

Zoning of Property & Subdivisions

We regularly receive queries about Property zoning. Whilst we are not experts in the field of zoning, we have done some research and asked the experts – Land Surveyors.

There are 3 broad categories of zoning – residential, commercial and industrial.

1. Residential Property

There are several categories and restrictions on the buildings which can be constructed on the property. These have to comply with the coverage, floor area ratio and density. Generally, coverage is the maximum area of land on which one is permitted to build on the site, floor area ratio is the maximum floor area allowed under a roof and density is the number of dwellings permitted per hectare.

2. Commercial Zoning

There are various categories of zoning catering for business usage, which range from shopping centres to more specific business uses eg. office parks.

3. Industrial Zoning

There are several categories catering for different types of industrial usages eg. factories and warehouses.

When is Zoning or Rezoning Necessary?

If you want to change the usage of the property from a residential property either by erecting more units on it or changing its usage, then re-zoning would become necessary.

An example of rezoning would be when a small business at home has grown to the extent that the noise or traffic could upset neighbours. One would then need to apply for a rezoning to an appropriate usage category which would be stipulated in the Town Planning Scheme.

Consent Use and Rezoning

If one wishes to change the use of the property, this would be done by way of an application to the local Municipality. A person can attend to this themselves, but the process can become complicated

and lengthy (it can take anywhere from a year to a few years if no objections, to finalise). It would therefore be strongly suggested that a person uses the services of a qualified Town Planner or Land Surveyor to assist. Your local Municipality will usually have a list of Town Planners and Land Surveyors that they work with and recommend, alternatively we can recommend.

There are usually two main kinds of applications:

1. Consent Rights

Here the applicant is applying to the local authority to grant consent to use the land in a certain way (other than what is permitted under its existing zoning). This can only be brought where the town planning scheme that governs the property states that it is possible to apply to the Council for such consent rights. A number of business operate under special consent rather than being rezoned. It is generally quicker and cheaper. One must note that special consent is not transferrable and permission must be requested if a new buyer purchases the property. This should be disclosed in the Sale Agreement.

If there is no option to apply for consent rights and the usage of the property is to be changed, then the property will need to be re-zoned.

2. Rezoning

Here is what needs to happen when one wants to rezone a property:

1. A detailed motivation report with plans is submitted to the local Municipality;
2. The application is advertised in a local newspaper and the Government Gazette calling for any objections to the rezoning;
3. The local town planning department then goes through a process of considering the application and any objections received thereto
4. The application is then referred to the council committee for the final approval or decline.

3. Subdivision

A subdivision is something completely different – this is when one has a large property and wants to divide the property into smaller erven or stands. One cannot subdivide if the subdivided portion ends up being less than the Council permits for that area.

In order to subdivide you would need to.

1. Employ the services of a land surveyor;
2. He/she will draw up the sub divisional layout plans and provide a detailed motivation which will

- be submitted to Council;
3. Once the Council approve the subdivision, the diagrams are lodged at the Surveyor General's office for approval;
 4. Once approval is obtained from the Surveyor General, a Conveyancer would assist in registration of the subdivision in the Deeds Office.

If you have any queries please contact Annabelle on 031 502 6902.