

TRANSVAAL BOARD FOR THE DEVELOPMENT OF PERI-URBAN AREAS
HALFWAY HOUSE AND CLAYVILLE TOWN PLANNING SCHEME 1976

PART I: GENERAL

1. Arrangement of Scheme

This Scheme is divided into parts relating to the following matters respectively:

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2. Interpretation

In this Scheme, except where the context otherwise requires or it is otherwise expressly provided, the following words and expressions have the respective meanings hereby assigned to them.

2.1 **"Administrator"** means the officer appointed under the provision of subsection (1) of section sixty-six of the Republic of South Africa Constitution Act, 1961 (Act No.32 of 1961), as amended, acting on the advice and with the consent of the Executive Committee of the Transvaal.

A/S 1261
28 June 2000 **"Adult Premises"** Means any building or land utilised for dealing with sexually explicit material (SEM) which include distribution or exhibition of films or video's classified "X 18" or "R18" in terms of sections 18 (4) (a) (i) or (ii) of the Films and Publications Act, 1996, or any amendment thereto and/or publications classified "18" or "R18" or "F18" in terms of section 17 (1) (b) or (c) or (d) the Films and Publications Act, 1996, or any amendment thereto and it includes shows, be it life, films, video's, magazines and other paraphernalia containing sexually explicit material or scenes, and the distribution of sex aids and/or operation of escort agencies.

2.2 **"Agricultural Building"** means a building, designed for use in connection with and which may ordinarily be incidental to or reasonably necessary for the use of the property concerned as agricultural land, but does not include a "cultivation shed."

2.3 **"Agricultural Holding"** means a holding established in accordance with the Agricultural Holdings (Transvaal) Registration Act, 1919 (Act No. 22 of 1919), or any amendment thereof.

- 2.4 **"Animal Asylum"** means a building other than an agricultural building, cultivation shed or an outbuilding to a dwelling house, used or designed for the keeping, nursing and training of animals and for such other purposes in relation to animals as the local authority in terms of the purposes of the Scheme may deem fit to add, whether such animal asylum is conducted by way of service, trade, research, sport, educational or other motive and includes a building for the keeping of a wild animal or wild animals.
- 2.5 **"Annexure"** means the plan and on which additional particulars of a specific portion of the area of this Scheme are recorded and which is numbered and added at the end of the clauses to this Scheme.
- 2.6 **"Area"** means the area described in clause 3 hereof.
- 2.7 **"Board"** means the Townships Board established in terms of section three of the Ordinance.
- 2.8 **"Building"** in respect of clauses 12 to 16 inclusive, shall, in addition to the accepted meaning, mean any structure or erection.
- 2.9 **"Building Site"** with reference to a building means the area of that part of a property occupied or intended for occupation by a building, structure or any particular part of such building or structure.
- 2.10 **"Business Building"** means a building used or designed for use as an office, consulting room, show room, travel bureau, house agency, duplicating business and / or the business of a hairdresser, photographer and similar business purposes, but does not include a building defined in any other way in this Scheme.
- 2.11 **"By-Laws"** means the by-laws of the local authority for the time being in force in the area.
- 2.12 **"Car Park"** means any piece of land used or set aside for the purpose of parking vehicles whether on payment of a fee or not, but does not include a motor graveyard, scrapyard or parking garage.
- 2.13 **"Commercial Purposes"** means the use of land or buildings for the carrying on of any commercial or business activity other than flats, houses, retail trading or manufacturing and may include on the same premises any activity or building falling within the scope of the definition of a factory in terms of the Factories, Machinery and Building Works Act, 1941 (Act 22/1941) where such building or activity is subsidiary or related to the conduct of the commercial or business activity, and also includes such uses as offices which relate to the main use which is exercised on the erf, distribution centres, wholesale trading, storage, warehousing, cartage and transport and laboratories.
- 2.14 **"Controlling Authority"** in relation to a national road means the National Transport Commission and in relation to any other road, not under the control of a local authority, the Administrator.

