

# **MANGAUNG METROPOLITAN MUNICIPALITY**

## **REVIEW OF THE STUDENT ACCOMMODATION BYLAW**



## **PREAMBLE**

WHEREAS it is a *fait accompli* that tertiary institutions are experiencing an explosion in student enrolment and it is expected that student numbers will grow at a rate of about 2% per annum; and

WHEREAS the number of beds available at tertiary institutions equal only about 20% of total enrolment and the lack of sufficient and adequate on-campus accommodation is resulting in overcrowding, jeopardising students' academic endeavours and creating significant health and safety risks; and

WHEREAS the provision of adequate and durable student accommodation has become an urgent priority at virtually all tertiary institutions in South Africa; and

WHEREAS no legislation currently exists in South Africa pertaining to student accommodation, the Department of Higher Education and Training adopted a *Policy on the Minimum Norms and Standards for Student Housing at Public Universities* in 2015 (Government Gazette No. 39238, R897 dated 29 September 2015); and  
WHEREAS carefully planned student accommodation has the potential to revitalize neglected areas; and

WHEREAS student rental properties may lead to deteriorating infrastructure, declining property values and potential ghettoisation of an area and can have a negative impact on the surrounding communities; and

WHEREAS the private sector is a significant role player in the provision of student accommodation; and

WHEREAS in accordance with Section 156(1) of the Constitution read with Schedules 4B and 5B, local municipalities are responsible for municipal planning, land management, child-care, health and building regulation; and

WHEREAS Section 24 of the Constitution entrenches the rights of tenants and all residents of municipal area to "an environment that is not harmful" in a manner which is regulated in terms of the law and municipal planning;

WHEREAS municipalities have the right to make and administer by-laws for the effective administration of the matters which it has the right to administer in accordance with section 156(2) of the Constitution; and

NOW THEREFORE the Council of Mangaung Metropolitan Municipality enacts the Student Accommodation By-Law, 2024 as follows:

# CHAPTER 1 – DEFINITIONS, INTERPRETATION AND APPLICATION

## 1. Definitions and Interpretations

- (1) In this By-law unless the context indicates otherwise-

**“accreditation certificate”** means an accreditation certificate issued in terms of section 13(4)(a);

**“Act”** means the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), as published on 5 August 2013 and as may be amended from time to time;

**“additional information”** means any information that may be requested by the municipality which in its opinion is necessary to consider and decide on a land development application;

**“adjacent property(ies)”** means any property sharing a common boundary with a property(ies) which forms the subject of a land development application or touches any corner of the aforesaid property(ies) and will include a property that may be separated from the aforesaid property by a road or a roadway or a right of way servitude or a railway reserve or similar properties;

**“agent”** means a person authorized by the owner of land to make an application;

**“applicant”** means:

- (a) an owner(s); or
- (b) duly authorized person on behalf of the owner;  
of property(ies) or land within the jurisdiction of the municipality who submits a land development application or combination of land development applications contemplated in section 21 of this By-law;
- (c) a municipality; or
- (d) an organ of state;  
under whose control and management, the property(ies) or land falls;

**“application”** Means any application submitted to the municipality in in terms of Section 21 of the Mangaung Spatial Planning and Land Use By-Law and referred to in section 17(1) of this By-law;

**“approval”** means a decision to approve a land development application (written permission or consent use) in terms of Section 75 of the Mangaung Spatial Planning and Land Use By-Law 2024, Lland Use Management Scheme or by a decision-making person or body and may include any conditions under which the approval is granted;

**“block of flats”** as defined in terms of the land use management scheme;

**“building”** means a building as contemplated in the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

**“By-law”** means the Mangaung Student Accommodation By-Law 2024;

**“certificate holder”** means a person who is the holder of a valid accreditation certificate issued in terms of section 13(4)(a) and includes in his absence from the premises a responsible person referred to in section 13(2)(c);

**“commune”** as defined in terms of the land use management scheme;

**“community”** means residents that are living in a particular area within the municipal area;

**“conditions of approval”** means condition(s) imposed by the municipality in the approval of a land development application, including any conditions contained in the annexure(s) and/or plans and/or attachment(s) that form part of the approval and/or are referred to in the approval of the land development application in terms of Section 75 of the Mangaung Spatial Planning and Land Use By-Law, 2024;

**“consent use”** as defined in terms of the land use management scheme;

**“Council”** means the Council of the Margaung Metropolitan Municipality as established in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and include any other committee of Council, Councillor or municipal official acting by virtue of powers delegated;

**“heritage resource”** means any place or object of cultural significance. Cultural significance means aesthetic, architectural, historical, scientific, social, spiritual, linguistic or technological value or significance in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999);

**“Land”**: Means any portion of land, farm, Erf, plot, agricultural holding or lot which is registered in the Deeds Registry and is denoted on survey diagram approved by the Surveyor General and "property" shall have the same meaning;

**“House Rules”** mean the rules in relation to the control, management, administration, use and enjoyment of the rental housing property;

