritise and facilitate areas for proactive and/or urgent Fire Control Management in collaboration with the landowners - where the fire risk to the mountain catchment natural environment as well as life and property are attaining extreme levels.

6. **PROTECTED AREA BUFFER ENVIRONMENTAL MANAGEMENT OVERLAY ZONE**
("PROTECTED AREA BUFFER EMOZ"):

6.1. Spatial delineation: Refer to Plan 3.

- 6.2. Activities that are prohibited within the Protected Area Buffer EMOZ are listed in Schedule "A" to these Regulations.
- 6.3. Activities that may be permitted only with Council's written consent within the Protected Area Buffer EMOZ are listed in Schedule "B" to these Regulations.
- 6.4. General regulations applicable to the Environmental Management Overlay Zones (EMOZs) of the Overstrand Municipality are listed in Schedule "C" to these regulations.
- 6.5. Purpose: to protect the integrity of National, Provincial and Municipal Nature Reserves from negative external pressures/impacts while reducing pressure on core areas and to assist in preserving their value to the eco-cultural tourism economy of the Overstrand through alignment of appropriate land use and regulation.
- 6.5.1. **Minimising negative impacts on the integrity of National, Provincial and Municipal Nature Reserves in the Overstrand:**
- 6.5.1.1. In the light of the serious threat that Invasive Alien Species presents to the environment and the risks it poses to the municipality, its ratepayers and to present and future generations, the municipality will promulgate overarching Regulations in this regard for the entire Overstrand area.
- 6.5.1.2. The municipality may prioritise and facilitate areas of a Protected Area Buffer EMOZ for focussed, priority Invasive Alien vegetation control programmes where necessary.
- 6.5.1.3. The municipality may prioritise and facilitate areas for proactive and/or urgent Fire Control Management in collaboration with the landowners - where the fire risk to the natural environment as well as life and property are attaining extreme levels.
- 6.5.2. **Limiting and/or prohibiting inappropriate land uses in the buffer zone of National, Provincial and /or Municipal Nature Reserves in the Overstrand:**
- 6.5.2.1. A list of activities that are prohibited or that require written Council consent are set out in Schedules A and B.
- 6.5.2.2. In deserving cases, where there is no NEMA requirement for an Environmental Impact Assessment ("EIA") process and Environmental Management Plan ("EMP"), the Municipality may request additional information and/or an EMP for approval by the Municipality prior to granting its written consent and/or approving building plans or any development.

- 6.5.2.3. The implementation of the EMP during the construction and decommissioning phases of the identified activities/uses is to be monitored and enforced by an Environmental Control Officer ("ECO") and to be audited annually during the operational phase.
- 6.5.2.4. Land use scheme and inappropriate land use of undeveloped properties in the buffer zone of National, Provincial and /or Municipal Nature Reserves to be investigated and where required additional constraints to be imposed on uses and inappropriate land use.
- 6.5.2.5. The land use scheme of all developed properties within the buffer zones of National, Provincial and /or Municipal Nature Reserve to be investigated and reviewed and where required additional constraints to be imposed on uses and inappropriate land use.

7. **RIVERINE ENVIRONMENTAL MANAGEMENT OVERLAY ZONE ("RIVERINE EMOZ"):**

7.1. Spatial delineation: Refer to Plan 4.

7.2. Activities that are prohibited within the Riverine EMOZ are listed in Schedule "A" to these Regulations.

7.3. Activities that may be permitted only with Council's written consent within the Riverine EMOZ are listed in Schedule "B" to these Regulations.

7.4. General regulations applicable to the Environmental Management Overlay Zones (EMOZs) of the Overstrand Municipality are listed in Schedule "C" to these regulations.