- 2.15 "**Coverage**" means the portion of the property, which is covered by buildings and is expressed as a percentage of the area of the property.
- 2.16 "**Cultivation Shed**" means a building or structure exceeding 100 m² floor area used or designed for the purposes of raising plants or animals and/or animal products, independently from the land outside the building, as for instance a building or structure used for the cultivation of mushrooms or raising of chickens, laying or incubating of eggs (battery system); for the purposes of this Scheme such a building is not considered an "agricultural building."
- 2.17 "**Development Plan**" a development plan, together with a model of such development plan prepared to a scale of 1 in 750, shall be submitted to the local authority for approval as and when requested by it, to show the proposed development on the land in conformity with any rights granted. Such a development plan shall show the following:
- 2.17.1 the siting and heights of all buildings;
 - 2.17.2 open spaces and landscaping;
 - 2.17.3 points of access and egress;
 - 2.17.4 pedestrian malls, plazas and other paved areas;
 - 2.17.5 points of entrance to buildings and parking areas;
 - 2.17.6 parking areas and traffic circulation
 - 2.17.7 the floor level of malls and proposed changes in level;
 - 2.17.8 the fall of the ground by 1 metre contours.
- The foregoing rights shall be exercised in accordance with such Approved development plan, provided that the local authority may consent to the amendment and /or substitution of such approved development plan, and, provided further that an appeal to the Board shall be against the unreasonable refusal by the local authority to approve such development plan or to consent to the amendment and /or substitution of an approved development plan.
- 2.18 "**Dwelling House**" means a building designed for and/or used as a residence by one family together with such buildings as are reasonably accessory and /or necessary to and used in connection therewith.
- 2.19 "**Duplex Dwelling**" means a suite of rooms forming a complete living unit situated on two floors having an internal staircase giving access to the upper floor, designed or used as a residence by a single householder with his household, contained in a building consisting of two or more such living units, each having direct access to a garden on ground level.
- 2.20 "**Erection of Building**" also includes the alteration or extension of a building.
- 2.21 "**Existing Building**" and "**Existing Work**" means respectively a building or work lawfully erected, constructed or carried out before the date of the approval of this Scheme and include also a building or work:
- 2.21.1 erected, constructed or carried out in pursuance of a contract made before the said date; or

- 2.21.2 begun before, but completed after the said date; or
- 2.21.3 erected, constructed or carried out in accordance with the terms of any permission granted by the local authority pending the preparation and approval of this Scheme.
- 2.22 **"Existing Property"** means any erf as defined in the Ordinance, any agricultural holding and any farm portion smaller than 21,4133 ha including any portion of an erf, holding or farm portion the subdivision of which was approved by the local authority before the approval of the Scheme.
- 2.23 **"Existing Use"** means in relation to any building or land a lawful use of that building or land for the particular purpose for which it was before, on and uninterruptedly being lawfully used since the 2nd August, 1961 or in the case of a newly erected building, the use for which permission was obtained including, in any case, any use of a building or land permitted by the local authority pending the preparation and approval of this Scheme.
- Provided that:
- 2.23.1 the discontinuance of the existing use of a building at any time for a period exceeding fifteen (15) months, shall be deemed to interrupt the continuous use;
- 2.24 **"Family"** means a household composed in such manner that all the members of the household are controlled and provided for solely by a single family head; provided that with the exception of unmarried children, every member shall be a dependant as defined in relation to a taxpayer in the Income Tax Act, 1962 (Act 58/1962) of the said family head.
- 2.25 **"Farm Portion"** means any portion of land which is not an erf, agricultural holding, road or street and which is registered as a separate unit in the Deeds Office.
- 2.26 **"Flat"** means any suite of rooms, not being a single dwelling house but constituting a complete dwelling unit designed for use by a single family, contained in a building consisting of two or more such dwelling-units and having a common entrance.
- 2.27 **"Floor-Space Ratio"** means the ratio obtained by dividing the total area of all the storeys (excluding a basement for storage purposes, open roofs and floor spaces used exclusively for the parking of motor vehicles for the residents of the building or buildings) of the proposed building or buildings, which area is to be measured over the external walls and includes any form of space, except decorations (such as pinnacles, turrets and bell-towers) and space which is reasonable or necessary for the cleaning, maintenance, care or the mechanical equipment of the building or buildings, by the total area of the erf, that is:

F.S.R. =
$$\frac{\text{Total floor area of all the floors of the Building or buildings as set out above}}{\text{Total area of the erf}}$$

