



HOME ENTERPRISES (HOME OFFICE, PRACTICING YOUR PROFESSION/OCCUPATION FROM HOME)

1. Introduction

With Covid 19 there is an increasing trend of people working from home. Also, many professionals undertake activities from home.

It is important to know what the planning regulations are before embarking on home enterprise activities at home because contraventions of these regulations can lead to it being closed down, fines issued and if the contravening use prevails, penalty rates and business-related service charges can be imposed. These are considerably more than for a residential property and it is also difficult to get these reversed expeditiously (bureaucracy), once imposed.

This memo sets out the legal provisions and requirements and can be used as guide to residents.

2. What does the law say?

There are two main regulations that apply to any change of use/development applications and land use zoning. The first is the **Johannesburg Municipal Planning Bylaw (2016)**. This will guide you if you have to get permission or Consent for any land uses other than residential on your property.

The second is the **City of Johannesburg Land Use Scheme (2018)** which sets out all the zoning conditions for land uses in the City. It is more detailed in its requirements and procedures.

What these regulations say, in simple terms, is that if you run a small home office /practice your profession from the house you live in and meet a list of criteria then you are allowed to practice.

The 'do's and don'ts' are set out in Section 20 in the Land Use Scheme below.

The **Land Use Scheme** provides a definition of "home enterprises" as:

<p>"home enterprise"</p>	<p>Means the practicing of a profession or occupation from a dwelling house / unit</p> <p>Refer to the provision of Clause 20 for the qualifying criteria.</p>
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3. What Clause 20 in the Land Use Scheme says is allowed.

3.1 Clause 20: What is important to note is that if you run your home business within all the (13) criteria below, you are fully entitled to do so. Section 20 allows all of this as a primary right (a given or inherent right) that goes with your zoning as Residential 1.

If you over-step these then quite onerous planning permission processes must be followed, such as applying for Consent Use or Rezoning the property.

20. HOME ENTERPRISES FOR PROFESSION AND/OR OCCUPATION

Without prejudice to any of the powers of the Council under the provisions of this Land Use Scheme or any other law, nothing in the provisions of this part of the Land Use Scheme shall be construed as prohibiting or restricting or enabling the Council to prohibit or restrict the practice by any permanent occupant of a dwelling house / unit of a home enterprise / profession/s or occupation/s or use of a dwelling house / unit for the purpose of a Home Enterprise, provided that:

- (1.) The dwelling house / unit shall not be used for a public garage, motor sales, motor workshop, heavy mechanical repairs (e.g. grinding, welding, sanding, etc.), car wash, industrial / commercial purposes, noxious industries, scrap yard, spray painting, panel beating, shop (retail outlet), spaza / house shop, tavern / shebeen, restaurant, coffee shop, tea garden, place of amusement, place of instruction, institution, guest house, bed and breakfast, boarding house, commune, hotel, funeral parlour, undertaker, pet salon or any such other uses as the Council may determine.

- (2.) Not more than 25% of the built floor area of the dwelling house / unit or 50m² may be used for non-residential purposes in total, whichever is the lesser.
- (3.) The principal of the non-residential activity shall be the permanent occupant on the site.
- (4.) A maximum of two (2) other persons additional to the members of the household who permanently reside on the site and who own and operate the business from the home may be taken into partnership on the site in relation to the home enterprise / profession/s or occupation/s exercised from the site.
- (5.) The home enterprise / profession/s or occupation/s should not negatively impact on any infrastructure services greater than normally required for domestic use.
- (6.) Parking, as well as loading and off-loading activities directly related to the home enterprise / profession/s or occupation/s shall be to the satisfaction of the Council.
- (7.) The display of a non-luminous notice or sign on the boundary fence or building, to indicate only the name, profession / occupation, business logo and telephone number/s of such a permanent resident, shall be permitted in compliance with the prevailing outdoor advertising by-laws.
- (8.) A home enterprise / profession/s or occupation/s of such a nature that would cause an undue increase in traffic in the neighbourhood or the passing of heavy vehicles through the neighbourhood, neither the congregating of workers in relation to the home enterprise / profession/s or occupation/s from the dwelling house / unit shall not be permitted.
- (9.) Interference, in the opinion of the Council, with the amenities of the neighbourhood by means of noise, smell, dust, aesthetic appearance or any other manner, shall not be permitted.
- (10.) The storing or keeping on the site of anything whatsoever which, in the opinion of the Council, is unsightly or undesirable or a risk to the safety and security of residents, such as ammunition, weapons, fire arms, explosives, fireworks, chemicals and waste or something which cannot be accommodated by the ordinary design of a dwelling house or dwelling unit shall not be permitted.
- (11.) Should the permanent occupant wish to practice a home enterprise / profession/s or occupation/s from a non-permanent (for example tents, gazebo and caravans) structure on the site, such practice shall be subject to permission being granted by the written consent of the Council accompanied by a plan indicating the nature, size and position of the container or non-permanent structure on the site. This written consent may be subject to the submission of a building plan.
- (12.) In developments governed by Sectional Title or Home Owners Associations, such home enterprise / profession/s or occupation/s shall be accommodated subject to approval of the relevant Body Corporate / Home Owners Association.
- (13.) All relevant legislation and Council's By-laws shall be complied with to the satisfaction of the Council.

