



CITY OF MBOMBELA OFF- CAMPUS STUDENT ACCOMMODATION POLICY

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Municipal Manager

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DRAFT CITY OF MBOMBELA STUDENT ACCOMMODATION POLICY

1. DEFINITIONS AND INTERPRETATIONS OF TERMS

In this Policy unless the context indicates otherwise,

“Ancillary Use”

A use, building or activity which is subservient to, related to and reasonably required for the conducting of the dominant use on the property;

“Applicant”

A person who makes a land development application contemplated in Section 45 of the Spatial Planning and Land Use Management Act, 2013;

“Application”

Means a land development and land use application as contemplated in the Spatial Planning and Land Use Management Act;

“Approval”

Means any written permission given by the City of Mbombela;

“Consent”

Special permission granted by Council, after due consideration of all relevant facts and lawful, reasonable and procedurally fair administrative action, in terms of which a specific type of land use or activity is permitted, in addition to the primary use right applicable to the land unit concerned;

“Council”

The City of Mbombela Local Municipality as a Municipal Council established in terms of section 12 of the Municipal Structures Act, and includes any municipal standing committee or municipal official acting by virtue of powers delegated to it by Council;

“Density”

A measurement of the intensity of a residential development, expressed as a number of dwelling units per hectare, or a dwelling unit per Erf size;

“Dwelling Unit”

means a self-contained, inter-leading group of rooms with not more than one kitchen, used permanently or semi-permanently for the living accommodation and housing of a single family, together with such outbuildings, including servant's quarters and a garage for vehicular parking, as are ordinarily used therewith. A building may contain several dwelling units where so provided for by the approved density of the property. Group housing, town houses, duplexes, simplexes, low-rise apartment, high-rise apartment, flats, semi-detached, apartment housing, and garage suites are all included as dwelling units.

“Lease”

Means an agreement of lease concluded between a tenant and an owner/landlord in respect of a student accommodation establishment for studying purposes.

“Municipality”

Means the City of Mbombela or its successor in title as envisaged in section 155(1) of the Constitution, established in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and for the purposes of this Policy includes a municipal department, the Council, the Municipal Manager or an employee or official acting in terms of a delegation issued under section 59 of the Municipal Systems Act, section 56 of the Act.

“Off-campus student accommodation facility”

Means a secure and managed dwelling/s for the accommodation of student(s) registered in an academic institution. This includes a housing facility leased by the university directly with a landlord or indirectly through an accredited leasing agent;

“Owner”

Means the person in whose name the land is registered in a deed registry, and may include the holder of the registered servitude right or lease, and any successor in the title of such a person;

“Outbuilding”

A building other than the main building, which, in the opinion of the Municipality, is ordinarily necessary in connection with the use of the main building. In the case of a dwelling house, it will include a garage(s) and servant's quarters, but without a kitchen in the latter case.

“Rezoning”

The change of zoning in relation to a particular land unit or units or portion of a land unit, in terms of planning law;

“Spatial development framework”

Means the City of Mbombela Spatial Development Framework prepared and adopted in terms of sections 20 and 21 of the Spatial planning and Land Use Management Act;

“Student”

Means a person who is registered to study with a tertiary institution that is within the area of jurisdiction of the Municipality;

“Student Accommodation Manager”

Means the property owner, landlord or any person, who resides permanently on the property and will be responsible for the control, management, administration of the students and student accommodation;

Use Right”

In relation to land, means the right to utilise that land in accordance with the zoning thereof, including any departure.

“Zoning”

Means the development rights and controls accorded to the property and its associated buildings either as of free entry rights, rights that have been accorded in term of Municipal approval.

2. PURPOSES

The City of Mbombela (COM) Off-Campus Student Accommodation Policy is being developed in order to regulate the provision and establishment of off- campus Student accommodation within the jurisdiction of the Municipality, in terms of land use management.

Amongst the existence and growth of tertiary institutions like the Tshwane University of Technology and the Ehlanzeni TVET Colleges, the establishment of the University of Mpumalanga, with its annual introduction of learning programmes, has increased the number of student enrolments in tertiary institutions situated within the Municipal jurisdiction. This has consequently increased the demand for student accommodation.