7.5. Purpose: to protect and conserve the ecological functioning of the Overstrand's main river courses and associated wetlands by:

- 7.5.1. **Protecting and maintaining healthy river and wetland environments that are capable of natural flood detention, that support ecological processes and promote functioning natural river corridors and wetland systems; and**
- 7.5.2. **Protecting the natural character, sense of place and aesthetic value of riverine environments;**

- 7.5.2.1. In the light of the serious threat that Invasive Alien Species presents to the environment and the risks it poses to the municipality, its ratepayers and to present and future generations, the municipality will promulgate overarching Regulations in this regard for the entire Overstrand area.
- 7.5.2.2. The municipality may prioritise and facilitate areas within a Riverine EMOZ for focussed, priority Invasive Alien vegetation control programmes where necessary.
- 7.5.2.3. A list of activities that are prohibited or permissible only with the consent of the Council are set out in Schedules A and B.
- 7.5.2.4. In deserving cases, where there is no NEMA requirement for an Environmental Impact Assessment ("EIA") process and Environmental Management Plan ("EMP"), the Municipality may request additional information and/or an EMP for approval by the Municipality prior to granting its written consent and/or approving building plans or any development.
- 7.5.2.5. The implementation of the EMP during the construction and decommissioning phases of the identified activities/uses is to be monitored and enforced by an Environmental Control Officer ("ECO") and to be audited annually during the operational phase.
- 7.5.2.6. Land use scheme and inappropriate land use of undeveloped properties in the Riverine EMOZ to be investigated and where required additional constraints to be imposed on uses and inappropriate land use.
- 7.5.2.7. The land use scheme of all developed properties within the Riverine EMOZ to be investigated and reviewed and where required additional constraints to be imposed on uses and inappropriate land use.
- 7.5.2.8. New Sewage Conservancy Sewage Tanks and Biological Processing Sewage.
- 7.5.2.8.1. Where a municipal sewage reticulation system is not available, new conservancy sewage tanks or approved biological sewage processing plants must be located beyond the 100-year flood line and/or a minimum of 50 m from the wetland edge unless there is no proven practical alternative whereupon it should be at the furthest distance possible from the wetland edge.

8. URBAN CONSERVATION ENVIRONMENTAL MANAGEMENT OVERLAY ZONE ("URBAN CONSERVATION EMOZ"):

- 8.1. Spatial delineation: Refer to Plan 5 and Plans 5.1 – 5.16.
- 8.2. Activities that are prohibited within the urban Conservation EMOZ are listed in Schedule "A" to these Regulations.
- 8.3. Activities that may be permitted only with Council's written consent within the Urban Conservation EMOZ are listed in Schedule "B" to these Regulations.
- 8.4. General regulations applicable to the Environmental Management Overlay Zones (EMOZs) of the Overstrand Municipality are listed in Schedule "C" to these regulations.
- 8.5. Purpose: to protect and manage undeveloped conservation-worthy public owned land within the Overstrand's urban edge, and adjacent buffer areas, while promoting the retention of viable priority ecological corridors in areas that are to be developed, to ensure an integrated 'conservation and development' approach that will enhance living conditions for the communities of the Overstrand.
- 8.5.1. **Designation of categories for undeveloped conservation worthy land and adjacent buffer areas:**
- 8.5.1.1. Overstrand Municipality may develop an operational management plan for priority Urban Conservation EMOZ properties per residential area, according to the following categories:
- 8.5.1.1.1. **Category A: Pristine Ecosystems**
- Pristine ecosystems to be protected and managed as wilderness, nature reserve or special management areas with very low impact development and environmental education and appreciation activities only.
 - The operational management plan for Category A properties within the Urban Conservation EMOZ will address, inter alia, the following:
 - a) IAV Management
 - b) Fire Management
 - c) Vegetation Management
 - d) Hiking trails/Biking trails

- e) Bird watching/Bird hides
- f) Public amenities
- g) Environmental Facilities