**“landlord”** means the owner or operator of a student accommodation establishment that is leased and includes his/her duly authorized agent or a person who is in the lawful possession of the property from where accommodation is provided and has the right to lease or sub-lease it;

**“land use”** means the purpose for which land and/or buildings are/or may be used lawfully in terms of a land use management scheme, existing scheme, or in terms of any other authorization, permit or consent issued by an erstwhile authority or the municipality as its successor in title and includes any conditions related to such land use purposes;

**“land use management scheme”** means the Margaung Land Use Management Scheme 2024;

**“land use right”** in relation to land, means the right to utilise that land in accordance with the zoning thereof, including any departure;

**“lease”** means an agreement of lease concluded between a tenant and a landlord in respect of a student accommodation establishment for studying purposes;

**“Municipality”** means Margaung Metropolitan Municipality established by the Provincial Notice No. 155 of 2016 as published in the Provincial Gazette,

Free State Province of 22 July 2016, issued in terms of section 12 of the Local Government: Municipal Structures Act 117 of 1998;

**“Occupier or Occupant”:** in relation to any building, structure or land means and includes any person in actual occupation of or legally entitled to occupy such building, structure or land, or any person having the charge or management thereof and includes the agent of any occupier absent from the area;

**"National Building Regulations"** means the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) and any amendments thereto;

**“notice”** means a written notice and **“notify”** means to give notice in writing which notice may include it being sent by registered mail, hand or electronic mail or where the context requires a notice served or published in terms of this By-law in the Provincial Gazette or other media;

**“nuisance”** means any form of interference or encroachment that impacts negatively on a person's right to the use and enjoyment of their property that may cause a material inconvenience to that person;

**“off-campus accommodation”** means units for accommodation off the premises of the tertiary institution, which can be privately owned and can vary from large blocks of tenement to multiple bedroom houses that house only students through to individual rooms in houses occupied by the homeowner;

**“on-campus accommodation”** means units for accommodation on the premises of the tertiary institution, which vary from large block of tenements to multiple bedroom houses that houses students;

**“owner”** as is defined in the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004) and includes the following:-

- (a) in relation to a property referred to in paragraph (a) of the definition of **“property”**, means a person in whose name ownership of the property is registered;
- (b) in relation to a right referred to in paragraph (b) of the definition of **“property”**, means a person in whose name the right is registered;
- (c) in relation to a land tenure right referred to in paragraph (c) of the definition of **“property”**, means a person in whose name the right is registered or to whom it was granted in terms of legislation; or
- (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of **“property”**, means the organ of state which owns or controls that public service infrastructure,

provided that a person mentioned below may for the purposes of this By-law be regarded by a municipality as the owner of a property in the following cases:

- (i) A trustee, in the case of a property in a trust excluding state trust land;
- (ii) an executor or administrator, in the case of a property in a deceased estate;
- (iii) a trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- (iv) a judicial manager in the case of a property in the estate of a person under judicial management;

- (v) a curator, in the case of a property in the estate of a person under curatorship;
- (vi) a person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of a property that is registered in the name of a municipality and is leased by it; or
- (viii) a buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

In terms of this By-law an "owner" refers to a "landlord";

**"premises"** means premises in or upon which an accommodation establishment is or is to be conducted together with the land on which the same is situated and includes any outbuildings on such land

**"private accommodation provider"** means a person/institution/owner/landlord that leases student accommodation and includes his/her duly authorized agent;

**"public-private partnership (PPP)"** means a cooperative arrangement between two or more public and private sectors, typically of a long-term nature, where a developer build a block of tenements and leases it for a fixed period to a tertiary institution;

**"resident"** means any person who lives, resides, inhabits, sleeps, or has an abode in any dwelling unit or residential building of any nature whatsoever which he uses as his fixed residential address;

**"rezoning"** means the change of the zoning or land use of property(ies) or land as contemplated in Section 33 of the Mangaung Spatial Planning and Land Use By-law 2024;

**"rooms to let"** as defined in terms of the land use management scheme;

**"sectional title scheme"** means a land parcel with a building(s) where individual owners own sections of the building(s) and co-own the common property. A sectional title scheme can be a vertical block of apartments or loose- standing dwelling units which may be attached or detached. A sectional title scheme has a minimum of two (2) sections and can be used



for residential or commercial purposes or a mixture of both;

**“site development plan”** as defined in the land use management scheme;

**“student”** means a person who is registered to study with a tertiary institution within the area of jurisdiction of the municipality and stays at an approved and accredited student accommodation establishment;

**“student accommodation establishment”** means an accommodation establishment which is a dwelling place for a student(s) who registered to study with a tertiary institution within the area of jurisdiction of the municipality and it has been approved by the municipality and accredited by the relevant tertiary institution. **“Accommodation establishment”** and **“student accommodation”** have a corresponding meaning;