COM has thus observed that there is a rise in the number of residential property owners who are converting their properties into Student Accommodation establishments illegally (without approved land use rights). The demand for accommodation in the Municipality is increasing, whilst the majority of the properties do not have appropriate land use rights.

In order to ensure that the provision of off-campus student accommodation establishments support and embody the Municipality’s vision, mission values and strategic objectives in a way that complies with the legislation, the municipality finds it important to establish an off-campus student accommodation policy. The policy will assist in improving the current situation (as stated above) in residential areas, addressing the concerns of the community and students alike, thus promoting a healthy and safe environment of residence.

3. CONTEXTUAL GUIDELINES FOR THE POLICY

The student accommodation policy will be guided by the principles of dignity, accessible and affordable accommodation, environment conducive to learning and living, good governance and compliance with statutory frameworks.

The policy will be fostered by guidelines that are informed by the policy context given in the policy on the Minimum Norms and Standards for Student Housing at Public Universities, Mbombela By-law on Spatial Planning and land use Management, 2015, and Umjindi By-law on Spatial Planning and Land Use Management, 2015.

4. OBJECTIVES

The student accommodation policy applies to City of Mbombela area of Jurisdiction and it intends to set out the following objectives:

- Guidelines that will enable the assessment of land use management applications relating to private/ off-site student accommodation establishments
- Parameters to improve conditions related to health, noise, safety and transportation (parking, access, Public transport etc.)
- Maintain a balance between accommodating students in residential areas without negatively affecting surrounding properties
- Provide guideline to all role-players (residents, property owner, universities) regarding the municipalities requirements regarding student accommodation
- Identify the role-players and their responsibility to ensure compliance in terms of this policy
- To support off-campus student accommodation that delivers adequate on-site amenity and services for students.

5. APPLICATION OF THIS POLICY

This policy applies to all new establishments and existing privately owned off campus student accommodation facilities throughout the jurisdictions of the Municipality. The Policy is also applicable to every owner or operator and any student who stays in the approved and accredited student accommodation establishments.

6. LEGISLATIVE FRAMEWORK

CONSTITUTION OF REPUBLIC SOUTH AFRICA, ACTNº 108 OF 1996

The 1996 Constitution stipulates that everyone has the right to have access to adequate housing.

HOUSING ACT OF 1997

The Housing Act mandates every spheres of government to ensure that housing development provides a wide choice of housing and tenure options as reasonably as possible, amongst other priorities.

RENTAL HOUSING ACT OF 1999

The Rental Housing Act stipulates that government should create mechanisms to promote the provision of rental housing property in order to promote access to adequate housing.

SPATIAL PLANNING AND LAND USE MANAGEMENT ACT OF 2013

The Spatial Planning and Land Use Management Act (SPLUMA) is applicable throughout the Republic and it is intended:-

- i. to provide a framework for spatial planning and land use management in the Republic;
- ii. to specify the relationship between the spatial planning and land use management system and other kinds of planning;
- iii. to provide for inclusive, developmental, equitable and efficient spatial planning at the different spheres of government;
- iii. to provide a framework for the monitoring, coordination and review of the spatial planning and land use management system;
- iv. to provide a framework for policies, principles, norms and standards for spatial development planning and land use management;
- v. to address past spatial and regulatory imbalances;
- vi. to promote greater consistency and uniformity in the application procedures and decision-making by authorities responsible for land use decisions and development applications;
- vii. to provide for the establishment, functions and operations of Municipal Planning Tribunals;
- viii. to provide for the facilitation and enforcement of land use and development measures; and
- ix. to provide for any matter in relation therewith.

7. RELEVANT MUNICIPAL BY-LAWS

Other by-laws of the Municipality find expression in matters provided by this Policy and must also be complied with. Such by-laws are, inter alia:

- a) Mbombela By-law on Spatial Planning and Land Use Management of 2015;
- b) Umjindi By-Law on Spatial Planning and Land Use Management of 2015;
- c) City of Mbombela Outdoor Advertising By-Law 2019;

The policy takes cognisance of the possibility of the enactment of new legislative instruments. In the event that the Municipality is mandated to follow the dictates of a new statutory instrument, e.g. City of Mbombela Spatial Planning and Land Use Management By-law, the directives of the new legislation will supersede the repealed ones without having to change the guidelines of this Policy.