- 2.28 **"Funeral Parlour"** means a building used or designed for use as a mourning or funeral chapel and includes such other buildings designed for use in connection with and which is normally ancillary to or reasonably necessary for the business of a funeral undertaker.
- 2.29 **"Gross Leasable Area"** means the total floor area designed for tenant occupancy and control, including basements, mezzanines and upper floors, if any, as expressed in square metres measured from the centre line of joint partitions and the exteriors of outside walls.
- 2.30 **"Height"** means the height of a building, preferably expressed in the number of storeys or metres of which it consists, provided that:
- 2.30.1 the height of one storey shall not exceed five metres, except with the consent of the local authority;
- 2.30.2 towers, architectural features and basements, which are not designed for living, working, sleeping or storage purposes, shall not be regarded as storeys for the purposes of this Scheme.
- 2.31 **"Hotel"** means an accommodation establishment registered as a hotel in terms of the Hotels Act, 1965 (Act No. 70 of 1965).
- 2.32 **"Industrial Building"** means a building, other than a noxious industrial building, used or designed for use as a factory within the meaning of the Factories, Machinery and Building Work Act, 1941 (Act No. 22 of 1941) and any amendment thereof and includes an office or other building on the same property the use of which, in the opinion of the local authority's incidental to or reasonably necessary in connection with the use of such factory.
- 2.33 **"Industrial Use"** means industrial or commercial purposes (for example factories, warehouses, workshops and similar purposes) as the local authority may, in writing, approve and for purposes incidental thereto. No retail trade of any nature whatsoever shall be conducted thereon or therefrom except as provided herein. The prohibition on retail trading as set out above shall not preclude the owner or occupier of the erf, with the written consent of the local authority, from selling goods which are wholly or partially manufactured, processed or assembled or any other goods which, although not manufactured, processed or assembled on the erf, form part of or are incidental to the sale of and/or are used in conjunction with goods wholly or partially manufactured, processed or assembled on the erf. For the purposes of this clause, "purposes incidental thereto" shall include:
- 2.33.1 the erection and use for dwelling purposes by managers and watchmen of works, warehouses or factories which may be erected

on the erf, of buildings and, with the written consent of the Administrator given after consultation with the local authority and subject to such conditions as he may impose, provision may be made for the accommodation of disqualified persons as defined in the Group Areas Act, 1966 (Act No. 36 of 1966), who is *bona fide* necessarily in the fulltime employ of the industry carried out on the erf; and

- 2.33.2 the erection of buildings which will be used as offices or storerooms by the owner or occupier of the erf.

No restaurant, tearoom or Bantu Eating House shall be erected on the erf except for the use of persons who are *bona fide* in the employ of the industry, which is carried out on the erf.

- 2.34 **"Institution"** means a building designed for use as a public or charitable institution, hospital, nursing-home sanatorium, clinic or dispensary, whether public or private, but does not include buildings designed wholly or principally for any of the following uses:

- 2.34.1 a hospital, sanatorium, dispensary or clinic for the treatment of infectious or contagious diseases;
- 2.34.2 an institution or home for mental defectives;
- 2.34.3 a mental hospital;
- 2.34.4 a public assistance institution.

- 2.35 **"Land,"** means any land, including land covered with water and any right in or over land in the area.

- 2.36 **"Local Authority"** means the Transvaal Board for the Development of Peri-Urban Areas or its successors.

- 2.37 **"Map"** means the map marked "Map No. 3" as described in the Regulations promulgated under Administrator's Notice No. 977 of the 31 December 1965, and as amended from time to time by any approved amendment scheme.

