



# NELSON MANDELA BAY DRAFT POLICY

Draft Review of the NMBM Guest  
House Policy

*Working Draft 3.1 for Public Participation*

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## **EXECUTIVE SUMMARY**

### **DRAFT REVIEW OF NMBM GUEST HOUSE POLICY**

#### **1. BACKGROUND**

The Guesthouse Policy was approved in January 2004 as part of a series of strategic documents to foster, manage and guide development within the Municipality. The Guesthouse Policy is particularly aimed, but not limited to the tourism sector as it deals with the management of guest accommodation. Its particular aim is to distinguish guesthouses from a variety of other short-term accommodation establishments.

As a result of the amalgamation of Municipalities to form a Metro, the NMBMM is noted to have several zoning scheme regulations. There are all currently active and the assessment of applications is dependent on the applicable zoning scheme regulation.

The aforementioned, together with recent developmental needs and forever changing client specifications that Council, at its meeting held on 29 October 2015, resolved that the Guesthouse Policy be reviewed in order to align the current policy with new trends and developments in the industry and to allow for a uniform and consistent approach and guideline for the assessment of guesthouse and its Ancillary uses within the area of jurisdiction of the Municipality. By doing so the primary objective of creating a consistent and reliable approach to the assessment and granting of land use rights thereby ensuring a balance between economic enterprise and regulation will be realised. By doing so, the NMBMM's tourism sector will achieve longevity, profitability, efficiency and be sustainable.

#### **2. POLICY GAPS AND PROPOSALS**

The following section is a concise result of an in-depth analysis of the issues of concern as well as gaps identified in the previously approved Guesthouse Policy. A comparative study involving other Metros and relevant institutions was done and this analysis is available on request and does not form part of this report.

##### **2.1. Defining a Guesthouse**

**Challenge:** there are a number of establishments offering accommodation similar to guesthouses exist (backpackers, bed and breakfasts, student accommodation, self-catering accommodation, hotels and resorts). A distinction becomes necessary between a guesthouse and these forms of accommodation.

A number of uses and terms relevant to guesthouses are excluded which impact on the clarity and translation of the Policy.

**Proposal:** New Definition of a guesthouse;

Guesthouse being a building used for human habitation that may be a primary or second dwelling; not exceeding 16 guest bedrooms: occupied by the owner or manager in which persons are accommodated on a temporary basis: with associated ancillary facilities directly related to the operation of the guesthouse:, but excluding boarding houses, student accommodation, self-catering apartments, back packers, hotels, lodges and all other forms of short-term stay accommodation not mentioned herein.

The Review also proposes additional uses and terms to further provide clarity. The addition of a 'Kitchen', 'Kitchenette', 'Conference Facility' and 'Restaurant'. The definition of these words are as indicated in the 'Definitions' Section of the Guest House Policy Review Document: Version 01.

## **2.2. Guestroom Threshold**

**Problem:** The approved Guesthouse Policy does not have set thresholds.

**Proposal:** A maximum room threshold of two (2) adults plus two (2) children (aged 12 years and below) per guestroom.

## **2.3. Ancillary uses**

**Problem:** The approved Guesthouse Policy does not have predetermined ancillary uses.

**Proposal:** A guesthouse may have the following ancillary uses subject to property zoning rights and compliance with relevant parameters:

- Conference Facilities;
- Pampering Services.

*Parking parameters for the above are to be in accordance with applicable Zoning Scheme Regulations (with leniency at the Planner's discretion).*

## **2.4. Maximum Number of Guestrooms**

**Problem:** The maximum number of guest rooms determined in the previously approved Guesthouse Policy is not in line with client needs, market demand as well as national norm for other Metros

**Proposal:** The maximum number of guestrooms will be sixteen (16), subject to compliance with relevant parameters.

## **2.5. Other considerations to be noted, which are deemed to be relevant**

- 2.5.1. Kitchenettes are to be permitted in guest rooms. They are not to be viewed as increasing densities on guesthouse properties.
- 2.5.2. Accreditation with relevant institutions to not be made a requirement.
- 2.5.3. No maximum number of guesthouses permitted in an area being set, market demand deemed sufficient to deal with issue of proliferation.
- 2.5.4. Design specifics not considered a necessity because the definition of a dwelling unit as per the applicable Zoning Scheme is deemed sufficient to manage issues relating to authenticity.

## **3. IMPLEMENTATION**

### **3.1. Application Requirements**

A land use application as contemplated on the table above is to be submitted to the Properties and Planning Administration Sub-Directorate, 2nd Floor Brister House, Govan Mbeki Avenue, Port Elizabeth. Details on the process of application, fee structure and the contents of the application are obtained from Properties and Planning Administration Sub-Directorate

### **3.2. Review of Council Decision**

An applicant or an objector (where relevant) has a right to appeal the Council's decision within 21 days of receipt of the decision. An applicant or objector (where relevant) will be given a twenty one (21) day notice period to lodge an objection in respect of the Council's decisions or on conditions of Approval of such a decision.

The application for appeal must be submitted to City Manager for consideration within the stipulated period. Upon deliberation by City Manager, the relevant party being informed of the decision. The appeal process is to be dealt with in terms of SPLUMA.

### **3.3 Non-compliance**

A property owner is considered to be in transgression of the zoning scheme when he/she operates a use in contravention of by-laws and zoning scheme regulations as applicable. Transgressions of the municipal by-law include the non-compliance of conditions imposed by Council in respect of all Approvals. Such transgressions are to be dealt with in terms of the provisions of the applicable legislation that empowers the Municipality to take legal action against the perpetrators.

The Land Use Enforcement Unit is responsible for this function and details relation to their processes is obtainable at the Town Planning Office on the 3<sup>rd</sup> Floor Lilian Diedericks Building, 189 Govan Mbeki Avenue.

## **USHWANKATHELO LWESIGQEBA**

### **UKUQWALASELWA KOMGAQO WEKHAYA LABAHAMBI**

#### **1. IMVELAPHI**

Umgaqo wekhaya labahambi wamkelwa ngeyoMqungu ngo-2004 njengenxalenye yothotho lweendlela ezibhaliweyo zokukhulisa, ukulawula nokukhokhela uphuhliso kuMasipala. Umgaqo weKhaya labaHambi ujongene ngakumbi, kodwa ungaphelelisanga kwezokhenketho njengokuba ijongana nolawulo lwamakhaya abahambi. Eyona njongo yawo kukwahlula amakhaya abahambi namanye amakhaya okanye izakhiwo ezinikezela ngendawo yokuhlala yethuba elifutshane.

Ngenxa yezizathu zokuqkwa ndawonye kooMasipala ukwenza iMetro, iNMBM ijongwa njengendawo eneqela lemithetho yokucanda imihlaba. Zonke ngokwangoku ziyasebenza, ukuvavanya izicelo kuxhomekeke kumthetho ofaneleyo wocando lomhlaba.

Zonke ezi zikhankanyiweyo ngentla apha, zonke kunye neemfuno zophuhliso zakutsha nje, nabo baxhasi bahlala betshintsha mihla le ngokwengcaciso esathi isigqeba kwintlanganiso eyayikho ngomhla wama-29 kweyeDwarha ngo-2015 sagqiba ekubeni umgaqo wamaKhaya abaHambi mawuhlaziywe ukuze uhambisane okanye udibane nalo mgaqo mtsha unemirhiba emitsha nophuhliso kolu shishino nokuvumela imeko efanayo nesoloko imi ndawonye nesikhokelo sokuvavanya amakhaya abahambi nokusebenzisa kwazo amasebe ancedisayo kulo mmandla wolawulo kaMasipala. Ngokwenza ngolu hlobo, eyona njongo iphambili yokudala imeko emi ndawonye nethembekileyo kuvavanyo nonikezelo lwelungelo lokusebenzisa umhlaba, apho kuqinisekiswa ukulingana phakathi koqoqosho loshishini nomthetho uphumelele. Ngokwenza ngolu hlobo, icandelo lezokhenketho liya kuzuza ubomi obude, ingeniso, ukwaneliseko nokuxhathiswa

#### **2. IZIKHEWU ZOMGAQO NEZIPHAKAMISO**

Eli candela lilandelayo sesona sizathu sibambekayo seyona nzulu yokuhlalutywa kweemeko ezidla umzi kunye nezikhewu eziqaphekekileyo kulo Mgaqo wamaKhaya abaHambi udlulileyo uthe wamkelwa. Ufundo lokuthelekisa nezinye iMetro naloo maziko alolu hlobo lwenziwa nolu hlalutyo luyafumaneka kothe walucela lwaye aliyonxalenye yale ngxelo.

