

**MALELANE  
TOWN  
PLANNING SCHEME,  
1972**

TRANSVAAL BOARD FOR THE DEVELOPMENT  
OF PERI-URBAN AREAS



TRANSVAALSE RAAD VIR DIE ONTWIKKELING  
VAN BUITESTEDELIKE GEBIEDE

MALELANE (ENG)

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TRANSVAAL BOARD FOR THE DEVELOPMENT OF PERI-URBAN AREAS

MALELANE TOWN-PLANNING SCHEME, 1972

1. "DEFINITION:"

1.1 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.

1.2 "ADMINISTRATOR:"

Means the officer appointed under the provisions of Section 66(1) of the Republic of South Africa Constitution Act, 1961 (Act 32 of 1961) acting on the advice and with the consent of the Executive Committee of the Province.

1.3 "GENERAL DEALER:"

Means a dealer in groceries, clothing and hardware, but does not include the sale of second hand goods of any nature whatsoever.

1.4 "BUSINESS BUILDING:"

Means a building designed for use as an office, consulting room, warehouse, or for other business purposes, but does not include a place of instruction or place of amusement or any other building mentioned, whether by way of inclusion or exclusion, in the definition of "institution", or a building designed for use as a shop, public garage, parking garage, noxious industrial building.

1.5 "EXISTING USE:"

Means, in relation to any building or land, the continuous lawful use of that building or land for any purpose for which it was being lawfully used on the date of proclamation of this scheme or, in the case of a newly-erected building erected before such date and which has not been used before that date, a use for any purpose for which it was designed, 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 -

- (1) the discontinuance for a period exceeding fifteen (15) months of the existing use of a building, at any time after the approval of this scheme, shall be deemed to be an interruption of the continuous use.

- (2) Where, on the date of proclamation of this scheme, a person who was using any land for the purpose of mining, quarrying, the digging of clay, gravel or sand, or the deposit of waste material or refuse, or for any other purpose of a similar nature, was entitled also to use neighbouring land for any such purpose, such use, by virtue of that right on that neighbouring land, whether before or after the date of the approval of this scheme, shall be deemed to be an existing use.

1.6 "COVERAGE:"

Means that area of an erf covered by buildings and is expressed as a percentage.

1.7 "ERF:"

Means every piece of land in an approved township registered in a deeds registry as an erf, plot or stand or shown as such on a general plan of an approved township, and includes every defined portion (not intended to be a public place) of a piece of land laid out as a township, whether or not it has been recognised or approved as such in terms of the Town- planning and Townships Ordinance (No. 25 of 1965) or any other law.

1.8 "AREA:"

Means the area to which this scheme applies as described in clause 2.

1.9 "SOCIAL HALL:"

Means a building designed to be used for social meetings and recreation and includes a club (non residential) "place of instruction" and "place of public worship" but does not include a "place of amusement."

1.10 "BUILDING:"

Means a structure of any nature or description whatsoever.

1.11 "LAND:"

Also means any improvement on land and any interest in or to land including land covered by water.

1.12 "HEIGHT:"

Means the height of a building expressed in the number of storeys:

Provided that -

- (a) The height of one storey shall not exceed five (5) metres; and
- (b) Towers, architectural features and basements which are not designed for use for living, working, sleeping, or storing purposes, shall not be regarded as storeys for the purpose of this scheme.

1.13 "TENEMENT:"

Means a building consisting mainly of living rooms, each of which could separately be occupied as a dwelling and which is let as such.

1.14 "INSTITUTION:"

Means a building designed to be used as a public or charitable institution and includes a hospital, nursing-home, sanatorium or clinic, hostel, or crèche, whether public or private.

1.15 "MAP:"

Means the map marked "Map No. 3" as defined in the Town-planning and Townships regulations promulgated under Administrator's Notice No. 977 of 31st December, 1965, as may be amended from time to time.

1.16 "OFFICE:"

Means a building being used or designed for use for administrative work including a bank but not a post office.