8.5.1.1.2. **Category B: Semi-Modified Ecosystems**

- Semi-modified ecosystems with intact biodiversity corridor function to be managed as conservation areas with low to medium impact recreational uses.
- The operational management plan for Category B properties within the Urban Conservation EMOZ will address, inter alia, the following:
 - a) IAV Management
 - b) Fire Management
 - c) Vegetation Management
 - d) Hiking trails/Biking trails
 - e) Bird watching/Bird hides
 - f) Public amenities
 - g) Environmental Facilities
 - h) Day Camps
 - i) Braai facilities/Picnic facilities

8.5.1.1.3. **Category C: Modified Ecosystems**

- Modified ecosystems with a limited biodiversity function to be managed as recreational areas with medium to high impact.
- The operational management plan for Category C properties within the Urban Conservation EMOZ will address, inter alia, the following:
 - a) IAV Management
 - b) Fire Management
 - c) Vegetation Management
 - d) Hiking trails/Biking trails
 - e) Bird watching/Bird hides
 - f) Public amenities
 - g) Environmental Facilities
 - h) Day Camps
 - i) Braai facilities/Picnic facilities
 - j) Play parks

8.5.1.1.4. **Category D: Private Property**

- Private property within priority conservation-worthy ecological corridors from mountain to coast and/or across priority conservation-worthy areas identified in accordance with the Overstrand Environmental Management Framework.
- In the face of development pressure, the Municipality may, if it deems it necessary, upon receipt of a development proposal or application that does not involve any activities identified under the NEMA listing notices, require that specialist biodiversity and/or other relevant studies be undertaken by the developer/owner in order to inform development planning and retain priority ecological corridors and habitats.

8.5.2. **Management of undeveloped conservation worthy land and adjacent buffer areas:**

8.5.2.1. **Vegetation Management:**

8.5.2.1.1. In the light of the serious threat that Invasive Alien Species presents to the environment and the risks it poses to the municipality, its ratepayers and to present and future generations, the municipality will promulgate overarching Regulations in this regard for the entire Overstrand area.

8.5.2.1.2. The municipality may prioritise and facilitate areas within Urban Conservation EMOZ for focussed, priority Invasive Alien vegetation control programmes where necessary.

8.5.2.1.3. The municipality may inspect properties adjacent to the Urban Conservation EMOZ in cases where alien invasive vegetation (or, once promulgated, locally problematic alien invasive species and emerging weeds which pose a risk to the municipality) are visibly spreading into the Urban Conservation EMOZ from adjacent properties and may direct the owner of such properties to take appropriate action, alternatively the municipality may take the necessary action and recover the costs of doing so from the owner.

8.5.2.1.4. Management of Indigenous Vegetation

- The Municipality may trim indigenous vegetation which overhangs the boundaries of residential properties or order the trimming of vegetation that encroaches on the Urban Conservation EMOZ from adjacent properties. The Municipality may implement measures to reduce the amount of vegetation by thinning, pruning, brush-cutting, chipping and removing material where appropriate, according to the management plan for each urban area.

8.5.2.2. Fire Management within Urban edge:

8.5.2.2.1. The municipality may prioritise and facilitate areas for proactive and/or urgent Fire Control Management in collaboration with the landowners - where the fire risk to the natural environment as well as life and property are attaining extreme levels.

8.5.2.2.2. The municipality may development an Ecological Fire Management Plan in coordination with the Fire and Rescue department of the Municipality for the ecological management of undeveloped conservation worthy land within the urban edge. Properties subject to the fire management plan shall be exempt from the general Overstrand Fire Management Policy and will be burned according to correct fire management cycles.

8.5.2.2.3. The municipality may prepare fuel breaks and fire breaks on and along the boundaries of residential properties to provide access for fire-fighting teams and to reduce the risk of the spread of fires across boundaries.

8.5.2.2.4. The municipality may restrict the placement of high fire risk structures and buildings within building lines on the boundary of the Urban Conservation EMOZ and order the removal of structures where such structures constitute a fire hazard and/or threaten life / other property.

8.5.2.2.5. The municipality may order the installation of sprinkler systems / fire protection systems on buildings with thatched roofs, which are located adjacent to UC EMOZ properties.