##### **2.1. Ukuchaza ikhaya labahambi**

Ingxaki: Zininzi izakhiwo ezinikezela ngendawo yokuhlala ezifana nezi zingamakhaya abahambi, (ezonothwal' impahlana, ezovuk' uhambe, ezabafundi, iihotele, nezo zeeholide). Umahluko uyafuneka phakathi kwekhaya labahambi nezi zikhankanywe apha ngentla. Iindlela eziliqela ezisetyenziselwa zona neemeko

ezidibana nezamakhaya abahambi azichazwa zona, itsho loo nto ichaphazele ingcaciso notoliko lwalo Mgaqo.

Isiphakamiso: Ingcaciso entsha yekhaya labahambi;

Ikhaya labahambi sisakhiwo esenzelwe ukuhlala abantu njengendawo yokuhlala yangqangi okanye yokuphephela, engadlulanga kubantu abalishumi elinesithandathu (16) ekuhlala kuyo umnini sakhiwo okanye umlawuli wayo othi abamkele abantu phantsi kwemvume yethutyana, kudibene nezinye izibonelelo ezisondeleyo kwinkqubo yekhaya labahambi; kodwa ingeyiyo indawo yokuhlala ixesha elide, njengeyokuhlala abafundi, eyokuhlala uziphekela, oonothwal' impahlana, iihotele nezinye iintlobo ezihlalisa ithutyana ezingakhankanywanga apha.

Uhlaziyo nalo luphakamisa imisebenzi eyongezelelweyo namagama okunika ingcaciso ethe nyi. Ukongeza igumbi "lokuphekela" "nelinye elincinane" "igumbi lenkomfa nezibonelelo zalo" "nelokutyela". Inkcazo zala magama zinjengokuba zibonisiwe kwicandelo leeNgcaciso leXhwebhu loHlaziyo loMgaqo weKhaya labaHambi: Ihlobo 01.

## **2.2. Ubuninzi benani labahambi kwigumbi ngalinye**

Ingxaki: Umgaqo owamkelekileyo weKhaya labaHambi awubuchazi ubuninzi benani labahambi abanokuhlala kwigumbi ngalinye.

Isiphakamiso: Makuhlale abantu abakhulu ababini (2) nabantwana ababini abaminyaka ili-12 nangaphantsi kwigumbi ngalinye.

## **2.3. Izibonelelo ezincedisayo**

Ingxaki: UmGaqoThe owamkelekileyo weKhaya labaHambi awunazo izibonelelo ezicetywe kwangaphambili.

Isiphakamiso: Ikhaya labahambi linokuba nezi zibonelelo zinciphisa zinadleayo ngokwamalungelo okucandwa komhlaba uthobeke imithetho yemida:

- Izibonelelo zegumbi lenkomfa;
- linkonzo zokonwabisa abantu.

*Imihlaba yokumisa iimoto kwesisakhiwo sabahambi mayenziwe ngokoMthetho woLawulo lokuSikwa kwemiHlaba (umcwanqisi esebenzisa eyakhe ingqiqo)*

## **2.4. Ubuninzi benani lamagumbi abahambi**

Ingxaki: Elona nani liphezulu lamagumbi abahambi liqingqiwe kulo mgaqo sele uxeliwe wekhaya labahambi, awuhambisani neemfuno

zabaxhasi, iimfuno zoshishino kwakunye nezithethe  
ngokwemigangatho yesizwe neyezinye iiMetro.

Isiphakamiso: Elona nani liphezulu lamagumbi abahambi liya kuba li-16  
kuxhomekeke kukuthobela imiqobo echanekileyo yemida.

## **2.5. Ezinye iimbono emaziqwalaselwe ezithathwa ngokokuba zizanelekile;**

- 2.5.1. Amagunjana okuphekela mawavunyelwe kumagumbi abahambi.  
Mawangathathwa ngokuba enyusa ingxinano kwizakhiwo zabahambi.
- 2.5.2. Ubungqina bamaphephamvume avela kumaziko achanekileyo angenziwa imfuno emandla.
- 2.5.3. Akukho nani lilelona liphezulu livunyelwyo kummandla othile, ziimfuno zoshishino ekuthathwa ngokuba zezona zaneleyo ukujongana neemeko zokwandisa amanani.
- 2.5.4. Iinkcukacha zocebo azithathwa ngokuba zezona ziyimfuneko kuba inkcazo yesakhiwo ngasinye njengemida efunekayo ithathwa ngokuba yanele ukulawula iimeko zobundoqo.

## **3. INKQUBELA PHAMBILI**

### **3.1. Iimfuno zokwenza isicelo**

Isicelo sokusebenzisa umhlaba njengokuba kucetyiwe kolu cwangciso lungentla sifanele ukuba singeniswe kumKhokheli woCwangciso lweZakhiwo noLawulo, kumgangatho wesi-2 Brister House, Govan Mbeki Avenue, Port Elizabeth. Iinkcukacha njengoko kuchazwa ngentla ngendlela yokwenza isicelo, ubume bentlawulo nesiqulatho sesicelo zifumaneka kumKhokheli woCwangciso lweZakhiwo noLawulo.

### **3.2. Ukuhlaziywa kwesigqibo sesigqeba**

Umceli okanye osikhabayo (isigqibo) onelungelo unelungelo lokubhena kwisigqibo sesigqeba kwiintsuku ezingama-21 akuba esifumene isigqibo sesigqeba. Umceli okanye osikhabayo (isigqibo) uya kunikwa ama-21 eentsuku ukuba afake isikhalazo sakhe ngokujolise kwisigqibo okanye kwizithintelo zolwamkelo lweso sigqibo sesigqeba.

Isicelo sesibheni masingeniswe kumLawuli weSixeko ukuba asiqwalasele ngexesha elithile elibekiweyo. Sakuba sicacisiwe isigqibo ngumLawuli weSixeko, waze nalowo ebesenza isicelo waxelelwa kakuhle ngesigqibo. Inkqubo yesibheni kufuneka ihoywe ngokweSPLUMA.

### **3.3. Ukungaqhubi ngokwendlela efunekayo**

Umninisakhiwo uthathwa ngokuba uyitsibile imida ebekiweyo xa esenza ngokuphikisana nemithetho yemida ebekiweyo njengokuba kufanele. Ukophula imithetho kaMasipala kuquka ukungathobeli ezo meko zibekiweyo liQumrhu ngokunxulumene nolwamkelo. UMasipala uya kujongana noku kophula kwemithetho ngokwendlela ebekiweyo yomthetho exhobisa uMasipala ukuba athathe amanyathelo omthetho ngakwicala labo bophula umthetho.

IGqiza elijongene nendlela yokusetyenziswa komhlaba linoxanduva kulo msebenzi neenkukacha ezibhekisele kwimisebenzi yazo ziyafumaneka kwi-Ofisi yoCetyo lweDolophu kumgangatho wesi-3 kwisakhiwo iLilian Diedricks, 189 Govan Mbeki Avenue.