**“student accommodation manager”** means the property owner, landlord or any person, other than a student, who resides permanently on the property or manage the establishment 24-hours a day and will be responsible for the control, management, administration of the students and student accommodation;

**“tenant”** means a legal occupant of a rented property; may have signed a lease agreeing to pay rent for the property. In terms of this By-law a “tenant” refers to a “student” as defined hereinabove;

**“tertiary institution”** refers to any institution providing further education, after graduating from High/Secondary School;

**“this By-law”** means any Section, Schedule, and/or Form to this By-law;

**“unrelated persons”** means persons not living as one household;

**“use zone”** means an area of land, indicated by an appropriate colour on the land use management scheme maps, whereon the use is limited in accordance with the appropriate land use schedules;

**“zoning”** means the development rights and controls accorded to the property and its associated buildings in terms of a land use management scheme.

- (2) Any reference to erf or rural land refers to the Land Survey Act, 1997, (Act No 8 of

1997).

- (3) Any reference to the male gender includes the female gender and any reference to the plural will include the singular and vice versa, as the context may require.

## **2. Application of By-law**

- (1)
  - (a) This By-Law applies to all newly established and existing student accommodation establishments throughout the jurisdictions of the municipality.
  - (b) It is also applicable to every owner or operator and any student who stays in the approved and accredited student accommodation establishments.
- (2) This By-Law binds every owner and every user of land, as well as all tertiary institutions and private accommodation providers within the jurisdiction area of the municipality including the state.
- (3) When considering an apparent conflict between this By-Law and another law, a court must prefer any reasonable interpretation that avoids a conflict over any alternative interpretation that results in a conflict.
- (4) Should there be any conflict in the interpretation of any provision or definition of this By-law and any other national or provincial legislation, this By-law shall prevail, having regard to Section 146, 147, 156(2), and 155(7) read with Schedule 4, Part B of the Constitution.
- (5) No person shall operate a student accommodation establishment unless he or she is in possession of the necessary land use right and accreditation certificate issued to him by the municipality and tertiary institution in terms of section 14.
- (6) A person who, at the date of commencement of this By-law, operates a student accommodation establishment referred to in subsection (5), shall within six months of that date, or within such extended period as the Council may on application made prior to the expiry of the said period of six months in writing allow, apply for the necessary land use rights and accreditation in terms of section 14 and if he or she fails to do so or his or her application is refused, he or she shall, if he or she continues to operate the student

accommodation establishment after the expiry of that period or after such refusal be deemed to have contravened subsection (5).

- (7) A person who operates a student accommodation establishment shall comply with all the provisions of this By-law and with the limitations, restrictions, terms and conditions imposed upon the approval or the accreditation of his establishment and if he fails to do so he shall be guilty of an offence for which the penalties referred to in section 25 shall be applicable.

## **CHAPTER 2 – AIM, PRINCIPLES, PURPOSE AND OBJECTS OF THE BY-LAW**

### **3. Aim of the By-law**

- (1) The aim of this By-law is to provide the minimum standards required for student accommodation, both on-campus and off-campus, that is suitable for students where they can live, learn and relax.

### **4. Principles of the By-law**

- (1) The By-law is *inter alia* based on the following principles:
  - (a) to establish student accommodation that will uphold the requirements of the *Constitution of the Republic of South Africa* 108 of 1996 viz. the right to dignity, privacy, adequate housing, healthy and secure environment;
  - (b) to approve applications for student accommodation that will create an environment conducive for learning, living and relaxing; and
  - (c) to create a By-law that complies with good governance and compliance with legislation.

### **5. Purpose and Objectives of the By-Law**

- (1) The municipality shall manage the provision of student accommodation so that the land use does not encroach on the rights of existing residential areas and properties.
- (2) The purpose of the By-law is to regulate the establishment of student accommodations within the area of jurisdiction of the municipality by:

- (a) Prescribing requirements and standards to be met for premises to be established as student accommodations;
  - (b) Providing safe, neat, secure, law-abiding accommodations for students and surrounding neighbourhood; and
  - (c) Provide guideline to all role-players (residents, property owner, universities) regarding the municipalities requirements regarding student accommodation
- (3) The objectives of the By-law are:
- (a) to set the minimum guidelines and standards that need to be complied with on all premises to be used for student accommodation;
  - (b) to set guidelines that will enable the assessment of land use management applications relating to student accommodation;
  - (c) ensure that the residential character of settlements adjacent to tertiary institutions are not materially and negatively affected by uncontrolled student accommodation; and
  - (d) maintain a balance between accommodating students in residential areas without negatively affecting surrounding property owners.
  - (e) Determine the adequacy of infrastructure to support student accommodation applications;
  - (f) Outlining the application process for the student accommodation;
  - (g) To provide suitable locations for the establishment of student accommodation/facilities.

## **CHAPTER 3 – MINIMUM NORMS AND STANDARDS APPLICABLE TO STUDENT ACCOMMODATION**

### **6. Types of Student Accommodation**

- (1) Student accommodation within the jurisdiction area of the municipality consists of on-campus accommodation and off- campus accommodation.