3.2 Summary of important aspects to note from Clause 20 that apply to a Home Enterprise

- ❖ The City cannot deny you doing this if you **abide by all** the rule in Clause 20, because it is allowed on a Residential1 zoned property as a primary right;
- ❖ It applies to the permanent occupant (principal of the home business) of the property – this means the principal of the non-residential use must live on the property. The permanent occupant can be the owner or tenant.
- ❖ Certain uses are strictly prohibited – this is to limit the impact on the surrounding residential properties. Note that no retail or selling of goods, no noisy or smelly activities are allowed. While a list of provided, the City may also, at its discretion, determine any other uses that it will not allow, so if you are not sure you must write to the City and request their permission;
- ❖ You cannot exceed 25% of the floor area of the house, but it also cannot be more than 50m². Anything over this amount you will need to apply for Consent (a process that can be expensive and time consuming) from the City;
- ❖ Only 2 other persons in addition to the principal(s) who live on the property, may be employed on the property;
- ❖ The enterprise that is run from home should not use more municipal services (water, electricity, sewerage, for example) that the residential home does – the added non-residential use should not put additional strain on service infrastructure;
- ❖ The parking situation and the loading and off loading must be discussed and approved by the Council and this will require a site plan or similar to be submitted (this will part of your getting Written Consent from the City);
- ❖ There are restrictions on any advertisement of the enterprise on the fence / wall etc and no obtrusive and big signs or illuminated signs;
- ❖ The City will not allow any home enterprise if it causes undue traffic, especially large trucks and delivery vehicles or the congregation of workers;
- ❖ The enterprise cannot negatively affect the neighbourhood – no additional noise, dust, smell/odours and negative general appearance of the property will be permitted (if reported, you can be fined);
- ❖ Storing things related to the enterprise is also restricted controlled, mainly to protect safety (no ammunition, flammable substances, etc) and the appearance of the storage must not be an eyesore. Storage must be within (size and type) what is normally provided in the residential home;
- ❖ It is possible to practice your profession on your property from a non-permanent structure (like a shipping container, a caravan, under a gazebo, in a wooden shed but you need to apply to the City for permission for this (applying for Written Consent);
- ❖ If the property falls in a sectional title scheme, the permission/approval of the Body Corporate must be obtained first;
- ❖ While these regulations relate to town planning, there are many other bylaws that also need to be complied with. This includes the advertising signage, health bylaws, noise bylaws, pollution bylaws, hours of operation and many others from each type of law.

4. Ensuring legality – informing the City of your intent and getting their permission

For your home enterprise, even if you comply with all of Clause 20, you still need to tell the City what you intend doing. This is done by writing to the Development Planning Department in a process known as Written Consent.