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## **UITVOERENDE OPSOMMING**

## **HERSIENING VAN BELEID INSAKE GASTEHUISE**

### **1. AGTERGROND**

Die Beleid insake Gastehuse is in Januarie 2004 goedgekeur as deel van 'n reeks strategiese dokumente om ontwikkeling in die Munisipaliteit aan te moedig, te bestuur en te lei. Die Beleid insake Gastehuis is veral op die toerismesektor gemik, maar nie daartoe beperk nie, aangesien dit oor die bestuur van gaste-akkommodasie handel. Die spesifieke doelwit is om gastehuse van 'n verskeidenheid ander korttermyn-akkommodasie-ondernemings te onderskei.

As gevolg van die samesmelting van munisipaliteite om 'n Metro te vorm, het die NMBMM verskeie soneringskemaregulasies. Hulle is tans almal aktief en die evaluering van aansoeke hang van die toepaslike soneringskemaregulasie af.

In die lig van bogemelde, tesame met onlangse ontwikkelingsbehoefte en steeds wisselende kliëntspesifikasies, is die Raad genoop om op die vergadering van 29 Oktober 2015 te besluit dat die Beleid insake Gastehuse hersien moet word om die huidige Beleid in met nuwe tendense en ontwikkelings in die bedryf lyn te bring en om 'n eenvormige en konsekwente benadering tot en riglyn vir die evaluering van gastehuse en die bykomende gebruike daarvan in die jurisdiksiegebied van die Munisipaliteit daar te stel. Deur dit te doen, sal die hoofdoel om 'n konsekwente en betroubare benadering tot die evaluering en toestaan van grondgebruikregte teweeg gebring word om sodoende 'n balans tussen ekonomiese onderneming en regulering te verseker. Dit sal meebring dat NMBMM se toerismesektor langlewend, winsgewind, doeltreffend en volhoubaar sal wees.

## **2. GAPINGS IN BELEID EN VOORSTELLE**

Die volgende afdeling is die beknopte resultaat van 'n diepte-ontleding van die besorgdhede en gapings wat in die voorheen goedgekeurde Beleid insake Gastehuse geïdentifiseer is. 'n Vergelykende studie van ander Metro's en tersaaklike instansies is gedoen en dié ontleding is op versoek beskikbaar en maak nie deel van dié verslag uit nie.

### **2.1. Omskrywing van 'n gastehuis**

**Uitdaging:** Daar bestaan 'n aantal ondernemings wat akkommodasie verskaf wat soortgelyk aan gastehuse is (rugsakstapper- en bed-en-ontbytondernemings, studente-akkommodasie, selfversorgingsakkommodasie, hotelle en oorde). 'n Onderskeid tussen 'n gastehuis en dié tipes akkommodasie is nodig.

'n Aantal gebruikte en terme in verband met gastehuse word uitgesluit, wat 'n invloed op die duidelikheid en vertaling van die Beleid het.

**Voorstel:** Nuwe omskrywing van 'n gastehuis

'n Gastehuis is 'n gebou wat vir bewoning deur mense gebruik word en kan 'n primêre of sekondêre woning wees, met hoogstens 16 gastekamers; dit moet deur die eienaar of bestuurder bewoon word waar persone tydelik geakkommodeer word, met bykomende fasiliteite wat regstreeks met die bedryf van die gastehuis verband hou, maar uitsluitend losieshuise, studente-akkommodasie, selfversorgingswoonstelle, rugsakstappersondernemings, hotelle, huisies ('lodges') en alle ander vorme van korttermyn-verblyfakkommodasie wat nie hierin genoem word nie.

Dié hersiening stel ook bykomende gebruike en terme voor om helderheid te verskaf, soos 'n 'kombuis', 'kombuisie', 'konferensiefasiliteit' en 'restaurant'. Die omskrywing van dié woorde is soos aangedui word in die Afdeling: Omskrywings van die Hersieningsdokument van die Beleid insake Gastehuse Weergawe 01.

### **2.2. Gastekamerdrempel**

**Probleem:** Die goedgekeurde Beleid insake Gastehuse het geen vasgestelde drempels nie.

**Voorstel:** 'n Maksimum kamerdrempel van twee (2) volwassenes plus twee (2) kinders (ouderdom 12 jaar en jonger) per gastekamer.

### **2.3. Aanvullende gebruike**

Probleem: Die goedgekeurde Beleid insake Gasthuisse het nie vooraf bepaalde bykomende gebruike nie.

Voorstel: 'n Gastehuis mag die volgende bykomende gebruike hê, onderworpe aan die eiendomsoneringsregte en voldoening aan die parameters:

- Konferensiefasiliteite;
- Pamperlangdienste.

*Parkeerparameters vir bogenoemde moet in ooreenstemming met die toepaslike Soneringskema regulasies wees (met toegewendheid in die beplanner se diskresie).*

### **2.4. Maksimum aantal Gastekamers**

Probleem: Die maksimum aantal gastekamers wat in die voorheen goedgekeurde Beleid insake Gasthuisse vasgestel is, is nie in lyn met die behoeftes van kliënte, markvraag en die nasionale norm vir ander Metro's nie.

Voorstel: Die maksimum aantal gastekamers sal sestien (16) wees, onderworpe aan voldoening aan die toepaslike parameters.

### **2.5. Ander oorwegings waarop gelet moet word wat as tersaaklik beskou word:**

- 2.5.1. Kombuisies word in gastekamers toegelaat. Dit moet nie beskou word as die digtheid op gastehuisseiendomme te verhoog nie.
- 2.5.2. Akkreditasie by die betrokke instansies moet nie 'n vereiste wees nie.
- 2.5.3. Geen maksimum aantal gastehuisse wat in 'n gebied toegelaat word, moet vasgestel word nie, aangesien die markvraag voldoende blyk te wees om abnormale groei aan bande te lê.
- 2.5.4. Ontwerpspesifikasies word nie as 'n noodsaaklikheid beskou nie, aangesien die omskrywing van 'n wooneenheid ingevolge die toepaslike Soneringskema as voldoende beskou word om kwessies rakende egtheid te bestuur.

## **3. IMPLEMENTERING**

### **3.1. Aansoekvereistes**

'n Grondgebruikaansoek, soos in die [betrokke](#) tabel beoog word, moet by die Subdirektoraat: Eiendomme en Beplanningsadministrasie, tweede verdieping, Lillian Diedericksgebou, Govan Mbekilaan, Port Elizabeth ingedien word. Besonderhede oor

die aansoekproses, prysstruktuur en die inhoud van die aansoek is by die Subdirektoraat: Eiendomme en Beplanningsadministrasie verkrygbaar.

### **3.2 Hersiening van Raadsbesluit**

'n Aansoeker of beswaarmaker (indien tersaaklik) het die reg om binne 21 dae van ontvangs van die besluit teen die Raad se besluit te appelleer. 'n Aansoeker of beswaarmaker (indien tersaaklik) sal 'n kennisgewingtydperk van een en twintig dae gegee word om beswaar in verband met die Raad se besluite of oor die goedkeuringsvoorwaardes van sodanige besluit aan te teken.

Die aansoek om appèl moet binne die gestipuleerde tydperk by die Stadsbestuurder vir oorweging ingedien word. Na oorweging deur die Stadsbestuurder, moet die betrokke party van die besluit ingelig word. Die appèl moet ingevolge die Wet op Ruimtelike Beplanning en Grondgebruikbestuur gehanteer word.

### **3.3 Nie-voldoening**

Die eienaar van 'n eiendom word geag die soneringskema te oortree, wanneer hy/sy 'n gebruik in stryd met verordeninge en soneringskema regulasies, soos toepaslik, bedryf. Oortredings van die munisipale verordening sluit in die nie-voldoening aan voorwaardes wat die Raad ten opsigte van alle goedkeurings opgelê het. Sodanige oortredings moet gehanteer word ingevolge die bepalings van die toepaslike wetgewing wat die Munisipaliteit bemaagtig om 'n regsgeding teen die oortreders in te stel.