1.17 "CARAVAN PARK:"

Means a public place with accommodation for two or more caravans and which is designed for such accommodation irrespective of whether or not such accommodation is paid for.

1.18 "AGRICULTURAL BUILDING:"

Means a building designed for use in connection with, and which may, in the opinion of the local authority ordinarily be incidental to, or reasonably necessary for the use of the land on which such building is situated as agricultural land and includes one dwelling house.

1.19 "AGRICULTURAL LAND:"

Means land as defined in Section 1 of the Subdivision of Agricultural Land Act, 1970 (No. 70 of 1970).

1.20 "INDUSTRIAL BUILDING:"

Means a building, other than a building for noxious industries, designed for use as a factory within

the meaning of the Factories, Machinery and Building Work Act, 1941 (No. 22 of 1941), and any amendment thereof and includes an "office" or any other building on the same site, the use of which is incidental to or reasonably necessary in connection with the use of such factory.

1.21 "PUBLIC GARAGE:"

Means a building, designed for the purpose of the parking, sale and/or repair and fuelling of motor vehicles for purposes of gain. A store for the sale of new motor spare parts and motor accessories may be included hereunder.

1.22 "PUBLIC RESORT:"

Means a place of rest, holiday place, caravan park, tent camp and picnic spot.

1.23 "ORDINANCE:"

Means the Townships and Townplanning Ordinance, 1931, (No. 11 of 1931) as amended.

1.24 "WAREHOUSE:"

Means a building designed to be used for the storage of goods, excluding goods of a noxious or dangerous nature.

1.25 "LOCAL AUTHORITY:"

Means the Transvaal Board for the Development of Peri-Urban Areas, established by Section 2 of the Transvaal Board for the Development of Peri-Urban Areas Ordinance, 1943 (No. 20 of 1943), as amended, or any other local authority which may be entrusted with the administration of the area.

1.26 "PLACE OF INSTRUCTION:"

Means a building designed for use as a school, college, university, research institute, academy, lecture-hall, or other educational centre, and includes a boarding house appertaining thereto, public library, art gallery, museum, or gymnasium.

1.27 "PLACE OF PUBLIC WORSHIP:"

Means a building used or designed for use as a church, temple, chapel, oratory, synagogue or any other place of public devotion and religious instruction and may, with the special permission of the local authority, include a rectory. A building designed for the purpose of religious instruction, social intercourse and recreation and associated with any of the foregoing buildings may be erected on the same site, provided that a funeral parlour shall not be included hereunder.

1.28 "PRIVATE OPEN SPACE:"

Means any land reserved in this scheme for use as a private ground for sports, play and recreation, or as an ornamental garden or ~~pleasure~~ <sup>PUBLIC</sup> resort.

1.29 "TOWNSHIPS BOARD:"

Means the Townships Board as constituted by Section 3 of the Ordinance.

1.30 "SPECIAL BUILDING:"

Means a building designed for any use other than one of the uses for which buildings herein defined are designed and which, in the opinion of the local authority appertains to the use zone in which the land is or is to be situated.

1.31 "STREET OR ROAD:"

Includes the whole or part of any street, road, bridge, subway, lane or thoroughfare, shown on the general plan of a township, or in respect of which the public or the local authority has acquired a right-of-way by prescription or any other means.

1.32 "PLACE OF AMUSEMENT:"

Means a building designed for use as a public hall, theatre, cinema, music-hall, concert-hall, sports stadium, skating rink, dance-hall or any other building which may, in the opinion of the local authority, readily be included hereunder.

1.33 "BY-LAWS:"

Means the by-laws of the local authority for the time being in force in the "Area".

1.34 "FLOOR SPACE RATIO:"

Means the ratio obtained by dividing the total area of all the storeys (excluding a basement, 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 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:-

Total floor area of all the floors of the  
F.S.R. = building or buildings as set out above

Total area of the erf.