4.1 Definition: Below is the definition of ‘written consent’ - It directs us to Clause 41

“written consent”	Consent applied for in writing and does not involve an advertising process as set out in Clause 41.
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4.2 Written Consent Process

Written consent is a less onerous process (than say, a rezoning or full consent application where advertising is required) where you write to the City requesting permission to run your home enterprise. Section 41 relating to Written Consent of the Planning Bylaw says the following:

41. WRITTEN CONSENT APPLICATION PROCESS

- (1.) If a provision in this Land Use Scheme requires the written consent of the Council, the applicant shall, submit a written motivation detailing the nature of such application and shall be accompanied by such supporting documents as may be required and any applicable fees.
- (2.) Any condition imposed in terms of a written consent shall have the same force and effect as if it were a clause of this Land Use Scheme.
 - (a.) A written consent granted by the Council in terms of this Land Use Scheme may be subject to termination by the Council if any breach of a condition upon which such written consent was granted is not remedied in compliance with a notice served by the Council upon the owner or occupier of the erf or site concerned after affording the applicant an opportunity for a hearing.
 - (b.) The notice referred to in Sub-clause (a.) above shall require that the breach be remedied within a specified period.

4.3 What ‘Written Consent’ means in practice

You need to write to the City and give them sufficient information to make a decision to grant you permission.

In addition to motivating your request, you must show that you are complying with Section 20. So, you would explain how big an area you will use, how many employed, the parking (submit a plan of your site showing all these things), how much traffic, if any, would be generated, the storage and signage you will use, what noise/pollution/smells etc you may generate and so on. Because this kind of application does not require full advertising, it is important that you speak to your neighbours and get them to say they are happy (you can print out your plan, showing neighbours properties and get them to sign on the plan – this shows they have been informed of your intention).

Have very clear information on your contact details, especially your email address.

It is important that you say in your application that it is in terms of Section 20 of the Land Use Scheme (2018) and constitutes an application for Written Consent.

You can send your application (there is no pro-forma application form for this process) with any plans and any other supporting documents to the City. This can be done electronically to:

Land Use Applications Section of the Development Planning Department:

LandUseApplications@joburg.org.za

As far as I know there is no fees for this application, but if there is, once it is registered in the system you will be contacted and sent an invoice.

5. What happens if you don't comply with Section 20 but you still want to run your home enterprise from home?

There are 2 legal routes you can use to get permission to use your residential property for a home enterprise that is in excess of the Section 20 requirements – you can apply for **Consent** for the non-residential uses or you may need to do a full **Rezoning** application

- a. **Consent:** Because “home enterprise” is a primary right on your residential property if you meet all the requirements of Section 20, any rights or activities **in excess** of this will require you to make a land use planning application for permission or what is called **Consent**. This is the most common route when you are just over the Section 20 requirements. The Residential 1 zoning remains and the additions requirements to make your business legal, are added by authoring them under the Consent procedure. You then get **Consent Use** rights for the non-residential uses.
- b. If you are really in excess of what is permitted (e.g. you want the whole house to be offices and you don't live on the site any more) you are obviously no longer exercising Residential 1 zoning rights but rather changing the use to offices/business or more than 50% of the property is non-residential uses. You then have to do a **full rezoning** of the property. This is more onerous than a Consent application because it will change the zoning of the property. It cannot be guaranteed that it will be approved because the use must fit in with the local planning requirements and the spatial planning of the area. You can go to Sections 21 - 25 of the Municipal Planning Bylaw (**See Annexure 3**) to see the full details / procedures for rezoning and **Annexure 4** has extracts from the Schedule 1 requirements for rezoning.

5.1 Consent Use Requirements

Most commonly, if it is only slightly over the Section 20 requirements, you need to apply for Consent. This Consent process is very different from the Written Consent process and is far more onerous and probably needs a professional town planner to make the application for you.

This is the definition in the Land Use Scheme for Consent and consent use:

“consent”	Means permission granted by the Council, after due consideration of all relevant facts and after following the provisions of the City of Johannesburg Municipal Planning By-law, 2016, in terms of which a specific aspect of land management is permitted, in addition to the primary use rights applicable to the property concerned, i.e. Clause 40.
“consent use”	Means the additional land use right that may be permitted in terms of the provision in a particular zone, only with the consent of the Council as contemplated in Clause 40.

Essentially, it is the permission to use your property for the use you applied for, in addition to the Residential 1 zoning. It is giving you some additional land use rights.

5.2 Consent Use application: this are set out broadly in the Municipal Planning Bylaw in Section 17 which is then detailed in Clause 40 of the Land Use Scheme.