Die Grondgebruiktoepassingseenheid is vir dié funksie verantwoordelik en besonderhede in verband met hul prosesse is verkrygbaar by die Stadsbeplanningskantoor, derde verdieping, Lillian Diedericksgebou, Govan Mbekilaan 189.



## **GUESTHOUSE POLICY REVIEW**

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## **LIST OF ABBREVIATIONS**

BCMM	Buffalo City Metropolitan Municipality
CoCT	City of Cape Town
GHASA	Guest House Association of South Africa
LUPO	Land Use Planning Ordinance (15 of 1985)
NMBM	Nelson Mandela Bay Municipality

NMBMM	Nelson Mandela Bay Metropolitan Municipality
PEMBBA	Port Elizabeth Metro Bed and Breast Association
SPLUMA	Spatial Land Use Management Act, 2013 (Act No 16 of 2013)
TGCSA	Tourism Grading Council of South Africa
TKZN	Tourism Kwazulu Natal

## DRAFT REVIEW OF NMBM GUEST HOUSE POLICY

### 1 DEFINITIONS

“**Bed and Breakfast**” will have the same meaning as a “Guesthouse”.

“**Camping site**” shall mean a property or part of a property which is utilized for the erection of tents or the parking of caravans and includes ablution, cooking, barbecue and other facilities which, together with the amenity of the site, serve a feature of attraction.

“**Conference Facility**” shall mean a building or portion of a building used for conference purposes, including the preparation and serving of food and beverages to delegates, but excluding overnight accommodation and a liquor outlet<sup>1</sup>. For Conference Facilities approved as ancillary to Guesthouses exclusively utilising dining areas of the guesthouses for preparing and/or serving of meals and drinks. (*Definition of Conference Facility from Integrated Zoning Scheme. Dining area option a Policy Proposal*).

“**Consent Use**” shall mean a a secondary use right of the property and which use right is obtained by means of of an Application for Council’s Special.

“**Council Special Consent**” Council may, where an application is made for a Consent Use as provided for in this Zoning Scheme, grant or refuse such an application and/or impose such conditions as it may deem fit<sup>2</sup>. (Integrated Zoning Scheme).

“**Departure**” shall mean a process or processes to alter a land use restriction imposed in terms of section 15(1) of the Land Use Planning Ordinance (15 of 1985) or for a temporary use right in terms of section 15 of the Land Use Planning Ordinance (15 of 1985).

“**Dining Area**” shall mean a portion of the Guesthouse utilised for the serving of all meals and beverages to resident guests only. Alcoholic beverages can only be sold and consumed subject to the requirements of the Liquor Act (reference?) and the NMBMM Liquor Outlet By-Law as amended from time to time, and subject to Council’s consent. (*New Policy Proposal*)

“**Dwelling Unit**” shall mean a self-contained inter-leading group of habitable rooms with not more than one kitchen and including such outbuildings as are ordinarily used therewith and permit a home occupation, the letting on a permanent basis by the owner, of a part of the

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<sup>1</sup> “Conference Facility” as defined in terms of the Draft NMBMM Integrated Zoning Scheme, dated ??.

<sup>2</sup> “Council’s Special Consent” as defined in terms of the Draft NMBMM Integrated Zoning Scheme

dwelling unit and/or outbuildings to not more than a total of 4 persons. (*Integrated Zoning Scheme*).

**“Guesthouse”** shall mean a building used for human habitation that may be a primary or second dwelling; not exceeding 16 guest bedrooms: occupied by the owner or manager in which persons are accommodated on a temporary basis: with associated ancillary facilities directly related to the operation of the guesthouse:, but excluding boarding houses, student accommodation, self-catering apartments, back packers, hotels and all other forms of short-term stay accommodation not mentioned herein.

**“Hotel”** shall mean a building which is used as a temporary residence for guests and tourists, where lodging and meals are provided and includes activities directly related to the Hotel, including a conference facility, lecture room, restaurant, place of assembly and recreational facilities. Alcoholic beverages can only be sold and consumed subject to the requirements of the Liquor Act and Council’s Liquor Outlet Policy as amended from time to time. (*Integrated Zoning Scheme*).

**“Kitchen”** shall mean to a room or an area equipped for preparing and cooking food.

**“Kitchenette”** shall mean a small kitchen or an alcove as part of another room, equipped for preparing and cooking of food.

**“Lodges”** shall mean a bedroom accommodation which is made available for payment and the services ordinarily related to such accommodation. (Section 8 Scheme).

**“Mini-Spa”** shall mean

**“Primary Use”** in relation to property shall mean any land use specified in zoning scheme as a primary use, being a use that is permitted. (*Integrated Zoning Scheme*).

**“Restaurant”** shall mean a business where meals and beverages are sold for onsite or offsite consumption, but excludes a drive-thru restaurant. Alcoholic beverages can only be sold and consumed subject to the requirements of the Liquor Act and Council’s Liquor Outlet By-Law as amended from time to time, and subject to Council’s consent. (*Integrated Zoning Scheme*).

**“Resort”** shall mean land and or a building(s) on land used for the purposes of short-term stay holiday accommodation by tourists, including camping facilities, harmoniously designed built tourist accommodation comprising multiple, free-standing, linked or single structures which are rented on a short term basis and does not permit alienation of land on the basis of time sharing, sectional title ownership, fractional ownership, the sale of a share block and the subdivision of the land unit concerned, and includes facilities directly related to the resort. (*Integrated Zoning Scheme*).

“**Rezoning**” shall mean the alteration of a zoning scheme under section 14(4), 16 or 18 of the Land Use Planning Ordinance (15 of 1985) in order to effect a change of zoning in relation to particular land. (*Integrated Zoning Scheme*).

“**Secondary Use**” in relation to property shall mean any land use specified in this zoning scheme as a secondary use, being a use that is permitted. (*Integrated Zoning Scheme*).

“**Student Accommodation**” shall mean a secure and professionally managed dwelling place for the accommodation of student(s) who is/are registered at an academic institution, with communal areas which include lounge/dining room, kitchen and bathroom(s); serviced and maintained daily/weekly and conducive to studying and personal wellbeing<sup>3</sup>. (*Student Accommodation Policy*).

“**Zone**” means that part of the scheme, which has been shown on the zoning maps by means of a specific notation or bordering or any other distinguishing manner, in order to identify the permitted use of property. (*Integrated Zoning Scheme*).

## **2 BACKGROUND**

### **2.1 INTRODUCTION**

The NMBMM Municipal Guesthouse Policy, approved by Council in January 2004, was prepared as guideline for the assessment and approval/ refusal of applications for the operating of guesthouses within the area of jurisdiction of the Nelson Mandela Bay Metropolitan Municipality (NMBMM) in a uniform and consistent way.

Changes in the hospitality, and in particular the guesthouse industry, have over time resulted in guesthouses houses and or applications for the operating of same, introducing certain ancillary uses or applications for the authorisation of such ancillary uses that are not specifically addressed in the by the current policy. The absence of relevant assessment criteria and guidelines therefore challenges and complicates the evaluation of such new applications.. These applications are then dealt with on an ad hoc basis and resulting in inconsistent consideration and assessment.

The assessment and evaluation of guesthouse and or ancillary guesthouse use rights is further complicated by the existence of several zoning schemes and the absence of an uniform and integrated zoning scheme for the Nelson Mandela Bay Metropolitan Area. The recent promulgation and enactment of the Spatial Planning and Land Use Management Act (SPLUMA), Act 16 of 2013, read with its subsequently promulgated regulations, contributes, in addition to the complexity of the assessment and evaluation of such applications referred to herein.

