



PUBLIC NOTICE



IMPORTANT NOTICE TO ALL PROPERTY OWNERS CATEGORISED AS NON-PERMITTED USE

The Municipality has received numerous enquiries regarding the implementation of the **Non-Permitted Use** category in the 2026/2030 General Valuation Roll and Supplementary Valuation Roll.

The purpose of this notice is to provide property owners with clear guidance regarding:

- The legal basis for the Non-Permitted Use category;
- The relationship between zoning, consent use approvals, building plans and occupation certificates;
- The provisions of SPLUMA, the Municipal Land Use Planning By-law, the Student Accommodation By-law, the National Building Regulations and the Municipal Property Rates Act;
- The Municipality's enforcement obligations;
- The process required for the removal of the Non-Permitted Use category.

1. LEGAL BASIS FOR THE NON-PERMITTED USE CATEGORY

The Municipality implemented the **Non-Permitted Use** category through the approved Property Rates Policy effective 1 July 2026.

The Property Rates Policy defines Non-Permitted Use as: "any use of property that is inconsistent with or in contravention of the permitted use and correct zoning of such property in terms of the Town Planning or Land Use Scheme."

The category applies to **all property uses** being exercised contrary to the applicable planning and land use requirements.

Examples include:

- Student accommodation operating without all required municipal approvals;
- Businesses or offices operating from residential properties without approval;
- Smallholdings being used for business or commercial purposes without approval;
- Properties where approval conditions have not been complied with;
- Buildings that do not have approved building plans for the use being exercised;
- Buildings occupied without the required occupation certificate; and
- Any property being used contrary to its lawful land use rights or municipal approvals

2. WHY DID THE MUNICIPALITY IMPLEMENT THIS CATEGORY?

The Municipality is legally required to administer and enforce:

- The Spatial Planning and Land Use Management Act (SPLUMA);
- The Mangaung Municipal Land Use Planning By-law;
- The Student Accommodation By-law;
- The National Building Regulations and Building Standards Act;
- The Municipal Property Rates Act.

SPLUMA states: "Land may be used only for the purposes permitted by a land use scheme."

Further: "A person is guilty of an offence if that person uses land contrary to a permitted land use."

The Mangaung Land Use Planning By-law similarly provides: "Land may be used only for the purposes permitted by a land use management scheme." and "The Municipality has a duty to enforce the provisions of its land use management scheme."

3. WHAT IS A LAWFUL LAND USE?

Many property owners believe that zoning alone creates a right to use land for a particular purpose.

This is not necessarily correct.

SPLUMA defines land use as: "the purpose for which land is or may be used lawfully in terms of a land use scheme ... or any other authorisation, permit or consent issued by a competent authority, and includes any conditions related to such land use purposes."

Accordingly, a lawful land use may require:

- Correct zoning;
- Consent use approval;
- Rezoning approval;
- Removal of restrictive conditions;
- Compliance with approval conditions;
- Approved building plans;
- Occupation certificate; and
- Compliance with applicable by-laws.

4. DOES SUBMITTING AN APPLICATION CREATE LAND USE RIGHTS? No.

Submitting an application:

- Does not create land use rights;
- Does not authorise a use;
- Does not legalise an existing unlawful use.

An application merely initiates a statutory process in terms of SPLUMA and the Municipal Land Use Planning By-law.

5. DOES MPT APPROVAL AUTOMATICALLY CREATE LAND USE RIGHTS? Not necessarily.

The Municipal Planning Tribunal frequently approves applications subject to conditions.

SPLUMA provides: "An application may be approved subject to such conditions as are determined by the Municipal Planning Tribunal."

Further: "A conditional approval of an application lapses if a condition is not complied with..."

Therefore, where approval conditions have not been met, the approved rights may not yet be lawfully exercised.

6. BUILDING PLANS AND OCCUPATION CERTIFICATES

A common misconception is that a rezoning approval, consent use approval or Municipal Planning Tribunal (MPT) approval automatically authorises a property to be occupied and used for the approved purpose.

In many cases, approvals are granted subject to conditions, including compliance with the National Building Regulations and Building Standards Act, approved building plans, service requirements and other municipal approvals.