8.5.2.3. Access:

8.5.2.3.1. Right of access: Undeveloped conservation worthy land shall be regarded as a Public Place whereby the right of access for the general public is guaranteed, unless such access will result in pollution or environmental degradation or where such access will constitute a public nuisance.

8.5.2.3.2. No access: (entrances, pathways, structures) will be allowed from private properties to open spaces without the necessary written consent of the municipality

8.5.2.4. Activities/Uses:

8.5.2.4.1.1. The following primary uses will be permitted within the Urban Conservation EMOZ:

- Recreation;
- ecosystem management; and
- heritage conservation.

8.5.2.4.1.2. The following uses will be permitted within the Urban Conservation EMOZ with the municipality's consent:

- Environmental Facilities;
- Catering Enterprises.

8.5.2.5. Infrastructure:

8.5.2.5.1. The design and development of new buildings, infrastructure and utility services within the Urban Conservation EMOZ must complement the natural character and sense of place of the ecological corridor and existing development in such areas.

8.5.2.5.2. The erection of religious symbols, memorabilia and the defacement of municipal infrastructure or natural features will be prohibited and managed by means of removal / repair / rehabilitation measures.

8.5.2.6. Encroachment:

8.5.2.6.1. Prohibition, limitation and restoration / rehabilitation of encroachment from residential properties, gardens and infrastructure in the Urban conservation EMOZ will be enforced by means of removal and repair notices and may include rehabilitation measures at cost of the transgressor.

8.5.2.7. Management Agreements:

8.5.2.7.1.1. The Municipality may enter into Co-Management Agreements with third parties for the funding / operational management of the Urban Conservation EMOZ.

8.5.2.8. Protecting, managing and enhancing priority conservation-worthy ecological corridors from mountain to coast and / or across priority conservation-worthy areas, in accordance with the Overstrand Environmental Management Framework in the face of development pressure:

8.5.2.8.1. In the face of development pressure, the municipality may, if it deems it necessary, upon receipt of a development proposal or application that does not involve any activities identified under the NEMA listing notices, require that specialist biodiversity and/or other relevant studies be undertaken by the developer/owner in order to inform development planning and retain priority ecological corridors, and habitats and ecosystem services provision.

8.5.2.8.2. Based on the NEMA 'Precautionary' and 'Duty of Care' principles, the municipality may also direct the developer/owner/applicant to prepare and submit Construction and Operational Environmental management Plans to prevent, mitigate and manage any adverse impacts in the Urban Conservation EMOZ, for consideration and approval by the municipality.

CHAPTER 3: APPLICATION AND APPROVAL PROCEDURES:

9. The Overstrand Municipality By-Law on Municipal Planning, 2015 will apply in respect of all applications, processes and decisions contemplated in these Regulations.

CHAPTER 4: ENFORCEMENT:

10. The provisions contained in the Overstrand Municipality By-Law on Municipal Planning, 2015, as they relate to enforcement, offences, penalties and notices will apply to these Regulations.

CHAPTER 5: MISCELLANEOUS

11. Delegation by Council/Municipal manager:

11.1. The Council and/or Municipal Manager may delegate any of the powers granted to it/him/her under these regulations to any other municipal official.

12. Short title: These regulations are called the Overstrand Municipality Environmental Management Overlay Zone Regulations 2020