8. PREFERRED LOCATION

- 8.1 The City of Mbombela intends on building a more inclusive, integrated, compact and vibrant city that addresses the legacies of apartheid through intensifying urban land uses through a combination of higher residential densities and centralisation, mixed land uses, and development limits outside of designated areas.

This strategy prioritises development within the existing built-up area and close to and radiating from a strong urban core, where the definition of high-density development is based primarily on the concentration of jobs, businesses and dwelling units. The Spatial Development Framework (SDF) of the Municipality provides for a clear definition and prioritisation of geographic areas for intervention and for concentrating and compacting development i.e. City Centres and Urban Nodes.

The SDF further states that the provision of houses can be achieved by using a number of densification mechanisms, such as supporting additional dwelling units, higher density, residential buildings (flats) and increased intensification of land uses, such as mixed use developments at close proximity to public transport corridors, services and places of employment.

The City of Mbombela thus encourages the development of proposed student accommodation establishments to be directed toward higher density areas and intensification zones, as reflected in the SDF and respective density policy and intensification policy.

- 8.2 Off Campus student accommodation establishments must be guided by, and be strategically located to make use of the following initiatives within the City of Mbombela:

- Urban Development Zones (The Urban Renewal Tax Incentive) Mbombela CBD

This demarcated zone is designed to stimulate investment in inner city areas in terms of the Urban Renewal Tax Incentive. The objective is to stimulate investment in inner city areas by promoting refurbishment and compact human settlement.

- City of Mbombela Urban Nodes

Places of high accessibility and have a concentration of mixed use activities as well as integrated human settlements.

- Areas recommended for higher residential densities.

9. TOWN PLANNING CRITERIA

- 9.1 It will not be necessary to submit a land use application for 'Consent' of the Council to permit the accommodation of not more than four students residing in a dwelling unit/erf.

9.2 Off-campus Student Accommodation applications will be assessed on individual merit. The Municipality will take the following into account when considering applications for approval;

- a) The applicable Zoning.
- b) Any objection received on or before the closing date in response to a publication of the application, as well as comments received from internal departments and other organs of the state.
- c) Any response received from the applicant to objections or comments made;
- d) The impact of the proposed use on the amenity of the surrounding area and the anticipated impact on the character of the area, including but not limited to impact on traffic flow, noise and pollution generation.
- e) Applications will be assessed on the basis of the following factors:
 - desirability of the contemplated utilization of the land concerned;
 - spatial guidelines, such as the Municipality's SDF and precinct plans.
 - effects on the existing rights
 - the safety and welfare of the community.
 - the preservation of the natural and developed environment.

9.3 The applications must be lodged in terms of the Municipal Spatial Planning and Land Use Management By-Laws of the Municipality read with the applicable land use scheme/s.

9.4 Application for Special Consent for a Maximum of fifteen (15) Students per Single Residential Erf or 15 rooms (whichever is the greater) and must be submitted to the Municipality For approval. The residential character of the Property is to be maintained.

9.5 Student accommodation establishments intending to accommodate more than 15 students must apply for rezoning to a zone that permits for multiple dwelling units, in terms of the relevant Town Planning Scheme/s.

9.6 All applications will be assessed based on the applicable Land Use Management Scheme, applicable density and intensification policies, and in accordance with the City of Mbombela Spatial Development Framework.

TYPE OF APPLICATION PER ESTABLISHMENT

Primary Use	Special Consent	Rezoning
4 or less students on residential erf/unit.	More than 4 students. Maximum No. of Students = 15	More than 15 students: must apply for rezoning to a zone that permits multiple dwelling units, in terms of the relevant Town planning Scheme

	Townhouse/Residential Building/Sectional Title:	Situated in higher density residential area (34+ dwelling units/Ha) i.t.o the SDF's Density Directives
	Written Consent from the Home Owners Association/ Body Corporate is required.	Situated in intensification areas i.t.o intensification policy (where applicable)
	Student Accommodation Manager must permanently reside on the property.	Entire residential building for purpose of establishing a student accommodation facility
		Student Accommodation Manager must permanently reside on the property.

