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### **PHASE 3: Bed and Breakfast Policy (Draft)**

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# The Msunduzi Municipality

## **BED AND BREAKFAST POLICY February 2023**

Adopted in terms of the Application Procedures, Principles, Norms and Standards and Spatial Planning requirements of the Spatial Planning and Land Use Management Act No 16 of 2013, the KwaZulu-Natal Planning and Development Act No 6 of 2008 and the Msunduzi Spatial Planning and Land Use Management By-Law of 28 October 2021  
on  
.....2023

Certified extract of the municipal minutes of the council meeting held on

.....day .....Month of 20..... at .....

“Council resolves, in terms of section of Application Procedures, Principles, Norms and Standards and Spatial Planning requirements of the Spatial Planning and Land Use Management Act No 16 of 2013, the KwaZulu-Natal Planning and Development Act No 6 of 2008 and the Msunduzi Spatial Planning and Land Use Management By-Law of 28 October 2021 to:

Adopt the

Msunduzi Municipal Bed and Breakfast Policy”

Name and Signature:

Name and Signature:

.....

.....

CITY MANAGER

CHAIRMAN OF THE EXECUTIVE COMMITTEE

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# 1 INTRODUCTION

## 1.1 Purpose of the Policy

The purpose of this document is to review the Msunduzi Bed and Breakfast Policy to establish a new development and regulation framework for the management of “Bed and Breakfast” (herein after referred to as B&B) establishments located within the Msunduzi Municipal Area. This policy also includes the regulation of Air Bed and Breakfast establishments.

## 1.2 Implementation of the Policy

In order for policy to fulfil its role in the context of the entire Msunduzi Municipal area of jurisdiction, the policy must unfold in accordance with existing legislation, other relevant policies and the Msunduzi Single Land Use Scheme (Hereafter referred to as the Msunduzi Scheme). If a policy is in conflict with any legislation and its regulations, the latter takes precedence, and the policy becomes irrelevant from a legal perspective. Consequently, land management and the acquisition of development rights for B&Bs must be implemented in the following manner:

### 1.2.1 All officials and role players in the Town Planning and Land Use Management System of the Municipality must implement this Policy in a way that it is complaint with the National Norms of:

- (a) Social, Economic, Environmental, and Administrative Justice informing the rights, duties, and principles applicable to the following sector specific norms as is enshrined in the South African Constitution Act No. 108 of 1996:
- (b) Spatial Justice, Equitable Education, Sustainability, a Safe Environment, Universal Access, Amenity, Respect for Local and Indigenous Knowledge Systems and Freedom from Discrimination in terms of Occupation, Profession, Trade, Race, Religion, Age, Gender, and Sexual Orientation.

### 1.2.2 The implementation of the policy must give effect to:

- (a) Section 156(1) of the South African Constitution (Act No. 108 of 1996, hereafter, the Constitution) in accordance with Schedules 4B and 5B, since local municipalities are responsible for municipal planning, land management, child care, health and building regulations; and
- (b) Section 24 and Section 156(1) of the Constitution entrenching the rights of tenants and all residents of the Msunduzi Municipal area to “an environment that is not harmful” and the right of all “to choose their trade, occupation, or profession freely” in a manner which is regulated in terms of the law and municipal planning.
- (c) The Promotion of Administrative Justice (Act No 3 of 2000, PAJA) in accordance with Section 33 of the Constitution and the Intergovernmental Relations Framework (Act No 13 of 2005, IGRA) accords everyone in South Africa the right to administrative action, which is lawful, procedurally fair, just and accountable. This right includes the right to the provision of written reasons for infringements of PAJA and the imperatives of good governance and efficient administration of municipal responsibilities in accordance with this policy.

### 1.2.3 The policy must comply with:

- (a) the town planning imperatives, principles and regulations stemming from the Spatial Planning and Land Use Management Act (Act No. 16 of 2013), the Msunduzi Spatial Planning and Land Use Management By-

Law of 28 October 2021 (Hereafter referred to as the Msunduzi SPLUM By Law), the Msunduzi Single Land Use Scheme (hereafter referred to as the Msunduzi Scheme) and their subsequent amendments.

- (b) the minimum norms and standards that may be prescribed in terms of Chapter 2 of the Spatial Planning and Land Use Management Act (Act No. 16 of 2013), the KwaZulu-Natal Planning and Development Act (Act No. 6 of 2008) and the Msunduzi Spatial Planning and Land Use Management By-Law of 2021 and its subsequent amendments.
- (c) policy and legislation addressing Universal Access.
- (d) integrated development planning, spatial frameworks, capital investment plans and local development plans, and policy governing bed and breakfasts and the right to environments that are not harmful to any person, fauna or flora including students, work seekers, tenants, homeowners, learners, residents, visitors, or any other person within the Msunduzi Municipal area of jurisdiction; and
- (e) is consistent with other applicable legislation.