### **7. On-campus accommodation**

- (1) On-campus accommodation consists of:
  - (a) Student hostels: These are blocks of tenement with large numbers of individual or twin rooms, mainly on- campus and the property of the

tertiary institution; and

- (b) Flats: These are units consisting of single or twin rooms within a block of tenement, and the property of either the tertiary institution or private accommodation provider.

## **8. Off-campus accommodation**

- (1) Off-campus accommodation and private student accommodation consist of:
  - (a) Home accommodation, where students reside with family members or guardians;
  - (b) Single flat/apartment accommodation, where individual students enter into a lease agreement with a landlord for a studio or one-bedroomed apartment typically within the landlord's own house or garden or within a block of flats;
  - (c) Rooms to let;
  - (d) Communes;
  - (e) Privately owned accommodation, where individual students enter into a lease agreement to rent an individual room in a privately-owned house which is occupied by the homeowner;
  - (f) Privately-owned block of flats, which was purposely built as student accommodation, and where students from several institutions enter into fixed-period lease contracts with a landlord who retains the risk for occupancy levels; and
  - (g) Public-private partnership (PPP) accommodation, where a developer establishes a residence and leases it for a fixed period to a tertiary institution, at the end of which period the residence becomes the property of the university. PPP's are particularly useful when a tertiary institution cannot afford to build its own student accommodation and this By-law will facilitate these initiatives.

## **9. Establishment of student accommodation**

- (1) Any type of student accommodation contemplated in sections 7 and 8, can be established within the area identified by the Municipality, provided that the necessary land use application process set out in the Mangaung Spatial Planning and Land Use By-law, 2024 has been complied with.

## **10. Location of Student Accommodation**

- (1) On-campus accommodation must be situated within the campus security perimeter of a tertiary institution, to enable students to make full use of the

- academic, social, cultural and sporting programmes.
- (2) Off-campus accommodation shall not be allowed beyond 7km radius from the tertiary institution.
  - (3) (a) Student accommodation shall only be in accordance with the land use management scheme.  
(b) No student accommodation shall be allowed in an industrial area.
  - (4) Student Accommodation establishment will be allowed in the following areas: Universitas, Parkwest, Brandwag, Willows, Hillside View, Blomanda, Rocklands, Vista Park Extensions 1, 2 and 3, Bultfontein Zone 2, 3 and 4, Station View, Mokoena, Ratlou, Selosesha, Hilton, Bloemfontein CBD and Erlichpark.
  - (5) The student accommodation establishment may be permitted on the areas other than the areas specified above based on merit and as approved by the Municipal Planning Tribunal.

## **11. Design Standards**

- (1) The Minimum Standards Code for the Accommodation and Housing of Students in South Africa (Government Gazette No. 39238, R897 dated 29 September 2015) shall be applicable to all providers of student accommodation (both public and private).
- (2) All student accommodation establishments anticipated in sections 7 and 8 of this By-law, shall comply with the minimum design standards as contemplated in Schedule 1 attached to this By-law.

## **12. General Terms and Conditions**

- (1) All student accommodation establishments anticipated in sections 7 and 8 of this By-law, shall comply with the general terms and conditions contemplated in Schedule 2 of this By-law.
- (2) An application to operate a student accommodation establishment in a use zone where a dwelling house is a primary right, shall be submitted when 5 (five) or more unrelated persons are charged rental for accommodation on one property with or without the owner living on the property.
- (3) A rezoning application to operate a student accommodation establishment in any other use zone as is determined by the land use management scheme shall be submitted to the municipality in terms of Section 33 of the Mangaung Spatial Planning and Land Use By-Law, 2024.

- (4) All consent use applications for student accommodation facilities/establishments shall be accompanied by detailed site development plans and permission from the surrounding property owners.
- (5) Not more than 10 (Ten) students shall be accommodated per Erf.
- (6) Should a property be developed with two (2) sectional title units, only Five (5) students shall be accommodated per sectional title unit.
- (7) The maximum number of persons that may be accommodated in any room designated as a bedroom in the accommodation establishment shall not exceed the maximum number of persons referred to in Schedule 2.
- (8) Wendy houses or any other wooden or steel structures may not be used as rentable space for the purposes of student accommodation.
- (9) Parking shall be provided at a ratio of 0.3 parking bays per bed.
- (10) Student Accommodation facility shall only be occupied after the occupancy certificate has been issued by the municipality.
- (11) The signage and advertising for the student accommodation facility shall be in accordance with the provisions of the Mangaung Outdoor Advertising By-law.