10. CONDITIONS OF APPROVAL

The following development controls be made applicable to all the rezoning and consent use applications:

- 10.1 Out buildings may be used as caretaker's living area and or office, on condition that the office use must be subservient, ancillary and subordinate to the main use;
- 10.2 All meals and refreshments should be served exclusively to Students and no public bar and adult entertainment will be allowed on the facility **N.B.! no refreshments may be sold to the general public, in other words non-residents;**
- 10.3 Necessary license and certificate of satisfactoriness, must be obtained from the Department of Health, fire, labour or various Departments of relevance;
- 10.4 Should the appearance of the area be a negative influence or in the event of any justifiable complaints in connection with the mentioned Student Accommodation, this approval may be withdrawn in terms of the provision of the by-law for a consent use;
- 10.5 Should it at any time come to the attention of the municipality that the above conditions have been contravened, or that the use of the property is of nuisance to the adjacent property(ies) or owners, or the numbers of Student do not coincide with the local authority records, the municipality will take the necessary legal action to rectify such illegal land uses and/or approved special consent may be withdrawn .Nuisance in this regard may include excessive noise, particularly late at night or in regard to regular partying. A twenty four (24) hour contact number to which residents or anyone can

report any nuisance must be provided to the municipality and such number must be prominently displayed on the perimeter of the property.

10.6 One (1) parking bay be provided for every two (2) student's accommodated, and 1 Parking Bay for the homeowner/property manager. No parking off premises is permitted. The application must indicate the total number of rooms as well as the maximum number of student anticipated.

10.7 That the site development plan be submitted to the City of Mbombela together with the application for the student accommodation establishment:

10.8 Off Campus Student Accommodation facilities may be established only from an approved building, in terms of the National Building Regulations and Building Standards Act No. 103 of 1977.

10.9 The following minimum design standards are applicable (As per the policy on the minimum norms and standards for student housing at public universities) as Gazetted 29 September 2015;

- a) Residence designs must accommodate a maximum of two students per room;
- b) Single rooms must be no smaller than 8m², and double rooms must be no smaller than 14m². These room dimensions are applicable to the design of all buildings;
- c) Dormitory/hall type residence buildings must comply with the following minimum standard and norms for ablution facilities:
 - wash basins – 1 basin per 4 student residents
 - shower cubicles – 1 shower cubicle per 7 student residents
 - Lavatories – 1 lavatory per 5 student residents
 - Shower and lavatory cubicles must be designed in such a way that individual privacy is provided (i.e., no communal showers or toilets)
 - Telephones and/or alarm bells (depending on affordability to the university) must be placed in accessible and strategic locations, so that students with disabilities are not disadvantaged;

The following minimum **social spaces** should be provided:

- d) Large common/meeting rooms – a minimum of 1,5m² of communal space per student resident for the first 100 students and 1m² per student resident for numbers in excess of 100. Such communal space shall comprise a combination of some or all of the following: communal lounges, games rooms, gymnasias, television rooms, meeting/seminar rooms, dedicated group study spaces, computer centres, or other appropriate spaces
 - Smaller TV/meeting rooms – at least 9m²;
- e) In terms of the provision of meals, residences are designed to be either self-catering or non-self-catering. In the case of non-self-catering residences the university must provide meals. In the case of self-catering residences, the following minimum food preparation standards must be provided in a separate kitchen:
 - suitable food storage, preparation and kitchen space shall be provided

- stove – 1 four plate stove (with oven) per 8 students
 - cold storage – a minimum of a 320 litre capacity fridge / freezer combination is a the minimum requirement per 8 students
 - sink – 1 per 15 students
 - lockable cupboards – 1 per student
 - microwave oven – 1 per 15 students
 - countertop space – sufficient for 25% of the capacity of the student residents for simultaneous usage;
- f) The most cost effective access to internet, as determined by the university, is required in all residences. It is preferable that all student rooms have access to the internet for study purposes. All communal spaces designed for study purposes in residences must have internet access; and
- h) where self-catering facilities are provided for **students with disabilities**, universal design must include consideration of space to allow for independent movement of the student in the food preparation area and bathrooms. The positioning of all announcement features such as intercoms, telephones, counter loops and induction loop systems for those with hearing impairments, door handles, gates and warning signals must be considered to ensure universal design and barrier-free access to all pathways, entrances and doorways.
- i) Residential Buildings /Sectional Title must submit written consent from a Home Owners Association/Body Corporate

11. NON-COMPLIANCE WITH CONDITIONS OF APPROVAL

- 11.1 The Council may terminate any land use right granted or change conditions relating to a Consent Use granted if any breach of approval or conditions of approval has taken place.
- 11.2 Prior to doing so, the Municipality must serve a notice on the owner:
- a) informing the owner of the alleged breach of the condition;
 - b) instructing the owner to rectify the breach within a specified time period;
 - c) allowing the owner to make representations on the notice within a specified time period.

