

Clause 6 - Erection and Use of Buildings and Structures and Use of Land

(1) The purposes:

(a) for which buildings and land may be used or for which buildings may be erected and used;

(b) for which land may be used or for which buildings may be erected and used only with the special consent of the Council; and

(c) for which land may not be used or for which buildings may not be erected and used,

in each of the use zones specified in Appendix 1 attached hereto are shown in the third, fourth and fifth columns respectively of the said Appendix and no person shall use land or erect and use buildings otherwise than in accordance with the provisions thereof except as otherwise provided in this Scheme. 27/09/1976

(2) (a) An existing building or an existing use of land which is not in conformity with the provisions of this Scheme relating to the erection and use of buildings and the use of land, may be maintained and may be used for its existing purposes.

(b) Where an existing building which is not in conformity with the provisions of this Scheme relating to the erection and use of buildings and the use of land, is accidentally destroyed or damaged beyond repair, such building may be re-erected with the special consent of the Council. 18/07/1994

(3) Subject to the provisions of this Scheme other than those relating to the erection and use of buildings and the use of land, the Council may on application to it:

(a) where an existing building is being used otherwise than in conformity with the use zoning provisions of this Scheme, authorise the extension of such non-conforming use or the alteration of the building within the boundaries of the site, if it appears to it that such extension or alteration will not increase the interference with the amenities of the neighbourhood, existing or as contemplated by this Scheme;

(b) where an existing building is so designed as to render it unsuitable for use in conformity with the use zoning provisions of this scheme, authorise the alteration of the existing use or where the building is not being used authorise its alteration or use for a non-conforming purpose, if it appears to it that the non-conforming use proposed in either case is one which is unlikely to increase the interference with the amenities of the neighbourhood existing or as contemplated by this Scheme;

(c) where an existing building is being used otherwise than in conformity with the use zoning provisions of this Scheme authorise the partial or complete rebuilding thereof and the continuation of the non-conforming use therein; provided that:

(i) the total floor area of the new building shall not exceed that of the existing building;

(ii) where the building is used for shops or offices, the provisions of clause 12(1)(c)(i) and (iii) and of sub-clauses (2), (5), (7), (8), (9), (10) and (12) of clause 12 shall be complied with; 16/09/1991

(iii) for the purpose of this paragraph application for such authority shall be made to the Council within three years from the date of coming into operation of this paragraph as set out in Appendix 5; 03/11/1975

(iv) such authority shall lapse upon the expiry of a period of fifteen years commencing upon the day following the end of the period of three years referred to in (iii) above;

(v) a building rebuilt in accordance with this provision shall for all purposes of this clause be regarded as an existing building.

(4) An application submitted in terms of sub-clause (3) hereof, shall be deemed to be an application for the special consent of the Council and notice of intention to make such application shall be given in accordance with the provisions of Clause 25.

(5) Where the alteration or extension of an existing non-conforming building is necessary in order to comply with Government or Municipal requirements the Council shall permit such alteration or extension, if it is satisfied that the need therefor is not due to the activities carried on in such building having expanded since the material date to an extent beyond that to which they could be carried on in such building in compliance with the Government or Municipal regulation concerned.

(6) Any authority granted in terms of sub-clause (3) or (5) hereof, shall, where the Council so directs, be conditional upon an undertaking by the applicant that :

(a) he will waive any claim for compensation in respect of any extensions, additions or alterations made, or in respect of any use or any extension thereof permitted in terms of such authority, upon being so required by the Council after the expiration of a period fixed by the Council after taking into account all the circumstances, including:

(i) the probable effective physical life of the building, having regard to its age and condition at the date of the application;

(ii) the probable effective economic and income-producing life of such building;

(iii) the degree and nature of non-conformity; and

(b) he will, if he disposes of the property, incorporate in any deed of sale, cession, assignment, lease, sub-lease or other document of alienation, a condition that the alienee will be bound by the undertaking given by him in terms of (a) hereof that the Council will be entitled to enforce the provisions of that undertaking without becoming a party to such agreement, and that the alienee shall be bound to insert the whole of this condition in any future alienation of the property by him.

(7) Any person aggrieved by a decision of the Council under sub-clauses (3), (5) and (6) hereof may appeal to the Appeals Board against such decision.

(8) No person shall use, or cause or allow to be used any building or portion thereof for a use other than that for which it was erected, unless the Council's consent has been obtained for the proposed new use and such alterations to the building as may be necessary have been authorised and carried out.

(9) (a) Every outbuilding shall be sited in a position in which, in the opinion of the Council, it is likely to cause the minimum interference with the amenities of neighbouring properties.
18/07/1994

(b) 22/04/1974 Deleted

05/06/1978

01/07/1985

18/07/1994

(c) (i) Deleted.13/12/1974

01/08/1983

18/07/1994(ii) Deleted

01/08/1983

01/07/1985

08/12/1989

01/07/1985 (iii) Deleted

08/12/1989

01/07/1985 (iv) Deleted

08/12/1989

20/08/1979 (v) Deleted

01/07/1985

08/12/1989

01/07/1985 (vi) Deleted

08/12/1989

01/07/1985 (vii) Outbuildings shall be single-storied provided that the Council may, by special consent, waive compliance with this requirement if it is satisfied that the proposal will not unduly interfere with the amenities of the neighbourhood existing or as contemplated by the scheme, provided further, that the Council may waive compliance with the special consent procedure if the prior written consent of the registered owner of each adjoining property and such other properties as the Council may direct, has first been obtained.