13. Commencement: These regulations commence on the date on which they are published in the Provincial Gazette.

SCHEDULE A
PROHIBITED ACTIVITIES IN OVERSTRAND ENVIRONMENTAL
MANAGEMENT OVERLAY ZONES

PROHIBITED ACTIVITY	Applicable Environmental Management Overlay Zone (EMOZ)				
	Coastal	Mountain Catchment	Protected Area Buffer	Riverine	Urban Conservation
Agricultural practices within this EMOZ which may cause water logging and siltation.	X	X	X	X	X
Planting or harbouring of declared alieninvasive plant species on properties located within and adjacent to this EMOZ.	X	X	X	X	X
Planting or harbouring of declared emerging weeds on properties within and adjacent to this EMOZ.	X	X	X	X	X
Planting or harbouring of locally important emerging weed species within and adjacent to this EMOZ.	X	X	X	X	X
Development or agriculture on slopes steeper than 1:4.	X	X	X	X	X
Development above the 120m geographical contour line.		X	X	X	X
Development on the crest of a mountain, ridge or hill.		X	X	X	X
Establishment of Informal settlements or Temporary Relocation Areas.	X	X	X	X	X
No land user within this EMOZ may utilise the vegetation in a vlei, marsh or within the flood area of	X	X	X	X	X

watercourse in a manner that may cause the deterioration or damage to the natural agricultural resources.					
Placement of religious symbols or memorabilia.	X		X		X
Harvesting /collection of kelp / seaweed in municipal designated "no-take" zones.	X		X		X
Harvesting, collection, moving, loading drying of kelp /seaweed, with a valid Seaweed Harvesting Permit or an exemption in terms of Section 81 or the MLRRA issued by the DAFF.	X		X		X
Stockpiling, drying, processing or loading of marine resources beyond areas designated, demarcated and signposted by the Municipal Council for such purposes.	X		X		X
Modification of the littoral active zone / functional dune systems in absence of approved management plans.	X		X		X
Feeding, disturbing / pursuit of fauna.	X	X	X	X	X
Disturbance, modification or destruction of the environment or species within special management areas designated, demarcated and signposted by the Municipal Council from	X	X	X	X	X

time to time.					
Defacing/damaging / removing of any notice, sign, barrier building or other infrastructure.	X	X	X	X	X
Playing or tampering with any rope, float, buoy, vessel, shelter or similar life - saving device.	X			X	
Staying overnight.	X	X	X	X	X
The discharging of domestic effluent / grey water into all natural systems.	X	X	X	X	X
Tampering with security / surveillance infrastructure.	X	X	X	X	X
Defacing of rocky outcrops and placement of memorial plaques, religious symbols or structures on natural features.	X	X	X	X	X
Graffiti, vandalism or damaging of municipal infrastructure.	X	X	X	X	X
Littering	X	X	X	X	X
Disposal of cigarette butts, ash or other hazardous materials in any place or manner other than a receptacle designated for such items	X	X	X	X	X
Dog walking / exercising of dogs in non- designated zones.	X	X	X	X	X

SCHEDULE B

ACTIVITIES ONLY PERMITTED WITH COUNCIL CONSENT IN OVERSTRAND ENVIRONMENTAL OVERLAY ZONES

A) ACTIVITIES ONLY PERMITTED WITH COUNCIL CONSENT	Applicable Environmental Management Overlay Zone (EMOZ)				
	Coastal	Mountain Catchment	Protected Area Buffer	Riverine	Urban Conservation
Permission for the utilization of access routes to permitted kelp / seaweed harvesting sites.	X				X
Removal or destruction of vegetation which is protected and/or of conservation concern.	X	X	X	X	X
Dune maintenance on private land as per approved dune maintenance management plans.	X				X
Excavation and destruction or removal of substrate (soil, substrate, rock, shellgrit, dune sediment, mineral deposits).	X	X	X	X	X
Discharging of pool backwashing or untreated grey water or the channelling of storm water into open spaces without the necessary approval from the Municipality.	X	X	X	X	X
B) PERMIT UPON APPROVAL BY DELEGATED AUTHORITY AND / RECEIPT OF TARIFF	Coastal	Mountain Catchment	Protected Area Buffer	Riverine	Urban Conservation
Installation of conservancy tanks or biological treatment plants within 50 metres from the edge of a watercourse / wetland.	X	X	X	X	
Access from private properties to open spaces, including the	X	X	X		X