Where buildings have been altered, extended, converted or are being utilised for a purpose different from that originally approved, the improvements and intended use must be reflected on approved building plans and, where required, supported by a valid Occupation Certificate.

This includes, but is not limited to:

- Conversion of dwelling houses to student accommodation;
- Offices operating from residential properties;
- Home industries or businesses operating from residential properties;
- Additional rooms, outbuildings or extensions;
- Alterations to internal layouts;
- Changes to parking layouts; and

- Any other material change in the use or configuration of the property.

The Student Accommodation By-law provides that: "After approval of the land use application, the owner shall submit a site development plan and building plans for approval."

It further provides: "No alterations will be permitted unless approved by the municipality by means of approved building plans."

and "The rooms in a student accommodation establishment may only be used as indicated in building plans as approved by the municipality."

For this reason, Building Control verification forms part of the Municipality's Non-Permitted Use review process.

7. WHY BUILDING CONTROL CONFIRMATION IS REQUIRED

The Municipality cannot assume that:

- approved building plans exist;
- alterations were approved;
- occupation is lawful.

For this reason Building Control is required to confirm:

- Approved building plans;
- Compliance with National Building Regulations;
- Valid occupation certificate;
- Lawful occupation of the building.

Property owners are therefore encouraged to retain copies of approved building plans, Occupation Certificates and related approval documentation.

8. MUNICIPAL ENFORCEMENT POWERS

The Municipality is legally required to enforce compliance.

The Municipal Land Use Planning By-law states: "A land use that commenced or exercised unlawfully constitutes a criminal offence."

The Municipality may:

- Issue compliance notices;
- Institute criminal proceedings;
- Issue administrative fines;
- Seek court orders;
- Apply for interdicts;
- Require cessation of unlawful uses.

Section 106 specifically empowers the Municipality to approach the High Court for: "an interdict", "cessation of unlawful use", "demolition", "removal", or "rehabilitation" where necessary.

9. DOES THE MUNICIPALITY REQUIRE MINISTERIAL APPROVAL FOR THIS CATEGORY? No.

Before implementation of the category, the Municipality consulted with the Department of Cooperative Governance (COGTA).

The Municipality relied on the Supreme Court of Appeal judgment:

City of Tshwane Metropolitan Municipality v Blom (2013) ZASCA 88

which confirmed that municipalities may create a Non-Permitted Use category through a lawful Rates Policy.

Following consultation with COGTA it was confirmed that the Municipality could implement the category through its Property Rates Policy and was not required to obtain Ministerial approval under section 8(4) of the MPRA.

10. HOW TO REMOVE THE NON-PERMITTED USE CATEGORY

The Municipality has adopted a formal process. Owners must:

Step 1 – Town Planning

Obtain confirmation regarding:

- Zoning;
- Consent use;
- Rezoning;
- Land use rights;
- Compliance with approval conditions.

Step 2 – Building Control

Obtain confirmation of:

- Approved building plans;
- Occupation certificate;
- Compliance with building regulations.

Step 3 – Section 78 Review: Upload the required documentation with a proof of payment of the prescribed Section 78 Review fee through the Municipal Valuation Portal and submit a Section 78 Review request.

Step 4 – Municipal Valuer Review: Once Town Planning and Building Control have confirmed compliance, the application will be reviewed by the Municipal Valuer in terms of the Municipal Property Rates Act and the approved Property Rates Policy.

Where a category amendment is warranted, the valuation roll will be amended accordingly.

Owners are advised that the removal of the Non-Permitted Use category does not automatically result in retrospective adjustments. Any amendment will take effect in accordance with the provisions of section 78 of the Municipal Property Rates Act and the facts supporting the review application.

IMPORTANT NOTE

The Municipal Valuer does not:

- approve zoning;
- approve consent uses;
- approve building plans;
- approve occupation certificates.

These functions remain the responsibility of the relevant departments.

The Municipal Valuer can only consider the category review once the necessary departmental approvals and confirmations have been obtained.

For enquiries please phone 051-405 8960 or 051 405 8275

Email: truddy.khanve@mangaung.co.za; rethabile.dichechane@mangaung.co.za or patrick.ntsolwane@mangaung.co.za

CITY MANAGER - SELLO MORE