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<sup>3</sup> “Student Accommodation” as defined in terms of the Draft NMBMM Student Accommodation Policy dated ????

It is against this background that Council, at its meeting held on ??? , resolved to recommend that the Guesthouse Policy be reviewed with the view to align the current policy with new trends and developments in the industry and to allow for a uniform and consistent approach and guideline for the assessment of guesthouse and or ancillary guest house uses within the area of jurisdiction of the Municipality.

## **2.2 LEGISLATIVE CONTEXT AND LEGAL MANDATE**

there is no national legislation specifically governing guesthouse establishments in South Africa. However, the Guesthouse Policy under review, does take cognisance of the following legislative framework that are aimed at a orderly economic development, sustainable living environments and equality for all citizens of the Metro;

- National Development Plan
- The Municipal Systems Act
- Tourism Act
- National Building Regulations and Buildings Standards Act
- The South African Constitution
- Spatial Planning Development Act

The Policy further works in alignment with the following NMBM's By-Laws;

- Nelson Mandela Bay, Outdoor Signs (Advertising and other) By-Law;
- Nelson Mandela Bay, Municipal Health By-Law;
- Nelson Mandela Bay, Noise Pollution By-Law/ Noise Control By-law;
- Nelson Mandela Bay, Fire and Safety; and
- Nelson Mandela Bay, Roads, Traffic and Safety.

## **2.3 SUMMARY OF EXISTING GUESTHOUSE POLICY**

A guesthouse in terms of the existing policy is defined as:

'a building which is used for human habitation, has not more than one kitchen and is occupied by the owner and in which persons are accommodated on a temporary basis'.

The definition is taken directly from the Port Elizabeth Zoning Scheme and is used as a benchmark for the entire Metro. The maximum permissible guest bedrooms in terms of the existing Guest House Policy are twelve (12).

Applications for guesthouses are often submitted with additional uses attached to them (e.g. conference facilities, restaurants, beauty salon facilities, etc.), that the current Guesthouse Policy makes no provision of these associated uses. Some of these applications have been dealt with as special consents for special uses or as rezoning to special purposes, depending on the scale and circumstance of a given application. The existing Guesthouse Policy does however mention that in the case of restaurants, a separate rezoning application is to be applied for, irrespective if the restaurant is to be licensed or unlicensed.

## **2.4 PRINCIPLES**

The Policy is based on the following principles;

- to ensure uniformity in assessing and approving guest house applications throughout NMBM;
- to address and counter-effect the historical differences ensued by the different zoning schemes;
- to promote coordinated development in suitable locations;
- to ensure safe living environments and protection of existing surrounding development through guesthouse establishments conforming to the applicable NMBM By-Laws;
- to ensure economic growth of the NMBM through sustainable guest house developments;
- to ensure that all citizens in the Metro are granted equal opportunities and opportunities.

## **2.5 POLICY OBJECTIVES**

Guesthouses, in addition to other associated short-term accommodation establishments contribute significantly to the economic growth of NMBM through the tourism sector. To maximize output and efficiency, measures to encourage and guide this sector are to be put in place. The primary objective of the Guesthouse Policy therefore is to create a uniform, consistent and reliable approach to the assessment and granting of land use rights, in respect of guesthouse establishments, thereby ensuring a balance between economic enterprise and regulation.

### **3 REVIEW**

#### **3.1 GUESTHOUSE POLICY REVIEW RATIONAL**

A number of reoccurring themes that are not covered by the existing policy have been identified in the applications that have been received by Council over the past years. These themes include (but not limited to); the number of kitchens permissible and/or interpretation of what a kitchen is, conference facilities as part of guesthouse establishments, restaurants in guesthouses and the lack of distinction between guesthouses and other short-term accommodation establishments.

The main issues around the review for the guesthouse policy are as follows;

- a) Kitchens (and Kitchenettes): The existing Guesthouse Policy defines a guesthouse defined as *“a building which is used for human habitation, has not more than one kitchen and is occupied by the owner and in which persons are accommodated on a temporary basis”*. This definition is taken directly from the Port Elizabeth Zoning Scheme and is used as applied throughout the entire Municipality. This definition can be problematic due to the absence of a clear definition or description of a kitchen nor does it differentiate between a kitchen and a kitchenette as evaluation is often left to personal discretion and evidently inconsistencies.

The Port Elizabeth Zoning Scheme permits guesthouses as a consent use on a Residential Zone 1 and 2 together with other uses that include; places of worship, assembly, instruction, etc. When these applications (e.g. school or church proposal) are processed it is not a requirement that they have one kitchen. Guesthouses are therefore isolated in requirements although they are allowed as part of a consent use with the other uses. With that said however, the difference in kitchens and requirements applicable thereof to the different secondary use rights mentioned is noted and thus it is acknowledged that the definition to be formulated is to also take cognizance of such.

Considerations are also to be given to the changing demands also applicable to overnight accommodation. Changing trend and customer demands that necessitate conforming of the market to specific customer needs has changed. Cape Town Tourism has confirmed that has been a rise in demand of self-catering accommodation facilities in the past 2 years. Although definite figures are not available for the NMBM area, it can be considered that the Cape Town scenario is someone applicable locally because; there has been a steep rise in other forms of accommodation facilities because of the economic climate, the 2010 soccer world cup, the fluctuating price of food, etc. Self-catering facilities also offer more flexibility due to the availability of kitchen with catering essentials.

Further to the above, the definition relating to kitchens implies that that there is a distinction between accommodation facilities that have self-catering facilities (normally with more than one kitchen on the premises) and facilities that do not have self-catering facilities is implied. In terms of the Port Elizabeth Zoning Scheme, a facility with more than 1 kitchen can therefore not be considered as a “guesthouse”. Neither the current Guesthouse Policy nor active Zoning Schemes have a definition for what self-catering facilities are, taking into account the alluded distinction implied.

### Policy Recommendation

- b) Conference Facilities: a number of guesthouses within the Municipality have a conference facility as an additional use. Neither the active Zoning Scheme nor the current Guesthouse Policy have a definition of what a Conference Facility is. The current Policy further does not cover conference facilities as a use attached to guesthouses. Previous applications have been dealt with as Council Special Consents or as Rezoning to a Special Purposes zone. Not having set parameters of how to approach these proposals also results in parameters and/or conditions of approval set for these establishments not being consistent and thus problematic to manage. It is not only important to have a definition of what conference facilities are in the Policy but further derive scale specific parameters to be applicable to them.
- c) Other services forming part of guesthouses: further to conference facilities being an additional use to guesthouses, we find that certain services are increasingly forming part of guesthouses these include; body massage services, manicure and pedicure services, health spas (low scale), beauty clinics, etc. The current policy is silent on these additional uses, which again results in applications being processed based on personal discretion which lead to inconsistencies.
- d) Guesthouses VS. other forms of short-term accommodation: the current definition of a guesthouse suggests that they have the same use as that of self-catering accommodation and backpackers as both the latter are not defined in the Port Elizabeth Zoning Scheme. It is noted that the current Guesthouse Policy does not permit short-term accommodation such as student accommodation and backpackers, it however does not make any recommendation on where and how such establishments can be permitted. A suite of issues relating to backpackers and self-catering accommodation and their relation, if any, to guesthouse establishments is a constant question.
- e) Restaurants: dining areas within guesthouses are increasingly being utilized as restaurants, where meals and alcoholic/non-alcoholic beverages are no longer provided exclusively for the overnight guests but are often open to the general public. Considering that guesthouses are normally within residential areas where the erven are sometimes not sufficient to accommodate the traffic and parking requirements that come with restaurants, it is important that the policy be amended as to be able to deal with such. The current Guesthouse Policy does not set a precise distinction between a dining area and a restaurant, more so within a residential area.
- f) Requirements for application: the current policy requirements are considered to be minimalistic as they outline that an application for a guesthouse establishment should be processed even if one is applying to utilize one guestroom. This requirement means that the Land Use Division has to undertake the process of assessing such an application of which the impact of such an establishment is seen as minimal. In order to ensure speedy delivery to the public, our processes and procedures have to be on par with the type of development being proposed.