removal of vegetation and the establishment of paths, structures and infrastructure.					
Commercial filming.	X	X	X	X	X
Construction or placement of any temporary object, building, shelter, path or structure.	X	X	X	X	X
Use of engine or motor driven vehicles, remotely piloted aircraft or any other means of transport or other conveyances beyond designated, demarcated and signposted areas	X	X	X		X
Launching of vessels at registered launch sites.	X			X	
ACTIVITIES ONLY PERMITTED WITH COUNCIL CONSENT	Applicable Environmental Management Overlay Zone (EMOZ)				
C) COUNCIL AUTHORISATION PENDING Consent Use Application / Lease Agreement / Applicable Tariffs as applicable	Coastal	Mountain	Protected Area Buffer	Riverine	Urban Conservation
Buildings / Structures associated with: Taking of water, storing of water, impeding or diverting flow, stream flow reduction, altering the bed, banks, course characteristics, outflow structures or discharge pipes.	X	X	X	X	X
Application for the designation of industrial sites and activities associated with the seaweed harvesting, collection, drying, transport and processing fishery.	X		X		X

Encroachment of private buildings, structures, infrastructure, access routes.	X		X	X	X
Commercial Harvesting/collection and removal of any natural resource.	X	X	X	X	X
Construction or placement of any permanent object, building, shelter, pathway or structure.	X	X	X	X	X

SCHEDULE C

GENERAL REGULATIONS APPLICABLE TO THE ENVIRONMENTAL OVERLAY ZONES OF THE OVERSTRAND MUNICIPALITY

GENERAL REGULATIONS APPLICABLE TO OVERLAY ZONES IN THE OVERSTRAND MUNICIPAL REGION	Applicable Environmental Management Overlay Zone (EMOZ)				
	Coastal	Mountain Catchment	Protected Area Buffer	Riverine	Urban Conservation
<p>Access</p> <ul style="list-style-type: none"> • Municipal EMOZ open spaces shall be regarded as Public Places whereby the right of access for the general public is guaranteed, excluding where such access constitutes a negative environmental impact or where such access will constitute a public nuisance. • Members of the public shall at all times respect the • right of other users of Municipal property in terms of access to natural areas within EMOZ Open Space Properties as well as the personal integrity, health, safety and wellbeing of other persons present. • Members of the public shall at all times respect the environment and natural resources within Municipal EMOZ properties and refrain from inflicting damage to natural resources, the ecology or landscape 	X	X	X	X	X

<p>integrity in such areas.</p> <ul style="list-style-type: none">• Members of the public shall at all times respect Municipal infrastructure and refrain from damaging any building, structure, work, amenity, regulation sign or interpretive material present in these public places.• The Municipality may designate existing development nodes and access routes on spatial plans per suburb in the Municipal area, signpost such areas and provide for their operational management in maintenance management plans.• Members of the public shall not stray beyond designated nodes, access routes and associated infrastructure.• Council may from time to time promulgate bylaws prohibiting specific actions and behaviour within all [urban and coastal] EMOZ properties and impose penalties for transgression of such bylaws.				
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GENERAL REGULATIONS APPLICABLE TO OVERLAY ZONES IN THE OVERSTRAND MUNICIPAL REGION	Applicable Environmental Management Overlay Zone (EMOZ)				
	Coastal	Mountain Catchment	Protected Area Buffer	Riverine	Urban Conservation
<p>Restriction of Access</p> <ul style="list-style-type: none"> The right of access shall be restricted to formally designated, demarcated and signposted development nodes, pathways and trails, in identified EMOZ. Council or the delegated management authority may close any access point, trail or encroachment that has or will have an adverse impact on the environment or that is deemed to be an unlawful or unauthorised access point or route. Objectors towards any closure or removal of any path, trail, route or encroachment will have to provide proof of Municipal authorisation or permission for the establishment of such means of access from private properties. Council or the delegated management authority may order the removal of structures in unauthorised access points or routes and the rehabilitation of such sites at the expense of the responsible party. Overstrand Municipality may publish Bylaws which 	X	X	X	X	X