- 2.38 **"Noxious Industrial Building"** means a building used for the purpose of carrying on a noxious or offensive trade occupation, without prejudice to the generality of the foregoing includes buildings in which, in the execution of a trade or occupation, any one or more of the following actions are carried out: boiling of blood or bones, melting or tallow or fried fat, boiling of soap, boiling or cleaning of tripe, drying of blood, scraping of guts, dressing and tanning of leather, gum or glue making, burning of charcoal, burning of bricks, treating and storing of manure, parchment making, malt making, yeast making or cement works, use of coal ovens, salt glazing, sintering of sulphur-bearing materials, manufacturing of fish foods, smelting of ores or minerals, calcining steel and other materials, puddling and rolling, processing pig-iron into wrought-iron, reheating steel and other metals, annealing, hardening, forging, processing or carburizing, use as carbon

disulphide, cellulose lacquer, cyanogen compounds, hot pitch or bitumen, pulverised fuel, pyridine, liquid or gaseous sulphur dioxide or use or manufacture or sulphur chlorides, production of amyl acetate, aromatic esters, butyric acid, caramel, enamelled wire, glass, hexamine, iodoform, lamp-black, B-naphthol, resin products, salicylic acid, sulphonated organic compounds, sulphur dyes, ultramarine, zinc chloride, zinc oxide, and all refining and works dealing with the processing or refining of petrol or oil or their products: Provided that

- (i) where a local authority, with the sanction of the Administrator, adds to the list of noxious trades such additions should also be deemed to be included in the above definition;
- (ii) upon the production of a certificate by the Medical Officer of Health, in consultation with the Inspector of Factories declaring that the process which will be employed in the conduct of any of the foregoing industries or factories will eliminate nuisance or danger to health in neighbouring premises arising from -
 - (a) vapour or effluvia;
 - (b) fluids or liquid waste matters to be discharged from the premises, and if land treatment of such matters is proposed, the nature, slope and area of the land and its position in relation to dwellings, streams, or water courses, must be stated; and
 - (c) solid waste matters:
the Local Authority may consent to the erection and use of buildings for such industries in Use Zone VIII and IX.

2.39 **"Occupier"** in relation to any building, structure or land means and includes any person in actual occupation of or legally entitled to occupy such building, structure or land without regard to the title under which he occupies, or any person having the charge or management thereof, and includes the agent of any such person absent from the area, or whose whereabouts is unknown.

2.40 **"Office"** means a building used or designed to be used for administrative purposes and includes a bank, building society office or similar commercial establishments and professional consulting room, but does not include any type of building referred to under the definition of a "public office."

2.41 **"Open Air Theatre"** means a portion of land prepared and maintained in suitable condition for use as an auditorium to view and hear concerts, plays, music, speeches, etc. by the planting of indigenous and hardy trees and shrubs, and the erection of screen walls, pergolas, seats, etc. It may include a stage and a refreshment stall from which refreshments may only be sold during performances.

2.42 **"Ordinance"** means the Town Planning and Townships Ordinance, 1965 (Ordinance 25/1965) and any amendments thereof.

2.43 **"Owner"** in relation to any building structure or land means and includes:

2.43.1 the persons in whose name the title to such building, structure or land is registered and includes any holder of a stand licence; or

2.43.2 if such person or holder is deceased, insolvent, mentally disordered, deficient or defective, a minor, or under any legal disability, the person in whom the administration of that person's or holder's estate is vested whether as executor, guardian, curator or in any other capacity whatsoever; or

2.43.3 the lessee if the premises is under lease, the registration whereof is in law necessary for the validity of such lease in respect of third parties.

When an owner as herein defined is absent from the area or his whereabouts are unknown the expression "owner" includes an agent of such owner or any person receiving, or entitled to receive, rent in respect of the premises.

2.44 **"Place of Amusement"** means a building used or designed for use as a public hall, theatre, cinema, music hall, concert hall, billiard room, sports stadium, skating-rink or dance hall or any other purpose which may, in the opinion of the local authority, readily be included hereunder.

2.45 **"Place of Assembly,"** means any building included in the definitions of "Place of Instruction", "Place of Public Worship" and "Social Hall."

2.46 **"Place of Instruction"** means a building used or designed for use as a school, college, university, academy, research institute, technical institute, lecture room, or other education centres and includes a hostel in connection therewith, a convent, public library, art gallery, museum or gymnasium but does not include a building defined as an "institution."

2.47 **"Place of Public Worship"** means a building used or designed for use as a church, temple, chapel, oratory, cathedral, mosque, synagogue or other place of public devotion and includes a parsonage and a building used or designed to be used for the purpose of a Sunday School. It may also include any other building used or designed to be used for social gatherings and recreation on the same property and appurtenant to any of the foregoing buildings such as a church hall but does not include a "funeral parlour."