17. APPLICATION FOR CONSENT USE

- (1.) Any owner intending:
 - (a.) to erect and use a building in any Use Zone for a purpose for which such building may only be erected, and used in such Use Zone with the consent of the Council; or
 - (b.) to use land in any Use Zone for a purpose for which such land may only be used with the consent of the Council,
 must apply to the Council for the necessary consent as stipulated in terms of the provisions of the City of Johannesburg Municipal Planning By-law, 2016.
- (2.) Clause 40 shall apply mutatis mutandis to applications in terms of Sub-clause (1.).

40. CONSENT OF THE COUNCIL

- (1.) Application to the Council for any consent which, in terms of this Land Use Scheme it is empowered to grant or refuse, shall be made by the owner as defined to which the application relates in terms of the City of Johannesburg Municipal Planning By-law, 2016.
- (2.) Any condition imposed in terms of a consent shall have the same force and effect as if it were a clause of this Land Use Scheme.

- (3.) A consent granted by the Council in terms of this Land Use Scheme may be subject to termination by the Council if any breach of a condition upon which such consent was granted is not remedied in compliance with a notice served by the Council upon the owner or occupier of the erf or site concerned after affording the applicant an opportunity for a hearing.
- (4.) The notice referred to in Sub-clause (2.) shall require that the breach be remedied within a specified period.

You will see, in **Annexure 1**, the full process and requirements to apply for Consent Use as well as the requirements of Schedule 1 of the Bylaw in **Annexure 2**.

You will notice how much more onerous it is than just getting Written Consent. Your Consent can lapse if you don't remain compliant and you may be liable to pay a bulk contribution towards services.

5.3 Rezoning Application

The procedures for a rezoning application are to be found in Sections 21 – 25 of the Municipal Planning Bylaw (**Annexure 3**) and the requirements are contained in Schedule 1, section 3 (**Annexure 4**). These are even more onerous than Consent Use application.

It is best therefore to stay within the requirements of Section 20 for running a Home Enterprise from your property.

This document prepared on behalf of the Emmarentia Residents' Association by Gemey Abrahams, EXCO Member for Planning, Building and Heritage.

If further clarity is sought you may email ERA: info@era.org.za

23 May 2022

Annexure 1 – Full Consent provisions in the Municipal Planning Bylaw (2016)

NOTE SECTION 19(12) THAT APPLIES TO WRITTEN CONSENT

Chapter 5 General requirements and application procedures for land development applications

Part 1 - Consent Use and Building Line Relaxation

19. Consent use

- (1) An owner of land may submit a consent use application in terms of this By-law and as provided for in the City's land use scheme to use the land or site or any building on the land or site for a particular purpose.
- (2) A consent use application as envisaged in subsection (1) above shall comply with the following procedures:
 - (a) A notice shall be displayed on the land under consideration in English;
 - (b) Such notice shall be displayed on the land within 7 (seven) days from the date of the City's letter of acknowledgment of a complete application;
 - (c) Such notice shall be in the format as determined by the City;
 - (d) Such notice shall be displayed in a conspicuous place on the land in question where it would be best and easily visible and can be easily read from each and every adjacent public street or other adjacent public place;
 - (e) Such notice shall be maintained in a clearly legible condition for a period of not than 21 days from the date of 1st display of such notice;
 - (f) Such notice shall reflect full details of the application including, but not limited to the street address, the name of the township, a clear erf description of the erf, farm portion or agricultural holding concerned and the nature and general purpose of the application;
 - (g) Such notice shall reflect the date of 1st display of such notice and it shall reflect name, postal address, telephone number, fax number and email address of the person submitting the application;
 - (h) Such notice shall further reflect that the application and its accompanied

documents will lie open for inspection at specified times and at specified places at the City's offices and that any objection, comment or representation in regard thereto must be submitted timeously to both the City and the person mentioned in subsection (g) above in writing by registered post, by hand, by facsimile or by e-mail within a period of 28 days from date of first displaying the notice on the land under consideration; and