1.35 "SHOP:"

Means a building designed for the purpose of carrying on a retail trade and does not include a "Public Garage", but includes a building for use as a hairdressing saloon, auctioneer, drycleaning depot and, in addition, also a building designed for use as a warehouse or workshop which is used in connection with such retail trade.

1.36 "RESIDENTIAL BUILDING:"

Means a building, other than a dwelling house, designed for use for human habitation together with such outbuildings as are ordinarily used therewith and includes blocks of flats, tenements, boarding houses and hostels, but does not include any building mentioned in the definitions of "Place of Instruction" or "Institution."

1.37 "DWELLING HOUSE:"

Means a house designed as a dwelling for a single family together with such outbuildings as are ordinarily used therewith.

1.38 "WORKSHOP:"

Means a building, designed to be used for the purpose of retail trade in goods that are wholly or partially manufactured, processed, assembled or repaired on the premises: Provided that the process and machinery used in connection with such manufacturing, processing, assembling or repairing of goods, are not such that, in the opinion of the local authority they are noxious, or detract from the amenity of the area as a result of noise, vibration, smell, gasses, smoke, soot, ash, dust or filings.

1.39 "PUBLIC OFFICE:"

Means a building used or designed to be used as a government or local authority office and includes a room, town hall, administrative office, police station and post office.

1.40 "PUBLIC OPEN SPACE:"

Means any land, used or reserved in this scheme for use by the public as an open space, park, garden, play or recreation area or square.

1.41 "FUNERAL PARLOUR:"

Means a building used or designed to be used as a mourning or funeral chapel and includes any building designed for use in connection with and which is normally ancillary to or is reasonably necessary in connection with the use of such mourning or funeral chapel.

1.42 "ZONE:"

Means a portion of the area shown on the map by distinctive colouring, hatching or edging, or in some other distinctive manner for the purpose of indicating the restrictions imposed by this scheme on the erection and use of buildings or the use of land, and the terms "Density Zone", "Use Zone" and "Height Zone" mean zones indicating the restrictions as to density, use and height of buildings respectively.

1.43 "SITE:"

In relation to a building includes the area of land upon which offices, outbuildings, yard, court or garden are situated and which is occupied or intended to be occupied in connection therewith.

2. AREA OF THE SCHEME:

The area to which this scheme applies shall consist of the whole of the area lying within the inner edge of the boundary line coloured dark blue on the map.

3. RESPONSIBLE AUTHORITY

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

4. RESERVATION OF LAND

The several pieces of land specified in column 1 of table A are reserved for use for the respective purposes indicated in column 2 of the table and, except as herein-after provided, shall not be used for any other purposes except for municipal purposes:

"TABLE A"

Indication on map of land reserved (1)	Uses for which land is reserved (2)
Hatched dark green in broad and narrow lines numbered 1	Proposed private open space
Hatched light green	Existing public open space
Cross hatched light green	Cemetery
Cross hatched blue and green and edged blue lines	Aerodrome
Edged broad brown lines	Government purposes
Uncoloured and marked "S.A.S./S.A.R."	S.A. Railways
Small red lines with numbers	Building lines
Coloured red and numbered 2 to 7	Proposed new streets

5. STREETS AND BUILDING LINES

- 5.1 In a township established after the coming into operation of this scheme or a subdivision allowed under this scheme, the corners of all new road junctions shall be splayed for a distance from the intersection of the road boundaries of  $6 \cot \frac{a}{2}$  metre (calculated to the nearest metre), where "a" is the angle of intersection of the road boundaries, to the satisfaction of the local authority.
- 5.2 In any township established or subdivision effected after the coming into operation of this scheme, there shall be building lines on all the streets, and such building lines shall be at a distance from the boundary of the street of not less than the distance set out in "Table B", unless the provisions of the annexure to this scheme provide otherwise. The local authority may permit the reduction of the building line in cases where buildings already exist. The building line shall be adhered to where buildings are demolished and/or rebuilt.