<p>manage the right of public access to - and recreational use of watercourses, wetlands and dams.</p>					
<p>GENERAL REGULATIONS APPLICABLE TO OVERLAY ZONES IN THE OVERSTRAND MUNICIPAL REGION</p>	<p>GENERAL REGULATIONS APPLICABLE TO OVERLAY ZONES IN THE OVERSTRAND MUNICIPAL REGION</p>				
<p>Remedy of Breach of the Right of Access and Occupation of Municipal EMOZ Properties</p> <ul style="list-style-type: none"> • Council may remove buildings, structures, pathways, vegetation, memorabilia or religious symbols which have been placed, erected, constructed, cleared or planted on Municipal EMOZ properties. • Council may issue repair / removal / rehabilitation notices where structures, vegetation, memorabilia or religious symbols encroach on Municipal property and where the ownership or custodianship of such items can be established. • Costs incurred in the removal of infrastructure as well as for the repair / rehabilitation of damaged ecosystems, shall be for the account of the responsible party. 	<p>X</p>	<p>X</p>	<p>X</p>	<p>X</p>	<p>X</p>
<p>Development Nodes</p> <ul style="list-style-type: none"> • The design and 	<p>X</p>	<p>X</p>	<p>X</p>	<p>X</p>	<p>X</p>

<p>development of new buildings, infrastructure and utility services within development nodes in EMOZ properties must complement the natural character and sense of place of the ecological corridor and existing development in such areas.</p> <ul style="list-style-type: none">• Council may require the submission of EMPs and other environmental studies for activities, buildings and infrastructure within development nodes, for each application.• Council may require the submission of independent environmental audit reports for specified activities contained in environmental management plans for consent use activities.• Based on the NEMA 'Precautionary' and 'Duty of Care' principles, the Municipality may also direct the developer/owner/applicant to prepare and submit Construction and Operational EMPs to prevent mitigate and manage any adverse impacts in sensitive EMOZ zones, for consideration and approval by the Municipality.				
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GENERAL REGULATIONS APPLICABLE TO OVERLAY ZONES IN THE OVERSTRAND MUNICIPAL REGION	Applicable Environmental Management Overlay Zone (EMOZ)				
	Coastal	Mountain Catchment	Protected Area Buffer	Riverine	Urban Conservation
<p>Management Agreements</p> <ul style="list-style-type: none"> The Municipality may enter into Co-Management Agreements with community organisations with locus standi for the funding / operational management of Municipal Open Spaces EMOZ zones. The Municipality may enter into Co-Management Agreements with public / community organisations for the management and funding of operational management activities in EMOZ. 	X	X	X	X	X
<p>Management of Locally Problematic Invasive Alien Species & Emerging Weeds</p> <ul style="list-style-type: none"> Council may, within any EMOZ, consider and approve a list of locally problematic alien invasive species and emerging weeds which pose a risk to the environment and which could have cost implications for the Municipality if such species had to be removed from Municipal land. Council may, through a system of delegations, issue removal notices for locally listed alien invasive species 	X	X	X	X	X

and emerging weeds which are found on properties within or adjacent to EMOZ properties, including those on State Owned land.					
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GENERAL REGULATIONS APPLICABLE TO OVERLAY ZONES IN THE OVERSTRAND MUNICIPAL REGION	Applicable Environmental Management Overlay Zone (EMOZ)				
	Coastal	Mountain Catchment	Protected Area Buffer	Riverine	Urban Conservation
Management Plans for NEM:BA Invasive Alien Species <ul style="list-style-type: none"> It is a requirement in terms of the NEM:BA that Invasive Alien Species (IAS) management plans must be compiled for State land. The managing Government Department must compile these plans. Overstrand Municipality may request access to these IAS management plans, where such State land falls within an EMOZ. Overstrand Municipality may request access to Invasive Alien Species Management Plans from that are required for all State Land, from Government Departments responsible for land, where such State Land falls within an EMOZ. Overstrand Municipality may correspond with DEA: 	X	X	X	X	X