- (i) In addition to the requirements in subsections (a) to (h) above, a letter shall also be dispatched within 7 days of date of first display of the notice envisaged in subsection (a) above to the owners/occupiers of all contiguous erven, including those on the opposite side of a street or lane by registered post, by hand or by any other means available informing such owners/occupiers of all the detail as prescribed in subsections (f), (g) and (h) above.
- (3) Proof of compliance with subsection (2) above in the form of a written affidavit shall be submitted to the City within 14 days of expiry of the date contemplated in subsection (2)(h) above.
 - (4) Where objections, comments and/or representations have been received as a result of subsection (2) above, the applicant may respond in writing thereto to the City within 14 days of date of receipt of such objection, comment and/or representation where after the City shall refer the application to the Municipal Planning Tribunal for a decision subject to the provisions of section 58 below.
 - (5) No decision on the application shall be taken unless due regard has been given to each objection, comment and representation lodged timeously.
 - (6) Subject to section 18(3), in the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 60 days of date of expiry of the administrative phase as contemplated in section 57(3) below;
 - (7) Such consent use application may be refused or it may be approved subject to any condition the City may deem fit and it may include a condition that
 - (a) the consent shall lapse if the use of the land or building concerned is not commenced within the period stated in the condition;
 - (b) the consent shall lapse if it is discontinued for a period stated in the condition;
 - (c) the consent shall lapse on the expiry of a period or on the occurrence of an event stated in the condition;
 - (d) the consent may be withdrawn if there has been non-compliance with any of the conditions of approval or because of change of circumstances;
 - (e) a contribution be paid to the City in respect of engineering services where it will be necessary to enhance or improve such services as a result of the consent granted; and

- (f) an amount of money be paid to the City in respect of open spaces where the granting of the consent will bring about a higher residential density.
- (8) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the City shall notify all relevant parties of the decision in writing by registered post, by hand or by any other means available without delay.
- (9) The City shall keep a proper record of each approval granted in terms of subsection (7) above.
- (10) The contribution and amount of money envisaged in subsection (7)(e) and (f) above shall become due and payable within 30 days from date of the expiry of the time period referred to in section 49(1) of this By-law, or within such further period as the City may allow, failing which, the consent shall automatically lapse.
- (11) An application for an extension of time as envisaged in subsection (10) above shall be made prior to the expiry of the 30 day period stated in that subsection.
- (12) Where the City's land use scheme makes provision for a written consent application, such application shall be exempted from compliance with subsection (2) above.

Annexure 2 – Schedule 1 requirements for making a Consent Use Application.

City of Johannesburg: Municipal Planning By-Law, 2016

Schedule 1

Documents, maps, diagrams, reports and any other relevant information necessary to be submitted with any land development application envisaged in Chapter 5 of this By-law and as envisaged in section 54 of this By-law

1. Consent use application

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (10) Information on the existing development on the land;
- (11) Information on the proposed use on the land;
- (12) A locality map;
- (13) Proposed lay out plan that includes the parking lay out;
- (14) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application; and
- (15) Subject to section 55(2) to (5) of this By-law, any other information deemed relevant to the application.

Annexure 3 – Rezoning procedures in the Municipal Planning Bylaw

Part 2 - Amendment of Land Use Scheme (Rezoning) and matters related thereto

21. Amendment of land use scheme

- (1) An owner of land who wishes to have a provision of the City's land use scheme or any provision of any other scheme which may still be applicable to the land under consideration amended, may submit an application in terms of this By-law to the City for consideration.

- (2) An application for the amendment of a provision of the City's land use scheme or any other scheme that may still be applicable to the land under consideration as envisaged in subsection (1) above shall comply with the following procedures:
 - (a) Notice of the application shall be given once by simultaneously publishing a notice in the Provincial Gazette and a newspaper that circulates within the area of jurisdiction of the application site in English;
 - (b) Such notice shall clearly reflect in terms of which section of this By-law the application is made and which land use scheme or any other scheme is applicable;
 - (c) Such notice shall reflect full details of the application including, but not limited to the street address, the name of the township, a clear erf description of the erf concerned and the nature and general purpose of the application;
 - (d) Such notice shall further reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application;
 - (e) Such notice shall further reflect that the application and its accompanied documents will lie open for inspection at specified times and at specified places at the City's offices and that any objection, comment or representation in regard thereto must be submitted timeously to the City in writing by registered post, by hand, by facsimile or by e-mail within a period of 28 days from the date of publication of the notice as envisaged in subsection (2)(a) above.
 - (f) A site notice that contains the same detail as envisaged in subsections (b) to (e) above shall be displayed on the land under consideration in English;
 - (g) Such notice shall be displayed on the land from the same date as the date of the publication of the notice mentioned in subsection (a) above;
 - (h) Such notice shall be in the format as determined by the City;
 - (i) Such notice shall be displayed in a conspicuous place on the land in question where it would be best and easily visible and can be easily read from each and every adjacent public street or other adjacent public place;