## **2 POLICY SCOPE AND APPLICATION OF POLICY**

### **2.1 Area of application**

This policy is to guide the effective and responsible use of B&Bs (including Air B&Bs) in Msunduzi Municipality. When adopted, this policy will apply to the whole area of jurisdiction within Msunduzi, including Traditional Authority controlled areas.

### **2.2 Existing scheme regulations**

Where an existing zoning regulation prescribes standard development parameters (i.e. height, building lines, parking), this policy does not replace these similar provisions, but is applied where such a provision does not exist, or in addition to such provisions.

### **2.3 The accounting officer must:**

Review and amend this Policy in accordance with the time phases of the Integrated Development Plan (IDP), Spatial Development Framework (SDF) and Scheme review processes so that the proposed amendments to the policy:

- (a) are aligned with planning and Scheme amendments.
- (b) are submitted timeously for budget allocations in accordance with the Msunduzi Service Delivery Budget Implementation Plan (SDBIP).
- (c) comply with the all applicable legislation, policy, plans and regulations.
- (d) are effected in accordance with the required transparent public participation processes in Chapter 4 and 5 of the Local Government Municipal System Act (Act No 13 of 2000 as Amended in 2002 and 2004, MSA); and,
- (e) ensure that the performance plans of line function managers and their staff are in compliance with the requirements of the Municipal Performance Management System with regard to the monitoring, evaluation, and strict regulation of B&Bs as is required in Section 38 of the MSA, the Msunduzi SPLUMA By-Law and this B&B Policy.

## 2.4 Application procedure, norms and standards

Up to 15 September 2016, all applications for B&Bs were made in terms of Section 67 *bis* of the Town Planning Ordinance No. 27 of 1949, as amended (hereafter “the Ordinance”) in terms of which existing Schemes were established. The Spatial Planning and Land Use Management By-Law was promulgated on 15 September 2016 and repeals Section 67 of the Ordinance. A further amendment was made to the Spatial Planning and Land Use Management By-Law, as of 28 October 2021.

The Msunduzi Scheme accords development rights to properties and building processes in accordance with particular zones which are regulated in the public interest through a continuum of permissible, prohibited, and Consent development and usage intensities. In this regard:

- (a) the consent process in terms of Section 45 (e) of the Msunduzi SPLUM By Law which regulates applications for which Municipal Approval is required within the Municipality’s area of jurisdiction or Schedule 3 of the SPLUMA By-Law in respect of land within the municipality, but outside the scheme controlled area;
- (b) the registered town and regional planner and or delegated committee, considers the application for procedural and substantive<sup>1</sup> compliance with Section 45(e) of Schedule 3 of the Msunduzi SPLUM By-Law.

The municipal planning team calls for a Site Development Plan and a motivation from the applicant proving the desirability and market demand for the development in the said location. Where demand is established, floatation and incentive zoning are recommended in accordance with the imperatives of the new generation SDF’s as called for in SPLUMA.

## 3 IMPLEMENTATION PROCESS

### 3.1 Transitional arrangements

On adoption, this Policy may only be applied to the extent that it doesn’t contradict existing legislation, Scheme and By laws or where an application for additional rights / land use change is being considered. Consequently, it is recommended at the Scheme amendments recommended by undertaken as soon as possible.

### 3.2 Commencement date

This Policy was adopted as an official Council Policy in accordance with the adoption resolution as attached in Annexure A and comes into full force on the date as shown in the adoption resolution.

### 3.3 Repeal

The Bed and Breakfast Policy (2017) Policy is automatically rendered null and void with the adoption of this Policy in accordance with the resolution held in Annexure A.

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<sup>1</sup> Substantive law addresses the reality of defining rights and duties, as opposed to giving the procedural rules by which those rights and duties are enforced. An application may be procedurally correct in that all the technical rules of the application submission are perfect, but if the application impinges on the right of neighbours to the enjoyment of their property in terms of noise pollution, obscuring neighbours access, and disregards health and safety duties, the application will not be approved.

## 4 THE LEGAL AND CONTEXTUAL FRAMEWORK

The Bed and Breakfast Policy under review, does take cognisance of the following legislative framework aimed at orderly economic development, sustainable living environments and equality for all citizens of the Msunduzi Municipality.

The legal framework which this planning Policy is set out is based on:

- (a) the Constitution of the Republic of South Africa, (Act No. 108 of 1996): s.22 accords the right to freedom of trade, occupation and profession;
- (b) the Municipal Systems Act, (Act No.32 of 2000) which provides for the powers and functions of municipalities, including integrated development planning;
- (c) the Spatial Planning and Land Use Management Act, (Act No. 16 of 2013, SPLUMA), which provides for “the inclusive, developmental, equitable and efficient spatial planning at different levels of government, as well as for policies, principles, norms and standards for spatial development planning and land use management”; and,
- (d) the Msunduzi Municipality Spatial Planning and Land Use Management By-law (adopted 28 October 2021).