Having highlighted the main issues, it is also an important consideration to formulate demand sensitive and timeless responses. In doing so, approaches to development on the tourism front through Guesthouse Policies and other applicable means will ensure longevity, profitability, efficiency and sustainability.

### **3.2 COMPARATIVE ANALYSIS**

It is of relevance and value to benchmark the existing policy against that applicable in other authorities in South Africa. Such comparison is drawn between; the Buffalo City Metropolitan Municipality (BCMM) in the Eastern Cape; the City of Cape Town in the Western Cape; the Tshwane and Ekurhuleni Metropolitan Municipalities in Gauteng; as well as knowledge sources from Tourism Kwazulu Natal (TKZN); the Guesthouse Association of South Africa (GHASA) and the Tourism Grading Council of South Africa (TGCSA); and is illustrated in **TABLE 1**, overleaf

**TABLE 1: COMPARATIVE ANALYSIS OF GUESTHOUSE POLICIES IN USE AT OTHER LOCAL AUTHORITIES**

	NMBM	BCMM	CioCT	Tshwane	Ekurhuleni
Definition	A building which is used for human habitation, has not more than one kitchen and is occupied by the owner and in which persons are accommodated on a temporary basis	An owner managed commercial accommodation establishment of not less than 5 guest-rooms and not more than 16 guest-rooms and which has as its primary source of business the supply of short-term accommodation and meals for resident guests	A dwelling-house or second dwelling which is used for the purpose of supplying lodging and meals to transient guests for compensation, in an establishment which exceeds the restrictions of a bed and breakfast establishment, and may include business meetings or training sessions for resident guests.	Building/buildings offering accommodation facilities and meals to resident guests only, which shall not have more than 16 guest rooms and which is managed by the owner or hosts who resides on site or in a separate area within the property. It can also include a dining and conference facility for the exclusive use of resident guests but does not include any building mentioned whether by means by way of inclusion or exclusion in the definitions of a Place of Refreshment or Place of Amusement, Social hall and Adult Premises.	A residential accommodation establishment with distinct individual character, offering resident guests the exclusive use of the facilities including accommodation and a breakfast as well as lunch and dinner by prior arrangement, without a public bar, managed by the owner or host, who resides on the property with his or her family with a maximum of 16 and a minimum of 3 bedrooms

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	NMBM	BCMM	CioCT	Tshwane	Ekurhuleni
Distinction between B&Bs and Guesthouse Establishments	None	Yes - 4 bedrooms and above is considered a Guesthouse	Yes - 4 bedrooms and above is considered a Guesthouse	Yes - as per TGCSA definition	Yes - as per TGCSA definition
Other forms of short-term accommodation covered by Policy	None	None	Guest Accommodation Policy: B&Bs, Guesthouses, Camping, backpackers, Hotels, Self-catering, Resorts.	-	Accommodation Establishment Policy: Guesthouses, bed and breakfast, rooming and lodging, back packers, self-catering and adult entertainment.
Use Zones permitted on	Primary Use - Residential 3 and Business 1 use zones, and as Consent uses - in the Residential 1 and Residential 2 use zones. Other Zoning Schemes - Special Use as they are not determined	Primary Use - Res 4, Consent or Departures - Res 1 to 3 and 5, Agriculture Zone 1	Primary Use - General Residential, Business 2. Consent Use - Single Res 1 and 2, Bus 1, Agriculture and Rural	Not a Primary use for any zone, Consent/rezoning applications have to be done	Primary Use - Res 4 and 5
Maximum number of rooms	12	16	15	16	16
Guest room threshold	None	2 (+ 2 children)	2	None	None

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	NMBM	BCMM	CioCT	Tshwane	Ekurhuleni
Design Specifics	Rooms within dwelling, extensions to dwelling, separate building for guest suites	All rooms utilised must interlead	Except between a second dwelling and the main dwelling, rooms must interlead to ensure buildings can revert back to single dwelling use.	-	-
Ancillary Uses	Separate applications are to made for ancillary uses			Provisions for Conference facilities, dining and public areas	
Accreditation	None	None	None	Yes	None
Proliferation	None	None	Council may determine / restrict the number of establishments in a locality/guest rooms per establishment and lay down conditions necessary to mitigate the impact of the establishment, in order to protect the area's character.	None	None
Applications	From 1 guestroom	From 3 guestrooms	-	From 3 guestrooms	-

### **3.3 SYNTHESIS**

#### **3.3.1 Definition**

The definition of a guesthouse in terms of the NMBMM Guesthouse Policy is contrary to that of the Zoning Schemes as it limits the number of kitchens to only one. The Zoning Schemes however do permit a second dwelling on Residential Zone 1 properties. The definitions of guest houses in BCMM, City of Tshwane and Ekurhuleni are closer to that of the GHASA and the TGCSA which define a guest house as an establishment having between 4 and 16 guestrooms. This definition mentions a cap of 16 guestrooms.

The TGCSA as stated in the City of Tshwane's Policy makes distinction between a Bed and Breakfast (B&B) and a Guesthouse establishment. The main difference being, a B&B is a low key establishment run by a family whilst a Guesthouse is considered more of a commercial operation which is at a much bigger scale. Similar distinctions are made by BCMM, the City of Cape Town and Ekurhuleni. The NMBM's Guesthouse Policy considers a B&B and Guesthouse one and the same.

Further consideration is given to the below listed definitions which are easily associated with guesthouses:

- Backpackers: A building where lodging is provided, and may incorporate cooking, dining and communal facilities for the use of lodgers, together with such outbuildings as are normally used therewith; and includes a building in which rooms / beds are rented for residential purposes, youth hostel, and backpackers' lodge; but does not include a hotel, dwelling house, second dwelling or group house (City of Cape Town's Guest Accommodation Policy);
- Camping: A property used for erection of tents or other temporary structures for temporary accommodation for visitors or holiday-makers, which includes ablution, cooking and other facilities that are reasonably and ordinarily related to camping, for the use of such visitors, and includes a caravan park, whether publicly or privately owned, but which excludes the alienation of land on the basis of time sharing, sectional title, share blocks or individual subdivision; and excludes resort accommodation or mobile homes (City of Cape Town's Guest Accommodation Policy);
- Hotel: A property used as a temporary residence for transient guests, where lodging and meals are provided, and may include; a restaurant or restaurants; associated conference and entertainment facilities that are subservient and ancillary to the primary use of the property as a hotel; and premises which are licensed to sell alcoholic beverages for consumption on the property, but does not include an off-sales facility or a dwelling house (City of Cape Town's Guest Accommodation Policy);

- Student accommodation: means a secure and professionally managed dwelling place for the accommodation of student(s) who is/are registered in an academic institution, with communal areas which include lounge/dinning room, kitchen and bathroom(s); serviced and maintained daily/weekly and conducive to studying and personal wellbeing (NMBM Draft Student Accommodation Policy).
- Self-catering apartments: accommodation for non-permanent residents and transient guests (City of Cape Town Guest Accommodation Policy)... where guests are provided with the facilities to prepare their own meals;
- Backpackers: accommodation and communal facilities in a building or free standing buildings for transient guests (City of Cape Town Guest Accommodation Policy);
- Camping site: a property or part of a property which is utilized for the erection of tents or the parking of caravans and includes ablution, cooking, barbecue and other facilities which, together with the amenity of the site, serve a feature of attraction (Section 8 Scheme Regulations);
- Lodges: a bedroom accommodation which is made available for payment and the services ordinarily related to such accommodation.