### **13. Roles and Responsibilities of Key Role Players**

- (1) The municipality shall-
  - (a) approve land use applications for student accommodation establishments;
  - (b) ensure and enforce compliance with the By-law; and
  - (c) close unauthorized and illegally operating student accommodations;
- (2) The student accommodation owners shall-
  - (a) ensure that the necessary land use rights are in place. If not, submit an application to the municipality;
  - (b) register their student accommodation establishments with the municipality;
  - (c) appoint and ensure a student accommodation manager resides at the establishment or that the establishment is managed 24-hours a day, and provide the contact details to both the municipality and the tertiary institution;
  - (d) register with relevant tertiary institution for accreditation purposes;
  - (e) have a copy of Accreditation Policy and Code of Conduct of the relevant tertiary institution;

- (f) ensure that the provisions of the By-law are implemented and complied with;
  - (g) keep the premises and buildings of the establishment in clean, hygienic and good conditions at all times; and
  - (h) conclude a lease agreement between himself/herself and every student residing at the accommodation.
- (3) The student accommodation manager shall-
- (a) ensure that the conditions of the accreditation certificate are complied with;
  - (b) ensure that the provisions of the By-law are implemented and complied with;
  - (c) permanently resides at the establishment or if the establishment is managed by an independent management company, that the establishment is managed 24-hours a day;
  - (d) ensure that the tenants of the accommodation establishment behave in an acceptable manner, at all times, and not cause or create any public nuisance, excessive noise, dumping or littering and parking illegally;
  - (e) keep the premises and buildings of the establishment in clean, hygienic and good conditions at all times; and
  - (f) provide his/her contact details to all the adjacent property owners.
- (4) The tertiary institutions shall-
- (a) accredit suitable student accommodation establishments (with approved zoning or consent rights, approved building plans and occupancy certificate) on its Off-campus Accommodation data base and issue an accreditation certificate;
  - (b) keep a database of all accredited student accommodation establishments;
  - (c) provide owners of the student accommodation establishments with its Accreditation Policy and Code of Conduct; and
  - (d) discredit any unsuitable student accommodation establishments and notify the municipality of such discreditation.
- (5) The residing students shall-
- (a) conclude a lease agreement with the approved and accredited student accommodation establishment owners;
  - (b) comply with Code of Conduct of the tertiary institution they enrolled with; and
  - (c) behave in an acceptable manner, at all times, and not cause or



create any public nuisance, dumping or littering and parking illegally.

#### **14. Applications for land use rights and accreditation**

- (1) A person who is referred to in section 2(6) and a person who intends operating a student accommodation establishment shall apply-
  - (a) for accreditation of the student accommodation establishment or proposed student accommodation establishment to the tertiary institution; and
  - (b) for the necessary land use rights as contemplated in sections 12(2) and 12(3) read with the Land Use Management Scheme to the municipality in writing on the prescribed form referred to in section 17(3).
- (2) A person to whom an accreditation certificate has been issued in terms of subsection (1)(a) shall at all times publicly display such certificate in a conspicuous place in the student accommodation establishment.
- (3) In the event of the transfer of the management of an accommodation establishment to a new manager, the new manager shall, within two months after transfer, notify the tertiary institution of the change in management.
- (4) The accreditation referred to in subsection (1)(a) will be cancelled if the conditions of the certificate are not complied with.

#### **15. Nuisance**

- (1) No activities shall be carried on which are or are likely to be a source of nuisance, disturbance or annoyance to residents of other dwelling-houses, flats or residential buildings or portions thereof.
- (2) Musical sound radiating from the premises may not be audible beyond the boundaries of the premises.

#### **16. Building Plans**

- (1) The safety, security and structure of the building shall be in accordance with the National Building Regulations.
- (2) After approval of the land use application, the owner shall submit a site

development plan and building plans in accordance with the National Building Regulations to the municipality for approval.

## **CHAPTER 4 - APPLICATION PROCEDURES**

### **17. Lodging of Application**

- (1) The owner of land or his agent may apply to the municipality in terms of this Chapter for its approval in relation to the development of the land concerning:
  - (a) a rezoning of land; or
  - (b) a consent use provided for in the land use management scheme.
- (2) The applications contemplated in subsection (1) must be lodged in accordance with and must comply with all requirements and provisions of the Mangaung Spatial Planning and Land Use By-Law, 2024.
- (3) The application must be submitted with a comprehensive application and be accompanied by all the relevant documents as prescribed by the Mangaung Spatial Planning and Land Use By-Law, 2024.
- (4)
  - (a) Each application shall be assessed on its own merit and special attention shall be given to-
    - (i) the impact of the proposed use to the historical character of the dwelling house;
    - (ii) the impact of the student accommodation in densely developed areas such as group housing schemes;
    - (iii) the capacity of engineering services sufficient to accommodate the development;
    - (iv) the availability of adequate space on the erf for parking in terms of the scheme;
    - (v) the desirability of the development;
    - (vi) adherence of the development to the designs and standards outlined in this By-Law
    - (vii) Impact of the development on any services including traffic movement and
    - (viii) the impact of the student accommodation on the surrounding properties and the area it is located in.
  - (b) Any development shall be in accordance with the requirements of

the Municipal Spatial Development Framework and other Precinct Plans.