01/07/1985 (d) (i) Deleted.

08/12/1989

18/07/1994 (ii) Deleted.

01/07/1985 (iii) There shall be no interleading doors between any ancillary unit and the dwelling house or between any ancillary unit and any garage or other outbuilding.

08/12/1989 (iv) An ancillary unit shall be erected at ground level and shall

07/12/1995 be single-storied provided that the Council may, by special consent,

20/07/1998 waive compliance with these requirements if it is satisfied that the proposal will not unduly interfere with the amenities of the neighbourhood existing or as contemplated by the scheme, provided further, that the Council may waive compliance with the special consent procedure if the prior written consent of the registered owner of each adjoining property and such other properties as the Council may direct, has first been obtained.

(10) No land in any use zone shall be used for the purpose of the deposit or disposal of waste material or refuse without the special consent of the Council.

(11) The Council may, in respect of any subdivision which it is proposed to develop, determine the position and number of vehicular and pedestrian points of access, and may, if it deems fit, prohibit pedestrian or vehicular access across any boundary or boundaries and require that a suitable fence or wall be erected to prevent such access; provided that, in the opinion of the Council, satisfactory alternative access is or can be made available:- provided that no new building or any extension to any existing building erected on any site fronting on the eastern side of Salmon Grove shall have pedestrian access to Salmon Grove and no new access thereto from any existing building on any such site shall be permitted.

(11)bis No person shall provide a vehicular access point at a street line without the written approval of the Council.

For the purposes of this sub-clause :- 27/09/1976

"street line" means the common boundary of the subdivision and the street, existing or as proposed in terms of clauses 3 and 5. 18/07/1994

(12) Where, in a Special Residential zone (other than one with a minimum plot size of more than 900 square metres) it appears to the Council that, having regard to the character of the neighbourhood a dwelling house erected in accordance with plans approved prior to the material date is too large for further occupation as a single family dwelling, the Council may, by special consent, authorise the conversion of such a dwelling house into not more than two separate units of accommodation; provided that no such authority shall be granted by the Council unless:-
04/12/1978

(a) the subdivision on which the dwelling house exists is not less than the prescribed minimum plot size for the zone; 04/12/1978

(b) the two units of accommodation shall together contain at least 180m² of floor 27/09/1976

area, calculated in accordance with the provisions of Clause 23, and neither shall have a floor area less than 70m²; 04/12/1978

(c) provision can be made on the subdivision for the parking of at least two vehicles; and

(d) the servant's quarters existing or contemplated, are suitably sited in relation to neighbouring buildings.

27/09/1976 (13) (a) Deleted.

18/07/1994

18/07/1994 (b) Deleted.

(14) (a) No land comprising a site or portion of a site in a shopping zone shall be developed unless the Council is satisfied that such development will be in conformity with a comprehensive and co-ordinated development of the shopping zone in question.

(b) Notwithstanding the provisions of paragraph (a) hereof the Council may, having regard to the economic and physical life of any shop or building and of other shops or buildings in such zone, authorise by special consent alterations to such shop or building.

(c) Any authority granted in terms of paragraph (b) hereof shall, where the Council so directs, be conditional upon an undertaking by the applicant that :-

1.

(i) He will waive all claims for compensation in respect of the alterations authorised as may arise upon acquisition of the site by the Council or upon the Council requiring the alterations to be removed;

(ii) he will, if he disposes of the property, incorporate in any deed of sale, cession, assignment, lease, sub-lease or other document of alienation, a condition that the alienee will be bound by the undertaking given by him in terms of (i) hereof that the Council will be entitled to enforce the provisions of that undertaking without becoming a party to such agreement, and that the alienee shall be bound to insert the whole of this condition in any future alienation of the property by him.

18/07/1994 (15) Deleted.

18/07/1994 (16) Deleted.

(17) The Council may, by special consent, permit the removal of sand for gain from a site having frontage on any river, provided that such consent shall not be valid for a period exceeding five years but may be renewed by the Council from time to time upon such conditions as it in its sole discretion deems fit.

(18) Deleted. 18/07/1994

(19) Where on a site in the General Business (Central Area) zone or in a General or Special Shopping zone, a building is erected, altered or extended so as to contain an arcade, such arcade shall have a minimum width of 4,0 metres, provided that the City Engineer, after considering all the relevant circumstances, may permit a reduction in the width to not less than 3,0 metres.
20/10/1975

(20) The Council may, whenever a site in an Extractive Industrial zone is used for such purposes, impose such conditions as it deems fit, having regard to the amenities of the area and to the future use of the site.

05/03/1974 (21) Deleted.