The close similarities evident in the definition of the above uses despite the considerable variance is their use necessitates for the NMBM's Guesthouse Policy to precisely distinguish guesthouses from other alternative forms of short term accommodation. In addition, the NMBM's definition of a guesthouse is to not make reference to the number of kitchens as the definition of a dwelling unit is able to limit the number of kitchens on a Residential 1 property. In instances where a guesthouse is not on a Residential 1 property, parameters applicable as per the zoning of the property will be used as development control measures. Conditions forming part of the Recommendation at the approval stage may also be imposed over and above the parameters applicable to the underlying zoning of the property.

### **3.3.2 Threshold for Application**

Currently, NMBMM does not have a threshold for the number of guest-bedrooms requiring application. BCMM states that to a maximum of two rooms, one need not apply. In Tshwane, the Policy does not specify the threshold however the Pretoria Zoning Scheme allows letting a maximum of 2 rooms on a dwelling. Ekurhuleni Metro, the guest house policy states that; a primary right for the accommodation of four or less unrelated persons on any residential zoned erven.

The Port Elizabeth Zoning Scheme permits the letting out of a dwelling unit to 4 persons without Council approval as per its definition of a dwelling unit. The requirement of application from one guestroom is not considered practical as already one of the active Zoning Schemes permits a similar use. For these reasons, the requirements for application are to be revised so as to be in line with other Metros and also in line with the said Zoning Scheme

### 3.3.3 Ancillary Uses;

Only the Tshwane and Ekurhuleni Metros have determined ancillary uses and parameters applicable. With all remaining Metros, one is to make separate application for the use. Considering the changing times and market demands, coupled with the Metro's aim of being pro-active, acceptable ancillary uses as to be determined beforehand with applicable parameters.

Activities such as conference facilities, beauty salons, plant nurseries, restaurants, tea gardens coffee shops that are not solely for use by the guesthouse guests ( i.e. are open to the general public also) are not considered to be ancillary to the guesthouse. Such activities should apply for separate land use rights that would be considered in terms of the zoning scheme provisions for the site in question.

## 4 POLICY PROPOSALS

### 4.1 DEFINITION

	<b>Existing Guesthouse Policy</b>	<b>Revised Guesthouse Policy Proposal</b>
Guesthouse	a building which is used for human habitation, has not more than one kitchen and is occupied by the owner and in which persons are accommodated on a temporary basis	A guesthouse is a building used for human habitation that may be a primary or second dwelling, not exceeding 16 guest bedrooms, occupied by the owner or manager in which persons are accommodated on a temporary basis, with associated ancillary facilities directly related to the operation of the guesthouse. This excludes boarding houses, student accommodation, self-catering apartments, back packers, hotels and all other forms of temporary accommodation otherwise not mentioned.
Backpackers	No definition	Accommodation/communal facilities a building or free standing buildings for transient guests.
Bed and Breakfast	No definition	Bed and Breakfast establishments are the same as Guesthouses ( Refer to revised policy proposal definition for "Guesthouse")
Student Accommodation	No definition	means a secure and professionally managed dwelling place for the accommodation of student(s) who is/are registered in an academic institution, with communal areas which include lounge/dining room, kitchen and

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	<b>Existing Guesthouse Policy</b>	<b>Revised Guesthouse Policy Proposal</b>
		bathroom(s); serviced and maintained daily/weekly and conducive to studying and personal wellbeing.
Self –catering Accommodation	No definition	A self catering facility is a building or buildings used for human habitation that may be a single dwelling unit or multiple dwelling units, not exceeding 16 guest bedrooms. The premises are to be occupied by the owner or manager on which persons are accommodated on a temporary basis, with associated ancillary facilities directly related to the operation of the self catering facility. A kitchen or kitchenette may be provided for each dwelling unit. A self-catering facility excludes boarding houses, bed and breakfast establishments, student accommodation, guesthouses, back packers, hotels and all other forms of temporary accommodation otherwise not mentioned.
Hotel	No definition	a building which is used as a temporary residence for guests and tourists, where lodging and meals are provided and includes activities directly related to the Hotel, including a conference facility, lecture room, restaurant, place of assemble and recreational facilities. Alcoholic beverages can only be sold and consumed subject to the requirements of the Liquor Act and Council's Liquor Outlet Policy as amended from time to time.
Resort	No definition	land or a building used for the purposes of short term holiday accommodation by tourists, including camping facilities, harmoniously designed built tourist accommodation comprising multiple, free-standing, linked or single structures which are rented on a short term basis and does not permit alienation of land on the basis of time sharing, sectional title ownership, fractional ownership, the sale of a share block and the subdivision of the

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	<b>Existing Guesthouse Policy</b>	<b>Revised Guesthouse Policy Proposal</b>
		land unit concerned, and includes facilities directly related to the resort.
Kitchen	No definition	
Kitchenette	No definition	
Conference Facility	No definition	a building or portion of a building used for conference purposes, including the preparation and servicing of food and beverages to delegates, but excludes overnight accommodation and a liquor outlet. For Conference Facilities approved as ancillary to Guesthouses exclusively utilising dining areas of the guesthouses for preparing and/or serving of meals and drinks.
Restaurant	No definition	a business where meals and beverages are sold for onsite or offsite consumption, but excludes a drive-thru restaurant. Alcoholic beverages can only be sold and consumed subject to the requirements of the Liquor Act and Council's Liquor Outlet By-Law as amended from time to time, and subject to Council's consent.

## 4.2 THRESHOLDS

Existing Policy:

- No threshold currently exists for when an application is required to be submitted.

Considerations:

- No application to Council for a guesthouse accommodating less than 4 people. This is also in line with the definition of a dwelling unit in terms of the Port Elizabeth Zoning Scheme.
- A room threshold of 2 guests (adults) plus 2 kids to be set, similarly to the City of Cape Town and BCMM be further set.
- It must be noted that the existing Guesthouse Policy only requires payment of Transportation Development Levy if guestrooms are more than 4.

Revised Policy Proposal:

- No application to Council is required for Guesthouses accommodation 4 or less people.

- Transportation Development Levy as applicable.

### **4.3 ANCILLARY USES**

Existing Policy:

- The existing policy makes no provision for ancillary uses:

Revised Policy Proposal:

Ancillary uses are activities that operate from premises where Council has granted land use rights for a guesthouse where such activities are ancillary and subsidiary to the guesthouse activity on the premises. The ancillary uses are permitted for the exclusive use of overnight guests of the guesthouse.

- The said ancillary uses are also to be subject to the underlining property zoning rights
  - i. Conference facilities as per Policy Proposal Definition/Integrated Zoning Scheme
    - Parameters?
  - ii. Mini-Spa/Body and beauty Salon – massages, manicures and pedicure , beauty and health treatments;

#### **4.3.1 Maximum Number of Guestrooms**

Existing Policy:

- Maximum of 12 guestrooms.

Revised Policy Proposal:

- Maximum of 16 guestrooms.

#### **4.3.2 Other considerations**

- Distinction between B&Bs and Guest Houses is not considered necessary as the two have the same meaning.
- Kitchenettes within guest rooms must not be viewed as increasing densities on guest house properties.
- Accreditation; not a requirement.

## 5 IMPLEMENTATION

### 5.1 OBTAINING LAND USE RIGHTS

The Municipality currently utilizes a number of Zoning Schemes to assess land use applications in the various allotment areas. These are to be repealed by the Final NMBMM Integrated Zoning Scheme. In the interim, applications to obtain use rights for guesthouse establishments are to be made in terms of the regulations as contemplated by the various Zoning Schemes.