- (5) The municipality may request any additional information required to evaluate the application in accordance with Section 41 of the Mangaung Spatial Planning and Land Use By-Law, 2024.

## **18. Relevant Application Documents**

- (1) An application contemplated in section 14(1)(b), must be accompanied by all the relevant documentation and information required in the Mangaung Spatial Planning and Land Use By-Law, 2024.
- (2) Additional to the information as contemplated in subsection (1)(a) the following documents, must form part of the application:
  - (a) A permit or comments issued by the Provincial Heritage Resources Authority pertaining to a heritage resource (if applicable);
  - (b) An affidavit that the owner permanently resides on the property and/ or a full-time manager has been appointed to manage the establishment and/or or that the establishment is managed 24-hours a day;
  - (c) A letter from the tertiary institution that confirms that the property has been registered on the Off-campus Student Accommodation data base to provide accommodation for students;
  - (d) Application motivation report (covering desirability, parking, number of students, room sizes, number of bedrooms, etc); and
  - (e) should any other legislation or authority require any other actions, proof of compliance to such prerequisites.

## **19. Publication of Application**

- (1) The application for student accommodation shall be advertised in accordance with the prescriptions of the Section 50 (1) of the Mangaung Spatial Planning and Land Use By-Law, 2024.

## **20. Evaluation Criteria**

- (1) Chapter 7 of the Mangaung Spatial Planning and Land Use By-Law, 2024, shall apply *mutatis mutandis* to the decision making and evaluation process set out in this By-law.

- (2) The municipality will take the following into account when considering applications for approval:
  - (a) The applicable land use management scheme and municipal principles and policies.
  - (b) Principles and policies established for such applications by the National and Provincial spheres of government.
  - (c) Any objection received on or before the closing date in response to a publication of the application, as well as comments received from other organs of the state.
  - (d) Any response received from the applicant to objections or comments made;
  - (e) 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.
- (3) Applications will be evaluated on the basis of the following factors:
  - (a) need and desirability of the contemplated utilization of the land concerned;
  - (b) spatial guidelines, such as the municipality's Spatial Development Framework, Local Spatial Development Framework or Precinct Plans.
  - (c) effects on the existing rights (except any alleged right to protect against trade competition).
  - (d) the safety and welfare of the community.
  - (e) the preservation of the heritage, natural and developed environment.

## **21. Conditions of Approval**

- (1) The municipality may approve or refuse an application and may attach any condition that is consistent with any applicable land use management scheme and may include provisions not contained in any applicable land use management scheme or that may be more or less restrictive than the standard provisions applying to the zone concerned in terms of Section 75 of the Mangaung Spatial Planning and Land Use By-Law, 2024.
- (2) An application approved by the municipality will lapse if the land concerned has not been utilized within the time specified in terms of Section 75 of the Mangaung Spatial Planning and Land Use By-Law, 2024, after the date on which the approval was granted, provided that the municipality may grant an extension of such time if requested to do so in writing before the application has lapsed.

- (3) Conditions of approval imposed by the municipality will have the same force and effect as if they were part of the applicable land use management scheme.
- (4)
  - (a) The municipality may terminate after a hearing any land use right granted or change conditions relating to a consent use granted if any breach of approval or conditions of approval has, in the opinion of the municipality, taken place.
  - (b) The municipality may request the breach to be remedied within a specified period of time.
- (5) In the event that there are objections to the decision made by the municipality with regard to the application, an appeal to review the decision must be submitted in terms of Section 87 of the Mangaung Spatial Planning and Land Use By-Law, 2024.
- (6) The owner or student accommodation manager must reside on the accommodation or be managed 24-hours a day to ensure, *inter alia*, the compliance with this By-law.
- (7) An affidavit to confirm the presence of the owner or student accommodation manager on the property or that the establishment is managed 24-hours a day, as required by subsection (6) above, must accompany the application.

## **22. Non-Compliance with Conditions of Approval**

- (1) If approval conditions are not complied with, the Planning Department will issue a written notice to the owner and/or student accommodation manager to rectify any irregularities within 7 (seven) days.
- (2) If complaints are received with regard to the approved student accommodation, the Planning Department will evaluate the validity of the complaints and where applicable, notify the owner and/or student accommodation manager about the complaints and further give a written notice to the owner and/or student accommodation manager to comply with the conditions put by the municipality.
- (3) Failure to comply with subsections (1) and (2) above may lead to the

municipality declaring the accommodation closed and will notify the relevant tertiary institution(s) to discredit the accommodation.

## **23. Withdrawal and Lapsing of an Approval**

- (1) The consent use approval to establish a student accommodation will be withdrawn after affording the property owner a hearing under the following circumstances:
  - (a) When the property is alienated.
  - (b) Valid objections have been received and an interdict against the owner has been obtained.
  - (c) Where the accommodation is a cause of nuisance to surrounding neighbourhood.
  - (d) Where the relevant institution has discredited the accommodation.
  - (e) Where the Council has declared the accommodation closed in terms of violation of the approval conditions imposed or any other provisions of this By-law.
- (2) Where an application/s were submitted simultaneously, (e.g. rezoning, consolidation and subdivision), and the five-year period allowed in terms of SPLUMA lapses, the entire application shall lapse.