05/05/1975

07/09/1976

18/07/1977

15/12/1977

06/02/1978

15/12/1978

18/07/1994

(22) On any site within the areas shown on Map No. 1849.385 and notwithstanding any other 27/09/1976

provisions of this Scheme relating to the use of land or buildings, the Council, may, if it appears to it that such site is one which is likely to be included in any zone set out in Column 1 of Appendix 1 hereof, authorise by special consent the use of the site or the erection, alteration or conversion of buildings on such site, provided that:-

(a) any such building complies in all other respects with the provisions of this Scheme relating to such zones; and

(b) the use authorised will not interfere with the amenities of the neighbourhood. 04/03/1985

(23) Notwithstanding any other provisions of this Scheme, the erection of new off-street parking garages or additions to existing off-street parking garages is prohibited within the areas coloured pink on Plan No. 1829.485A, provided that the Council may permit in these areas by special consent:-

(i) vacant land as a parking lot;

(ii) parking permitted in buildings in terms of Clause 12(3)(c) as a parking garage on a temporary basis during such part of the period of construction of the remainder of the building as the Council deems fit.

(24) Notwithstanding any other provisions of this Scheme, buildings within those portions of the General Residential 5 zone situated along the Victoria Embankment:-

(a) between Stanger Street and Gardiner Street and between Field Street and Parry Road may include offices and business premises as well as general residential premises but shall not include retail shops or industrial premises, and where any such building is used simultaneously for general residential and for commercial purposes:-

(i) each floor of such building shall be set aside and used either for general residential or for commercial purposes but not for both; and

(ii) any two or more floors used for general residential or for commercial purposes, as the case may be, shall be contiguous to one another; provided that the Council may where any building has wings which are, in its opinion, sufficiently separated from one another, relax the provisions of this paragraph;

(b) between Russell Street and Gardiner Street other than between Field Street and Parry Road may when rebuilt replace any existing shops on the site provided that the floor area of such shops shall not exceed their existing floor area. 04/11/1974

27/09/1976 (25) Deleted.

07/02/1977

18/07/1994

(26) Deleted. 05/06/1978

18/07/1994

18/07/1994 (a) Deleted.

28/11/1977 (b) Deleted.

18/07/1994

18/07/1994 (c) Deleted.

18/04/1977 (27) Deleted.

18/07/1994

(28) (a) The Council may grant exemption from the provisions of clause 6(1) and approve an
14/08/1978

application, with or without conditions, for the use of land or the erection and use of buildings which is in conflict with the provisions of Appendix 1 attached hereto, provided that there are special circumstances relating to the proposal and the Council considers that the proposal will not prejudice the general purpose of the Scheme. 17/07/1989

(b) If an application as described in paragraph (a) is made to the Council for its authority, such application shall be deemed to be and be treated as an application for the special consent of the Council and notice of intention to make such application shall be given in accordance with the provisions of clause 25.

(c) Any applicant or any objector who is aggrieved by the decision of the Council in terms of this sub-clause shall have a right of appeal to the Town Planning Appeals Board.

(29) Deleted. 05/06/1978

18/07/1994

(30) No approval for a development scheme pertaining to an ancillary unit shall be granted in terms of section 4(5)(a) of the Sectional Titles Act No. 95 of 1986 as amended 01/07/1985

15/12/1988

20/08/1996 .

22/08/1996

(31) A shop shall not be permitted in a Light, General or Noxious Industrial zone unless such shop is -

(a) intended and located to cater for the immediate day to day needs only for persons working within the industrial area concerned; provided that the total floor area of the shop or a cluster of shops (including a set of shops separated by a street or pedestrian access) shall not exceed 200m², or

(b) of a type which is incompatible with the majority of shops found in shopping or general business zones or which by its nature or direct association with industry is more suitably located in an industrial zone and in this regard the following factors shall be taken into account by the Council when considering an application to establish a shop in a Light, General or Noxious Industrial zone:

(i) the effect the shop is likely to have on the harmony of the street frontage if located in a shopping or general business zone,

(ii) the potential the shop will have to attract heavy vehicles to the site,

(iii) whether the nature of the shop is likely to be incompatible aesthetically with uses conducted in shopping or general business zones,

(iv) whether the nature of the shop requires a large area of land; provided that a shop in which food or furniture is to be sold by retail shall not be considered in terms of this sub-paragraph; or

(c) ancillary to the industrial use of the site concerned and limited to the display and sale of goods manufactured on the site or directly associated products; provided that the floor area of such shop shall not exceed 10% of the total floor area of all buildings on the site or 150 m² whichever is the lesser; provided further that there shall be not more than one shop for each industrial activity being conducted on the site. 02/03/1987

(32) No person shall, without the approval of the Council, erect or commence the erection of any building or commence or carry out any frontage works or cause or permit any such work to be commenced or carried out on any subdivision approved in terms of the Council's Bylaws relating to the Subdivision of Land and New Streets until separate title in respect of that subdivision has been registered in the Deeds Registry, or the Council has withdrawn or cancelled the certificate of such approval issued in terms of such Bylaws. 18/07/1994