Refer to the Municipal Spatial Planning and Land Use By-Laws; Gazetted 2015.

12. WITHDRAWAL AND LAPSING OF AN APPROVAL

- 12.1 The Municipality may withdraw an approval granted for a consent use if the applicant or owner fails to comply with a condition of approval.

Refer to the Municipal Spatial Planning and Land Use By-Laws; Gazetted 2015

13. ROLES AND RESPONSIBILITIES OF KEY ROLE PLAYERS:

13.1 THE MUNICIPALITY:

- a) Consider all student accommodation establishments land use applications;
- b) Ensure and enforce compliance with the policy, applicable By-Law(s) and Land Use Scheme;

13.2 OFF-CAMPUS STUDENT ACCOMMODATION OWNER:

- a) Obtain land use rights for the operation of an off-campus student accommodation facility with the Municipality;
- b) Appoint and ensure Student Accommodation Manager resides at the establishment twenty four (24) hours a day;
- c) Register on the relevant tertiary institution's data base as an Off Campus Student Accommodation facility/accredited service provider;
- d) Ensure that the provisions of the Policy are implemented and complied with;
- e) Keep the premises and buildings of the establishment in clean, hygienic and good conditions at all time;
- f) Conclude a lease agreement between owner and every student residing at the accommodation;
- g) Make available the telephone number of the manager of the establishment (available 24 hours every day) to the abutting property owners, the municipality as well as displaying the complaint number prominently on the perimeter of the property.

13.3 TERTIARY INSTITUTIONS

It is required that off-Campus Student Accommodation Facilities are registered on the tertiary institution off-campus Accommodation data base where they are enrolled. Establishments that intends to be accredited by tertiary institution as Student Accommodation service providers should provide proof of compliance with the provision of this policy and **the minimum design standard for dwelling unit as indicated on the policy on the Minimum Norms and Standard for Student Housing at public Universities**. Tertiary institution will facilitate the signing of the House Rules for Off-Campus Accommodation Off-campus Student Accommodation to comply with the tertiary Institution Code of Conduct and the Council By-Laws. Every off-Campus Student accommodation must have a manager who will reside on the property 24hours a day and is expected to ensure that the code of conduct is enforced.

Should on-campus locations be unavailable, then student housing sites must be within a radius of no more than 20 kilometres of the campus. Plans for any newly planned university-owned or leased student residence that do not conform to the 20 kilometre radius must be submitted to the Department of Education for approval. Affordable and secure transport running at regular intervals from early morning to late night must be provided for housing further than 5 kilometres from the campus. Such sites should be carefully selected with the safety, security and well-being of students in mind.

14. TRANSITIONAL ARRANGEMENTS

14.1 The Municipality should, by public notice on a local newspaper, notify the public of the Off-Campus Student Accommodation policy.

14.2 Existing Student Accommodation Establishments:

- a) Illegal/unauthorised establishments will be required to formalise/regularise the use rights by submitting an application to the Municipality;
COM will serve a compliance notice to any owner found to be operating a student accommodation facility without appropriate land use rights
 - i) informing the owner of the illegal/unauthorised use;
 - ii) instructing the owner to rectify the matter by submitting a land use application within 30 days or such other time period determined by the Municipal Manager;
 - iii) allowing the owner to make representations on the notice within a specified time period.

Refer to the Municipal Spatial Planning and Land Use By-Laws; Gazetted 2015.

- b) Previous approvals by the Council will be required to comply with the new Policy, without taking away the existing use rights.

14.4 Any new off-campus student accommodation establishments after the coming into operation of this Policy must apply, in terms of the application procedure of this Policy, before they can operate.

15. POLICY EFFECTIVE DATE

This policy will be effective for implementation on the date upon which it is approved by Council.

16. REVIEW DATE

The policy will be reviewed every three years or as and when is necessary