## **24. Appeal Against Decision**

- (1) Any person (applicant or objector) who is not satisfied with a decision of the municipality has the right to appeal the decision in terms of Section 87 of the Mangaung Spatial Planning and Land Use By-Law, 2024.
- (2) The affected person must lodge his appeal with the Appeals Authority within the period of twenty-one (21) days upon the receipt of the notice of the decision.
- (3) Any appeal shall comply with section 88 of the Mangaung Spatial Planning and Land Use By-Law, 2024.
- (4) The Appeals Authority must consider and decide on the appeal within the prescribed period as stipulated in Section 88 of the Mangaung Spatial Planning and Land Use By-Law, 2024.
- (5) The decision by the Municipal Appeals Tribunal is final and binding.

## CHAPTER 5 - OFFENCES AND PENALTIES

### 25. Offences and Penalties

- (1) Any person who—
  - (a) commits any act which constitutes a nuisance whilst on the premises, or, being an occupant of the premises, in any public place adjoining the premises;
  - (b) whilst on the premises indecently exposes his person to the public view or in any of the common parts of the premises;
  - (c) sleeps in any part of the premises other than a bedroom assigned to him for that purpose or occupies or uses any part of the premises for a purpose other than that for which it was designed;
  - (d) throws or discards any object onto adjoining property or urinates in view of the public or a public place;
  - (e) creates any disturbance of the peace on the premises;
  - (f) refuses to leave the premises when lawfully required to do so in terms of the certificate referred to in section 14(1)(a); and
  - (g) fails to comply with the terms of any notice served upon him in terms of these By-laws;shall be guilty of an offence. The penalties provided for by subsections (2) (3) and (4) shall apply *mutatis mutandis* to any offence stipulated in this subsection.
- (2) Any person who operate a student accommodation establishment without a municipal approval and accreditation at a tertiary institution shall be liable to a fine not exceeding R100 000 (hundred thousand rand).
- (3) In the case of continuous offence, an additional fine of one thousand rand (R1 000) will be imposed for each day on which the offence continues.
- (4) The stipulations of sections 13(1)(c) and 22 shall apply *mutatis mutandis* to any offence set out in as well as the non- compliance with any condition of this By-law.
- (5) Any other offence, in violation of the By-law, will be determined by the Magistrate.

## CHAPTER 6 – MISCELLANEOUS

## **26. Transitional Arrangements**

- (1) The municipality shall, by public notice, call all the unregistered student accommodation establishments within the area of jurisdiction of the municipality to apply for approval and accreditation.
- (2) All the unregistered student accommodation establishments shall apply for accreditation with the tertiary institution within the period of six (6) months upon the promulgation of this By-law in the provincial gazette.
- (3) Any unregistered student accommodation establishment that have not registered within the period set out in the public notice to be issued by the municipality, prescribing deadline for accreditation of existing student accommodation establishments, shall be operating illegally after such a prescribed date and shall be liable to a fine contemplated in section 25(2).
- (4) The applications for existing unregistered student accommodation establishments must also comply with the application procedure contemplated in chapter 4 of this By-law.
- (5) Any new student accommodation establishments after the coming into operation of this By-law must apply, in terms of the application procedure contemplated in chapter 4 of this By-law, before they can operate, failing which the owner shall be liable to a fine contemplated in section 25(2).
- (6)
  - (a) An existing student accommodation establishment that received the land use rights in terms of a previous act, policy or by-law may continue with the allocated land use rights.
  - (b) Sections 13, 14, 15, 16, 21, 22, 23 and 25 shall apply *mutatis mutandis* on accommodation establishments contemplated in subsection (a).

## **27. Short Title and Commencement**

- (1) This By-law is called Mangaung Student Accommodation By-law, 2024 and comes into effect on the date of promulgation thereof in the Free State Provincial Gazette.



# SCHEDULES

## SCHEDULE 1

### COMPULSORY MINIMUM DESIGN STANDARDS

(read with section 11)

(1) All student accommodation establishments shall comply with the minimum design standards set out hereunder:

**A. Student hostels, Flats, Single flat/apartment accommodation, Privately-owned block of flats, Public-private partnership (PPP) accommodation**

Type	Minimum Standard	
	Size	Facilities
Single room	6m <sup>2</sup> for existing structures 8m <sup>2</sup> for new structures	Minimum Standards Code
Double room	14m <sup>2</sup>	
Parking		Parking will be provided at a ratio of 0,3 per bed Parking for tenants and visitors shall be accommodated within the boundaries of the property No parking in front of driveways, in the street and on pedestrian walkways is permitted

Management		Accommodation manager
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Type	Minimum Standard	
	Size	Facilities
Accreditation with Tertiary Institution		Yes
Land Use Application		Rezoning on all use zones Site development plan and building plan approval required