<p>Biosecurity Directorate and request the serving of Directives for the clearing of Invasive Alien Species on Government Departments that have jurisdiction over State Land, if there are no IAV plans in place for such properties.</p> <ul style="list-style-type: none"> • Council may request access to Alien Invasive Species Clearing plans for private land, if such private land is found to contain listed NEM:BA or locally important Invasive Species and Emerging Weeds. 				
<p>Management of Forests on Municipal Land</p> <ul style="list-style-type: none"> • The Municipality may categorise, designate and manage specific forest areas as Coastal Forest Reserve / Recreational Area / Special Management Area, depending on the existing state of transformation of such ecosystems and in accordance with the provisions of management plans for such areas, as approved by Council. 	X	X	X	X

GENERAL REGULATIONS APPLICABLE TO OVERLAY ZONES IN THE OVERSTRAND MUNICIPAL REGION	Applicable Environmental Management Overlay Zone (EMOZ)				
	Coastal	Mountain Catchment	Protected Area Buffer	Riverine	Urban Conservation
<p>Prioritisation of Areas for Fire Control Management</p> <ul style="list-style-type: none"> The municipality may prioritise and facilitate areas for proactive and / or urgent Fire Control Management in collaboration with landowners - where the fire risk to natural environment as well as life and property is reaching extreme levels of concern. The Municipality may call for the submission or development of co-operative fire protection and fire management plans for private properties within the Environmental Overlay Zones or within the buffer zones that abut Overstrand property. The Municipality may request the provision of fire protection and fire management plans from Government Departments that have jurisdiction over State Land that abuts or is part of an Environmental Overlay Zone and report the said Departments to 	X	X	X	X	X

the MEC for Environment, Forestry and Fisheries if such plans are not forthcoming from the relevant department.					
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GENERAL REGULATIONS APPLICABLE TO OVERLAY ZONES IN THE OVERSTRAND MUNICIPAL REGION	Applicable Environmental Management Overlay Zone (EMOZ)				
	Coastal	Mountain Catchment	Protected Area Buffer	Riverine	Urban Conservation
Fire Management <ul style="list-style-type: none"> Overstrand Municipality may develop an Ecological Fire Management Plan in coordination with the Fire and Rescue department of the Municipality for the ecological management of open spaces within the urban edge. Properties subject to the fire management plan shall be exempt from the general Overstrand Fire Management Policy and will be burned according to correct fire management cycles. The Municipality may prepare fuel breaks and fire breaks on and along the boundaries of all residential properties to provide access for firefighting teams and to reduce the risk of the spread of fires across boundaries. 	X	X	X	X	X

<ul style="list-style-type: none"> • The Municipality may restrict the placement of high fire risk structures and buildings within building lines on the boundary of the EMOZ Open Spaces and order the removal of structures where such structures constitute a fire hazard and / threaten life / other property. • The Municipality may restrict the presence of high fire risk vegetation (indigenous or invasive) adjacent to or directly against structures or infrastructure (privately or government owned) and order the removal of the vegetation where such vegetation constitute a fire hazard and / threaten life / other property. • The Municipality may order the installation of sprinkler systems / fire protection systems on buildings with thatched roofs, which are located adjacent to EMOZ Open Spaces properties. 					
<p>Management of Encroachment</p> <ul style="list-style-type: none"> • Council may institute measures to safeguard coastal land against encroachment of private properties (gardens, garden refuse, structures, 	X	X	X	X	X

<p>mown areas etc.) into EMOZ open spaces or to prosecute persons that cause such encroachments.</p> <ul style="list-style-type: none"> • Council may approve procedures for the removal of infrastructure that is placed in open spaces without authorization from the Municipal Manager or the delegated Authority. • Council may authorize procedures for the recovery of costs from persons that are responsible for encroachments, dumping or the modification of vegetation in the EMOZ. • Council may prohibit the installation of memorabilia, religious symbols, objects of art and culture or other structures in open spaces. 				
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