- (j) Such notice shall be maintained in a clearly legible condition for a period of not than 21 days from the date of publication of the notice mentioned in subsection (a) above; and
 - (k) In addition to the requirements in subsections (a) and (f) above, a letter shall also be dispatched within 7 days of date of the publication of the notice envisaged in subsection (a) above to the owners/occupiers of all contiguous erven, including those on the opposite side of a street or lane by registered post, by hand or by any other means available informing such owners/occupiers of all the detail as prescribed in subsection (2)(b) to (e) above.
- (3) Proof of compliance with subsection (2) above must be submitted to the City in the form of a written affidavit within 14 days of expiry of the date contemplated in subsection (2)(e) above.
- (4) On receipt of an application in terms of subsection (1) above, the City shall submit a copy of such application to:
- (a) any Roads authority whether local (as a municipal owned Entity), Provincial or National which may have an interest in the application;
 - (b) any neighbouring municipality who may have an interest in the application; and
 - (c) any other stakeholder, Municipal Department, Provincial Department, National Department, Municipal Entity or any other interested party who may, in the discretion of the City, have an interest in the application.
- (5) The interested parties mentioned in subsection (4)(a)-(c) above to which a copy of the application has been forwarded shall submit its objection, comment and/or representation to the City in writing within 60 days of date of receipt of the application, failing which, it shall be deemed that such interested party has no objection, comment or representation to make.

- (6) The City shall forward a copy of each objection, comment and representation received in terms of the notices envisaged in subsection (2) and from the interested parties in terms of subsection (4) above in respect of the application to the applicant and the applicant may respond in writing thereto to the City within 14 days of date of receipt of such objection, comment and/or representation where after the City shall refer the application to the Municipal Planning Tribunal for a decision subject to the provisions of section 58 below.
- (7) No decision shall be taken on the application unless due regard has been given to each objection, comment and/or representation lodged timeously.
- (8) Subject to section 18(3), in the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 90 days of date of expiry of the administrative phase as contemplated in section 57(3) below.
- (9) An owner of land may at any stage prior to a decision been taken on the application, amend or withdraw his application provided that with an amendment, the amendment is not regarded in the opinion of the City as being material which would warrant re-compliance with subsections (2) and (4) above.

22. Decision and post-decision procedures

- (1) An application as envisaged in section 21(1) above may be approved subject to any condition the City deems fit or it may be refused.
- (2) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the City shall notify all

relevant parties of the decision in writing by registered post, by hand or by any other means available without delay.

- (3) The City shall keep a proper record of each decision in terms of subsection (1) above.
- (4) Only where the City has approved an application in terms of subsection (1) above and after the expiry of the time period envisaged in section 49(1) of this By-law, it shall forthwith give notice thereof in the Provincial Gazette and state in the notice that a copy of the application as approved will lie for inspection at all reasonable times at its office and thereupon the application shall be an approved scheme which is an amendment scheme.
- (5) Prior to the notice being published as envisaged in subsection (4) above, the owner of land may abandon the approval by giving written notice to the City.
- (6) The City shall cause a copy of every approved scheme as envisaged in subsection (4) above to lie for inspection at all reasonable times at its office.
- (7) An approved scheme as envisaged in subsection (1) above shall come into operation on the date of publication of the notice envisaged in subsection (4) above.
- (8) The City shall observe and enforce the provisions of the scheme from the date of it coming into operation and any person who contravenes a provision of an approved scheme shall be guilty of an offence.
- (9) No provisional authorisation as contemplated in section 7(6) of the National Building Regulations and Building Standards Act shall be issued unless an approval has been granted in terms of subsection (1) above.