#### B. Home accommodation, Room in a Residential dwelling

Type	Minimum Standard	
	Size	Facilities
No requirement		

#### C. Communes

Type	Minimum Standard	
	Size	Facilities
Single room	6m <sup>2</sup> for existing structures 8m <sup>2</sup> for new structures	Minimum Standards Code
Double room	14m <sup>2</sup>	
Parking		Parking will be provided at a ratio of 0,3 per bed Parking for tenants and visitors shall be accommodated within the boundaries of the property No parking in front of driveways, in the street and on pedestrian walkways is permitted
Management		Accommodation manager
Accreditation with Tertiary Institution		Yes

Land Use Application		<p>Consent use on use zone where dwelling house is a primary right with not more than ten (10) rooms or ten (10) students</p> <p>Rezoning on all other use zones or in the case of more than ten (10) rooms or ten (10) students</p> <p>Site development plan and building plan approval required</p>
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Type	Minimum Standard	
	Size	Facilities
Number of rooms allowed		Ten (10) rooms and not more than ten (10) students shall be accommodated in a single dwelling house

## SCHEDULE 2

### GENERAL TERMS AND CONDITIONS

(read with section 12)

- (1) All student accommodation establishments (excluding home accommodation) shall comply with the general terms and conditions set out hereunder:
  - (a) Council Approval  
A student accommodation must be approved by the municipality and be established on a properly zoned property.
  - (b) Accreditation  
A student accommodation facility must be accredited by a relevant tertiary institution(s) and the owner must be provided with the accreditation policy and code of conduct of the institution(s), if such exists.
  - (c) Alterations
    - (i) If the accommodation is established in the dwelling house, the residential character of the dwelling house may not be altered in a manner that, in the opinion of the Council, will detract from the character of a dwelling house.
    - (ii) No alterations will be permitted unless approved by the municipality by means of approved building plans.
    - (iii) The rooms in a student accommodation establishment may only be used as indicated in building plans as approved by the municipality.
  - (d) Number of students/rooms
    - (i) Not more than two (2) students may be accommodated in any double bedroom and such double bedroom shall have a floor area of

- not smaller than fourteen square metres (14 m<sup>2</sup>).
  - (ii) In cases where students are accommodated in a single bedroom, such single bedrooms shall have a floor area of not smaller than six (6) square metres (6 m<sup>2</sup>) for existing structures and eight (8) square metres (8m<sup>2</sup>) for new structures.
  - (iii) No overcrowding is allowed.
- (e) Parking
  - (i) Parking for tenants and visitors shall be accommodated within the boundaries of the property.
  - (ii) No parking in front of driveways, in the street and on pedestrian walkways is permitted
- (f) Cooking
  - (i) No cooking of meals shall be permitted in individual bedrooms or any common area except in an area designated on an approved building plan as a kitchen or braai area.
  - (ii) Cooking facilities should at least be a stove, a fridge, a sink, lockable cupboards, a microwave oven and a workplace, that can be used by a maximum of 15 (fifteen) students.
- (g) Ablution facilities
 

No more than five (5) students must share a bath or shower and toilet.
- (h) Social facilities
 

There should be a general social area (common entertainment area/meeting & TV room) at a ratio of at least one and a half square metres (1.5 m<sup>2</sup>) per student.
- (i) Public nuisance
  - (i) The accommodation shall not cause or create any nuisance to neighbouring residents.
  - (ii) Nuisance in this regard may include excessive noise, particularly late at night or in regard to regular partying.
  - (iii) A 24 (twenty-four) hour contact number to which residents or anyone can report any nuisance must be provided by the

accommodation manager or the owner.

- (j) Screening and Landscaping
  - (i) Where the student accommodation adjoins other residential properties a 2m high screen wall shall be erected between the accommodation establishment and the other residential properties.
  - (ii) The municipality may prescribe that any parking area, drying yards and/or entertainment areas be screened from neighbouring residential properties and/or public streets.
  - (iii) In order to uphold the residential character of the student accommodation establishment landscaping in accordance with an approved landscaping plan will be implemented.
  - (vi) The general provisions of the land use management scheme shall apply.
- (k) Lease agreement
  - (i) There must be a lease agreement concluded between the owner and all students residing at the student accommodation concerned.
  - (ii) The agreement must, *inter alia*, provide for the management issues regarding the accommodation facility.
- (l) Accommodation manager

Either the owner or student accommodation manager must permanently reside on the property or that the establishment is managed 24-hours a day for purposes of the management of the accommodation.
- (m) Maintenance
  - (i) The accommodation manager or the owner must ensure that the facility is, at all times, well maintained or kept clean and neat.
  - (ii) Dumping or littering is prohibited.
- (n) Signage

The accommodation must put up a signage indicating that

the accommodation is an approved and accredited student accommodation facility.

(o) National Building Regulations

All requirements of the National Building Regulations shall be complied with.

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