"TABLE B"

DENSITY	MINIMUM BUILDING LINE (METRES)
Up to and including 1 000 m <sup>2</sup>	5
More than 1 000 m <sup>2</sup> but not more than 2 000 m <sup>2</sup>	6
More than 2 000 m <sup>2</sup> but not more than 4 000 m <sup>2</sup>	12
More than 4 000 m <sup>2</sup>	15

- 5.3 No building other than boundary walls, fences or temporary structures shall be erected on the land between the building line and the street boundary: Provided that the local authority may, in exceptional cases if it thinks fit, permit the erection of a building in front of the building line if, on account of the propinquity of buildings on adjoining erven already in front of the building line, or as a result of other special circumstances, compliance of the requirements of the building line laid down will unreasonably interfere with the development of the site..

- 5.4 No goods, merchandise, wares or any other obstructions shall, without the permission of the local authority, be placed, kept or displayed on the land between the street boundary and the building line on erven zoned for business purposes or on erven where businesses already exist.

## 6. ERECTION AND USE OF BUILDINGS

- 6.1 No land situated in any use zone shall be used for the purpose of refuse-dumping, a junk-yard, sewage disposal or motor scrap-yard without the special consent of the local authority in terms of the provisions of clause 9 being obtained.

- 6.2 The purposes for which buildings:-

(a) may be erected and used

(b) may be erected and used only with the special consent of the local authority in terms of the provisions of Clause 10 hereof;

(c) may not be erected and used;

in each of the use zones specified in "Table C" are shown in the third, fourth and fifth columns respectively.

(1)	(2)	<u>"TABLE C"</u> (3)			(4)	(5)
Use Zone	Reference to Map	Purposes for which buildings may be erected and used		Purposes for which buildings may be erected and used only with the consent of the local authority in accordance with the provisions of Clause 10 hereof.		Purposes for which buildings may not be erected or used.
(i) Special residential purposes	Density colour	Dwelling houses		Places of assembly, institutions, special buildings, places of public worship, instruction and nursing homes		Other uses not mentioned under columns (3) and (4)
(ii) General residential purposes	Hatched orange over a Density colour	Flats, maisonettes, a boarding house		Church, school, nursing home, hotel or special buildings.		Tenements and other uses not mentioned under columns (3) and (4)
(iii) Special	Hatched black in broad and narrow lines	See Annexure		See Annexure		-
(iv) General business purposes	Hatched black over a Density colour	Shops and business buildings		Dwelling houses, special buildings, places of amusement, hotel and flats		Industrial buildings, buildings for noxious industries, places of public worship
(v) Garage purposes	Dotted violet	Public garage and purposes incidental to a public garage		Parking garage		Other uses not mentioned under (3) and (4)

(1)	(2)	(3)	(4)	(5)
Use Zone	Reference to Map	Purposes for which buildings may be erected and used	Purposes for which buildings may be erected and used only with the consent of the local authority in accordance with the provisions of clause 10 hereof	Purposes for which buildings may <u>not</u> be erected or used
(vi) <sup>Restricted</sup> Industrial purposes.	Hatched violet in broad and narrow lines over a density colour.	Wholesale business buildings, warehouses and industrial buildings	Other uses not mentioned under columns (3) and (5)	Places of amusement, places of assembly.
(vii) Educational purposes	Cross hatched blue and orange	Places of instruction and social halls	Dwelling houses, residential buildings, institutions, special buildings and places of public worship (in so far as these buildings are reasonably incidental to places of instruction)	Other uses not mentioned under (3) and (4)
(viii) Ecclesiastical purposes	Violet crosses	Places of public worship, places of instruction, institutions and social halls	Dwelling houses and residential buildings	Other uses not mentioned under columns (3) and (4)
(ix) Municipal purposes	Cross hatched blue	Municipal buildings or works	-	-
(x) Agricultural	Hatched brown in broad lines	One dwelling house and out-buildings in connection therewith, agricultural buildings	-	Other uses not mentioned under column (3)

Provided that:

- (i) A lawfully existing building or lawfully existing works, which is not in conformity with the provisions of this scheme relating to the erection and use of land, may be maintained and used for its existing purpose and that, subject to the provisions of this scheme, other than those relating to the erection and use of land, it may be altered, extended or rebuilt upon the same site for the particular trade, business, industry, or the purpose for which it is then used, with the special consent of the local authority: Provided that no such alteration, extension or rebuilding shall increase the area of the existing building by more than one eighth.