2.48 **"Private Open Space"** means any land used or reserved in terms of this Scheme for use as a private sports, play and recreation ground or as an ornamental garden, but does not include a "public resort."

2.49 **"Property"** means a farm portion, erf or agricultural holding registered as a separate unit in the Deeds Office.

2.50 **"Public garage"** means a building, other than a "Parking Garage", designed or used for the sale, storage, repair and fuelling of motor vehicles

and the sale of new motor vehicle spares or for any one or more of these uses, with the exclusion of panelbeating.

- 2.51 **"Public Office"** means a building used or designed for use as a government or municipal office and includes a courtroom, town hall, police station and post office.
- 2.52 **"Public Open Space"** means any portion of land used or reserved in this Scheme for use by the public as an open space, park, garden, play or recreation area or square, but does not include a "public resort."
- 2.53 **"Public Resort"** also means a place of rest; holiday place, caravan park, camping place and picnic place, but does not include a private or public open space.
- 2.54 **"Residential Building"** means a building used or designed for human habitation together with such outbuildings as are ordinarily used in connection therewith and includes blocks of flats, duplex dwellings, semi-detached residences, tenements, boarding houses, accommodation establishments, residential clubs and hostels. It does not include a "dwelling house", "institution" or "place of instruction."

A/S 1261 **"Restaurant"** Means any building or land designed for use
28 June 2000 or used for the preparation, service and consumption on
 the site or consumption away from the site of food or
 liquid refreshments, but does not include a "place of
 amusement", "adult premises" and the service of food or
 liquid refreshments by topless or naked persons.

- 2.55 **"Shop"** means a building used or designed for the purpose of conducting a retail business and includes an accompanying storeroom and a small workshop, which is reasonably necessary and incidental to the specific retail business.
- 2.56 **"Site"** in relation to a building includes the area of any building; outbuildings, yard, court or garden occupied or intended to be occupied therewith.
- 2.57 **"Social Hall"** means a building used or designed for use for social gatherings, meetings and recreation and includes a freemason's lodge and a non-residential club, but does not include a "place of amusement".
- 2.58 **"Special Building"** means a building used or designed for any use other than a use for which buildings defined herein are designed and which, in the opinion of the local authority, belongs in the use zone in which the building is to be situated.
- 2.59 **"Sports grounds"** mean a portion of land laid out for any kind of sport, used by the public as members of a club, or on payment of a charge, or otherwise. Such grounds may have stands for spectators and refreshment stalls at which refreshments may only be sold during sporting activities.

- 2.60 **"Street Frontage"** of a building means the portion of land between the main building and the street boundary. The smallest width of that portion, viz. the shortest distance between the side boundaries of that portion of the land is the minimum street frontage of the site.
- 2.61 **"Street or Road"** includes the whole or part of any street, road, bridge, sub-way, lane, alley, arcade, sanitary lane, servitude of right-of-way or passage indicated on an approved Surveyor-General diagram or general plan of township or agricultural holdings or in respect of which the public or the local authority gained a right of thoroughfare, by way of superan dation or otherwise, and includes all land which is reserved, intended, designated or defined for the purposes of vehicular traffic in terms of any legal provision as well as the area taken up by a specific road reserve.
- 2.62 **"Warehouse"** means a building used or designed for the purposes of storing goods and may include ancillary office accommodation, which is subsidiary to the main use.
- 2.63 **"Workshop"** in connection with retail trade means a building used or designed for the purpose of conducting a retail business in goods manufactured, processed, assembled or repaired wholly or partially on the property and in any case a building not classified as a factory in terms of the Factories, Machinery and Building Work Act, 1941 (Act No. 22 of 1941), or any amendment thereof.
- 2.64 **"Zone"** means a portion of the area, shown on the "map" by means of distinctive colouring, hatching or edging or in some other distinctive manner for the purposes of indication the restrictions imposed by this Scheme on the erection and use of buildings or the use of a land and the expressions "use- zone", "density zone" and "height zone" mean the zones indicating the restrictions as to use, density and height of buildings, respectively.

3. **Area of the Scheme**

The area to which this Scheme applies shall consist of the whole of the area lying within the inner edges of the boundary line coloured dark blue on the Map.

4. **Responsible Authority**

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