23. Correction of errors or omissions

Where the City is of the opinion that any error or omission in an approved scheme relating to land situated within its area of jurisdiction may be corrected without the necessity of again following the provisions of sections 21 and 22 above, it may correct such error or omission by notice in the Provincial Gazette.

24. Prohibition of a further application in certain circumstances

- (1) Where the City has approved an application envisaged in section 21(1) above, no person shall in respect of the land to which the amendment scheme relates apply for a further amendment in terms of section 21(1) within a period of 24 months from the date of coming into operation of the scheme.
- (2) Notwithstanding subsection (1) above, the City may, upon written application, grant consent that, due to an acceptable change of circumstances, a further amendment application as envisaged in section 21(1) above may be submitted.
- (3) Within a period of 30 days from date of receipt of the change of circumstances

application envisaged in subsection (2) above, the City shall consider the application and notify the owner of land of its decision.

- (4) The provisions of subsection (1) above shall not apply to what is deemed by the authorised official to be minor amendments to the approved amendment scheme.

25. Contributions to be paid in respect of external engineering services and Open Spaces

- (1) Where an amendment scheme which is an approved scheme came into operation in terms of section 22(7) above, the City may, by registered letter, by hand or by any other means available direct the owner of land to which the scheme relates to pay a contribution to it in respect of the provision of:
 - (a) the engineering services envisaged in section 46(1) of this By-law where it will be necessary to enhance or improve such services as a result of the commencement of the amendment scheme;
 - (b) open spaces where the commencement of the amendment scheme will bring about a higher residential density.
- (2) The letter envisaged in subsection (1) above shall state the:
 - (a) the amount of the contribution payable;
 - (b) particulars of the manner in which the amount of the contribution was determined and
 - (c) the purpose for which the contribution is required.
- (3) An owner of land who:
 - (a) wishes to avoid the payment of a contribution envisaged in subsection (1) above may request the City to repeal the amendment scheme concerned within a period of 90 days from the date of the letter envisaged in subsection (1) above; or
 - (b) wishes to avoid payment of or wishes to reduce the amount of a contribution envisaged in subsection (1) above may in terms of section 21(1) above apply for the further amendment of the land use scheme concerned within 90 days from the date of the letter envisaged in subsection (1) above.
- (4) On receipt of a request as envisaged in subsection (3)(a) above the City shall grant or refuse the request and, if granted, give notice thereof in the Provincial Gazette.
- (5) Where the City has given notice of such repeal in terms of subsection (4) above, the obligation to pay any contribution envisaged in subsection (1) above shall lapse from the date of the notice envisaged in subsection (4) above and any contribution already paid shall be refunded.
- (6) Subject to subsection (8) below, the contribution levied under subsection (1) above

shall become due and payable within 30 days of the expiry of the 60day time period envisaged in subsection (3) above or within such further period as the City may allow.

- (7) Subject to subsection (8) below, no building plans in respect of the approved scheme shall be approved in terms of the National Building Regulations and Building Standards Act unless the contribution levied under subsection (1) above has been settled in full.
- (8) The City may consider a request, on good cause shown, that:
 - (a) the contribution levied under subsection (1) above be paid over a specific period time not exceeding three (3) years in instalments;
 - (b) that a prospective new purchaser be liable for the contribution in terms of an agreement/undertaking after transfer; or
 - (c) that payment of the contribution be postponed for a period not exceeding three years where security or a guarantee for the contribution has been provided to the satisfaction of the City.
- (9) In exercising any of the powers under subsections (8)(a) – (c) above, the City may impose any condition it may deem fit including a condition regarding interest.

Annexure 4 - Rezoning Requirements in Municipal Planning Bylaw – Schedule 1

3. Amendment of Land Use Scheme application (Rezoning)

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (10) Information on the existing development on the land;
- (11) Information on the proposed use on the land;
- (12) A land use map of the surrounding immediate area;
- (13) A zoning map of the surrounding immediate area;
- (14) A locality map;
- (15) The proposed scheme clauses, schedules, maps and annexures (where applicable);
- (16) Proposed site development plan, where required, showing, inter alia, the parking lay out;
- (17) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application; and
- (18) Subject to section 55(2) to (5) of this By-law, any other information deemed relevant to the application.