7. USE OF ANNEXURE

Any property situated in any use zone shall, where applicable, over and above the provisions of the scheme, be entitled to the uses and shall further be subject to the special conditions and restrictions in accordance with the requirements indicated in the annexure to the map.

The abovementioned conditions and restrictions shall apply if they are contrary to any other clause or provision of the scheme.

The number of the annexure concerned shall be indicated in green within the figure or next to the figure of the property, as shown on map no. 3.

8. DENSITY AND SUBDIVISIONS

No consolidation and subdivision of erven shall be made without the consent of the local authority and the local authority shall not, in those areas in which only one dwelling house per existing erf is permitted, consent to any subdivision: Provided that in cases where the consent of the Administrator to subdivision is required, the consent of the local authority shall not be necessary. Provided further that with the subdivision or existing erven, the density, as laid down in the map of the scheme may, in exceptional cases, be reduced by 10%.

9. APPROVAL OF LOCAL AUTHORITY

9.1 Where any application is considered by the local authority for its consent to the erection and use of a building in a use zone in which such a building may be erected and used, whether subject to the provision of clause 10 hereof or otherwise, it may impose such conditions as it deems fit.

9.2 Any person, who is aggrieved by the decision of local authority or the imposition of any conditions under the preceding sub-clause, may appeal.

10. ADVERTISEMENT AND APPEAL

10.1 Any person intending to apply to the local authority for its consent to the erection and use of a building or to the use of land in use zones I, II, III, IV, V, VI, VII, VIII and X whether wholly or partially for any purpose requiring the local authority's consent shall, before making such application, publish at his own expense once a week for two consecutive weeks, both in English in an English newspaper and in Afrikaans in an Afrikaans newspaper circulating in each case in the area, a notice of his intention to make such application, and shall post and maintain conspicuously for fourteen days such notice on some part of the building or land and shall with such application, lodge with the local authority proof of such publication and posting.

The notice shall state that any person having any objections to the erection and/or use of the proposed building or to the proposed use of the land shall lodge such objections, together with the grounds therefor, with the local authority and with the applicant in writing within fourteen (14) days after the date of the last advertisement and shall further state where the plans, if any, may be inspected.

- 10.2 The local authority shall take into consideration any objections received within the said period of fourteen (14) days and shall notify the applicant and the persons from whom objections were received of its decision and the applicant and any of the persons aforesaid, if aggrieved by the decision, may appeal.
- 10.3 Where objection against the granting of approval has been made to the local authority, the decision of the local authority shall only take effect after the expiration of twenty-eight (28) days from the date on which the applicant and the objectors are notified thereof, or, if an appeal has been lodged under the provisions of this clause, until such appeal is disposed of.
- 10.4 Where provision is made in this scheme for an appeal; such appeal shall be to the Townships Board and notice of such appeal shall be lodged with the said Board within 28 days from the date upon which the local authority's decision against which such appeal is noted was served on the appellant and the appellant shall, at the same time, serve a copy of the notice of appeal upon the local authority.
- 10.5 The Board may, on application by any person desiring to appeal to it, extend by not more than twenty-eight (28) days the time for lodging the appeal specified in the preceding paragraph whether or not the time specified for lodging the appeal has expired.
- 10.6 If the decision is one which the local authority is required to give in respect of the application of any person or in respect of the submission by any person of plans or proposals, an appeal may, in addition, lie against a refusal of the local authority to give, or unreasonable delay on its part in giving a decision, as if it were an appeal against a decision of the local authority.