The following table provides a summary of the schemes and current application procedure applicable;

<b>Zoning Scheme</b>	<b>Application Type</b>	<b>Applicable Zone(s)</b>
Port Elizabeth Zoning Scheme	<ul style="list-style-type: none"> <li>• Special Consent</li> <li>• Rezoning (to Residential 3 and Business 1))</li> </ul>	<ul style="list-style-type: none"> <li>• Residential 1 and 2</li> <li>• All</li> </ul>
IKKM Zoning Scheme	Rezoning to Special Zone	All
Scheme Area "A" Regulations	Council's Special Consent in terms of Section 7.1 to let the required number of rooms for Special Purposes (Guest House)	Special Environmental, Rural Residential and Single Residential Zones
Lovemore Park Zoning Scheme	Council's Special Consent in terms of Section 7.1 to let the required number of rooms for Special Purposes (Guest House)	Rural Residential and Undetermined Zones
Despatch and Khayamnandi Zoning Scheme	<ul style="list-style-type: none"> <li>• Special Consent</li> <li>• Departure to increase the number guest bedrooms for establishments with guest rooms that are more than 6</li> </ul>	<ul style="list-style-type: none"> <li>• Residential 1, 2 and 3</li> <li>• Residential 1, 2 and 3</li> </ul>
Uitenhage Scheme	Special Consent for a Special Building (Guesthouse)	Single Residential and General Residential Sub Zones 1 and 2
Kwanobuhle Zoning Scheme	Rezoning to Special Zone	All
Section 8 Scheme	Rezoning to Special Zone	All

## **5.2 APPLICATION REQUIREMENTS**

A land use application as contemplated on the table above should be submitted to the Properties and Planning Sub-Directorate, 2nd Floor Brister House, Govan Mbeki Avenue, Port Elizabeth.

An application fee subject to change per financial year is to be payable, accompanied by the following documents:

- i. a standard application form, completed and signed by the applicant;
- ii. if the applicant is not the owner of the land, a power of attorney authorising the applicant to make the application on behalf of the owner;
- iii. if the owner of the land is a company, closed corporation, trust, body corporate or home owners' association, proof that the person is authorised to act on behalf of the company, closed corporation, trust, body corporate or a home owners' association;
- iv. the relevant bondholder's consent, if required by the Municipality;
- v. a written motivation for the application based on the criteria for consideration of the application;
- vi. a copy of the Surveyor-General's diagram of the subject property or if it does not exist, an extract from relevant general plan;
- vii. a locality plan and site development plan, when required, or a plan showing the proposal in its cadastral context
- viii. any other plans, diagrams, documents or information that the Municipality may require;
- ix. the proof of payment of application fees;
- x. a full copy of the title deeds indicating all existing title conditions in current and historic title deeds; and
- xi. if required by the Municipality, a Conveyancer's Certificate of confirming that no restrictive condition in respect of the application is contained in such title deeds.

## **5.3 APPLICATION PROCESS (IN TERMS OF SPLUMA)**

On 01 July 2015, the application process will be slightly amended as follows;

- i. Application prepared by applicant as relevant and submission to Local Authority
- ii. Receipt of application from Applicant by Local Authority,
- iii. Advertising in local newspaper and letters sent to relevant parties,

- iv. In the event of objections being received, the applicant notified of such and response sort,
- v. Planning and Land Management Directorate to provide planning inputs,
- vi. Application forwarded to MPT for decision,
- vii. Applicant (and objectors, where relevant) notified of outcome,
- viii. Applicant (and objector, where relevant) given 21 day notice period to lodge objection,
- ix. Appeal by relevant party being submitted to City Manager for consideration,
- x. Upon deliberation by City Manager, the relevant party being informed of the decision.

#### **5.4 EVALUATION CRITERIA**

Applications for guesthouse establishments will be assessed against the following criteria;

- i. The general purpose of this Zoning Scheme;
- ii. Principles and policies established for such applications by national, provincial and municipal spheres of government;
- iii. Any objections received on or before the closing date in response to an advertisement of the application, as well as comments received from other organs of state;
- iv. Any response received from the applicant to objections or comments;
- v. Any approved spatial development framework, structure plan, policy plan, sectoral plan and/or other guidelines that applies to the application or area concerned;
- vi. Impact of the proposed development on the surrounding area and environment

#### **5.5 STANDARD CONDITIONS OF APPROVAL**

It is recommended that the following standard set of conditions be considered in respect of a positive consideration of all applications to permit use rights for the operation of a guesthouse and or ancillary facilities/ uses at guesthouses. These conditions may be adapted to suit the application under consideration;

- i. The owner / proprietor / manager of the guesthouse residing on the property.
- ii. A maximum of [to be stipulated] bedrooms/students shall be permitted to be used for the accommodation of overnight guests.
- iii. The guesthouse shall not be used for any other similar form of temporary accommodation.

- iv. The guesthouse and its associated activities not adversely affecting the amenity of the surrounding area.
- v. All facilities, including the provision of meals, being for the exclusive use of overnight guests only.
- vi. The payment of a transportation development levy in respect of related traffic accommodation costs.
- vii. A site development plan indicating the measures that are proposed to minimise the impact of the proposed use on the adjacent properties being submitted for approval by the Executive Director: Human Settlements prior to the submission of any building plans. Provided that, if considered necessary, the Executive Director: Human Settlements in his/ her sole discretion may at the time of assessing the site development plan require the erection of a 2,4m high brick wall and landscaping on the rear and sides of the property to protect the amenity of the adjacent properties. The site development plan should also be sympathetic to the requirements of the disabled.
- viii. In terms of the National Building Regulations and before the new use rights are exercised, building plans showing the use of the building and the layout of the parking area being submitted for approval by the Municipal Chief Building Control Officer. Building plans will not be signed off until such time as all on-site parking has been physically provided in accordance with the approved building plan.
- ix. Any outdoor advertising signs being submitted to the Executive Director: Human Settlements for approval in terms of the NMBMM Outdoor Signs (Advertising) By-law, 2010..
- x. On-site parking shall be provided on the basis of at least one parking bay per guest bedroom or guest suite.
- xi. The approval shall be owner specific and in an event of sale the new property owner should be made aware of the conditions pertaining to the approval.
- xii. Compliance with all conditions in the Guesthouse Policy.
- xiii. Council may terminate any Consent Use granted or change conditions relating to a Consent Use granted if any breach of approval or conditions of approval in the opinion of Council, have taken place. Council may request the breach to be remedied within a specified period of time (as applicable).
- xiv. The property shall at all times be kept and maintained in a state that will not be detrimental to the amenity of the surrounding area.
- xv. The dining of the guesthouse not open to the public but for the sole utilization of guests thus all meals and refreshments are to be served exclusively to sleepover guests/conference venue guests (as applicable).
- xvi. Where conference facility is approved as part of the guesthouse, the dining area of the guesthouse being utilised exclusively for catering to conference delegates.
- xvii. Threshold of conference facility being at a maximum of .... Delegates.

- xviii. Compliance with all requirements of the applicable underlying zoning of the property.

## **5.6 REVIEW OF COUNCIL'S DECISION?**

Upon application from the objectors that wish Council to review its decision. From the applicant who wish to contest any of the conditions imposed by Council in respect of the review. ( It is to be clear that a review will be dealt with in terms of SPLUMA by the MPT or the Land Development Officer, whoever has made the decision.

A review of the decision can also be recommended from the Land Use Enforcement officials after investigation and confirmation of complaints received regarding the non- compliance of conditions.

## **5.7 NON- COMPLIANCE**

A property owner is considered to be in transgression of the land use scheme when he/ she operates a use in contravention of By-law s and intergrated zoning scheme. Transgression of the municipal by-law include the non-compliance of condtions imposed by Council in respect of a rezoning or special consent application approval . Suh transgression are to be dealt with in terms of the provisions of the applicable legislation that empowers the municipality to take legal action against the perpetrators.