## 11. ADVERTISEMENTS AND HOARDINGS

- 11.1 No advertisement hoarding shall be erected or advertisements be displayed without the prior consent of the local authority being obtained: Provided that such consent shall not in any way be taken to excuse compliance with the by-laws of the local authority, if any, relating to the erection of advertisement hoardings and display of advertisements.

11.2 No consent shall be given for the erection of any such hoarding or advertisement in use zones I, II and X and no such hoarding or advertisement shall be erected in these zones: Provided that the provisions of this sub-clause shall not apply to a plate or board not exceeding sixty (60) centimetres by forty-five (45) centimetres affixed to the fence or entrance door or gate of a dwelling house, and, in the case of a residential building, to the wall of the entrance hall, or the entrance of a flat, or to the display of an advertisement relating solely to an entertainment, meeting, auction or sale to be held upon or in relation to the premises upon which such advertisement is displayed, provided that the advertisement does not contain letters, figures or advertising emblems or devices exceeding fifteen (15) centimetres in height and does not exceed a height of three and a half ( $3\frac{1}{2}$ ) metres from the ground.

12. BUILDINGS USED FOR MORE THAN ONE PURPOSE

12.1 Where a building is used, or a proposed building is designed for more than one purpose, it shall for the purpose of clause 1 hereof be treated as being used or designed partly for each of these uses, but for the purpose of the other provisions of this scheme it shall be treated as being used or designed for its predominant use, and the local authority may, and shall, if the person having control of, or proposing to erect the building, makes an application for that purpose, decide which is the predominant use.

12.2 The local authority shall notify the applicant of any decision under sub-clause (1) and the applicant, if aggrieved by the decision, may appeal.

13. CONTRAVENTION OF THE SCHEME

13.1 Any person who commits a contravention of any of the provisions of this scheme, or who does not comply with an order or notice imposed under the provisions of this scheme, or who does not adhere to a condition under the provisions of this scheme, or knowingly permits such a contravention, shall be guilty of an offence under this scheme.

14. ENTRY AND INSPECTION OF PREMISES

14.1 The local authority shall have power, by its duly authorised officers, and after giving not less than forty-eight (48) hours notice to the owner or occupier of any premises within the area of the scheme, to enter into and upon such premises at any time between the hours of nine (9) in the forenoon and four (4) in the afternoon, for the purpose of any inspection which the local authority may deem necessary or desirable for the purpose of this scheme.



- 14.2 No person shall in any manner whatsoever hinder, obstruct or interfere with a duly authorised officer of the local authority in the exercise of the powers granted to him by sub-clause (1).

15. EXTERNAL APPEARANCE OF BUILDINGS

- 15.1. A person intending to erect a building on any land (hereinafter referred to as the building owner) shall furnish the local authority (in addition to any plans and particulars required to be submitted under the by-laws) with drawings or other sufficient indication of the appearance of the proposed buildings, including such description of the materials to be used in its construction, as required and to the satisfaction of the local authority, and the local authority may grant permission for such building to be erected subject to such alteration or modification as it may deem fit or it may refuse consent for the erection of such building.
- 15.2 Within twenty-eight (28) days after receiving notice of the decision of the local authority, the building owner, if aggrieved by the decision of the local authority, may appeal.

16. CONDITIONS ARE BINDING

- 16.1 Where permission has been granted to erect any building or execute any works or to use any building or land for any particular purpose or to do any other thing, and conditions have been imposed, the conditions shall have the same force and effect as if they were part of this scheme.
- 16.2 Where, in the execution of the scheme, any difficulties are experienced with the interpretation of a word or definition or any clause of this scheme, the decision of the local authority shall be regarded as final.
- 16.3 No consent by the local authority given under the provisions of this scheme shall be construed as conferring upon any person the right to use any land or to erect or to use any building thereon in any manner or for any purpose which is prohibited in any condition registered against the title deed of the land or imposed under any law.
- 16.4 Any consent granted under this scheme will only come into force after the other approvals required under the title deeds and laws have been obtained and the conditions laid down thereunder, have been fulfilled.
17. This scheme shall be known as Malelane Town-planning Scheme, 1972.