In addition to the above legislation, there are a number of additional regulatory frameworks and supplementary By-laws:

- (a) National Building Regulations & Building Standards Amendment (Act No 49 of 1995), as amended, which provides for the promotion of uniformity in the law relating to the erection of buildings in the areas of jurisdiction of local authorities and for the prescribing of building standards;
- (b) Businesses Act, (Act No. 71 of 1991) which provides for the licencing of businesses, including informal businesses;
- (c) National Environmental Management Act, (Act No.107 of 1998) and its suite of subsidiary Acts (air quality, dust control regulations, regulations on listed activities, waste management, biodiversity)
- (d) Advertising Signs By-law, No.18 of 14 September 2006;
- (e) Fire Prevention and Flammable Liquids and Substances By-laws, No.55 of 24 June 2014;
- (f) Public Health By-laws, No.100 of 25th June 2015; and,
- (g) Manufacture, Storage and sale of Foodstuffs By-laws, No.229 of 3rd May 1973.

In implementing the Policy, all other applicable national, provincial and local legislation / regulations must be adhered to.

### 4.1 National, Provincial and Local Planning directives

Various national, provincial and local planning directives must be taken into consideration as indicated in the table below. The Policy considers implications from various plans and policies from a National to a local level, and includes:

National Directives: National Development Plan

Provincial Planning: Provincial Planning and Development Plan

Municipal Planning: Integrated Development Plan

Spatial Development Framework

Local Area Plans

Msunduzi Single Land Use Scheme

Table 1: National and Provincial Policy, Provincial Planning and Local Municipal Planning legislation influences on policy

Sphere of influence	Document reference	Implication for this planning policy
<b>National Directives</b>	National Development Plan	In terms of National directives, the National Development Plan (NDP) provides a blue print for development and planning in South Africa. This is a high level document and thus specific land use activities such as B&Bs are not mentioned by name in the NDP. The development of Small, Medium and Micro Enterprises (SMMEs) are however part of the NDP planning.
<b>Provincial Planning</b>	Provincial Planning and Development Plan	SMMEs, which include B&Bs are an important component of the KZN PGDP. In addition, there is also a requirement to review the business regulations and reduction of red-tape for small enterprises (KwaZulu-Natal Planning Commission, 2014: 21). The intentions of this project to review the policy and to make it more user friendly, will contribute to the fulfilment of both the provisions of the NDP and the KZN PGDP.
<b>Municipal Planning</b>	Integrated Development Plan	The Msunduzi Municipality Integrated Development Plan (IDP) is at too a strategic level to refer to B&Bs however it includes a section on SMMEs and the informal sector. The number of SMMEs in an area are considered as indicators of growth.
	Spatial Development Plan	The Msunduzi Spatial Development Framework (SDF) focuses on creating viable urban centres and catalytic projects to support growth. Other focus areas include integration, improved public transport and capital investment. The only relevance relating to the B&B policy is the promotion of quality urbanisation and building a safe city.
	Local Development Plan	The Msunduzi Municipality has undertaken three local area plan studies, one for the central area and the CBD, the 2 <sup>nd</sup> for the South Eastern District and the 3 <sup>rd</sup> in respect of Vulindlela. These documents were scanned, but were found to be more strategic in their approach. There was no reference to SMMEs, Activity corridors or B&Bs. The informal economy and the need for safety is recognised in the LAPs for Msunduzi.
	Msunduzi Single Land Use Scheme	This document is critical for the application of the policy. The scheme clauses, together with the planning legislation forms the basis for this policy and the assessment of any land use application. It is therefore important that the policy definitions and criteria are aligned to the SPLUMA and scheme requirements. The policy cannot be more restrictive than these core documents.
<b>Liquor Legislation</b>	KwaZulu-Natal Liquor Licensing Act 2010 (Act No. 06 of 2010)	Where Bed and Breakfast establishments do offer liquor on site, a licence has to be obtained from the Liquor Board.
<b>Business Licensing</b>	National Small Business Act, 1996 (Act No. 102 of 1996)	The Act requires all small businesses to make applications for operation, which allows for the verification of health, building and planning requirements.

The legal and institutional framework in respect of B&Bs consists of a number of aspects. The above-listed plans and Acts is summarised under a separate document, referred to as the Status Quo Report.

Section 7 of this policy shows the legal requirements to operate a B& B in South Africa, cited from [Legal requirements for Bed and Breakfast in South Africa \(hospitalitycourses.co.za\)](http://hospitalitycourses.co.za), accessed on 17/02/23 @ 11:52 am.

## 5 DEFINITIONS AND INTERPRETATION

### 5.1 Background

The definitions listed in this policy are aligned with the content of the Msunduzi Scheme. Where applicable, recommendations to the existing Town Planning Scheme are recorded in the Annexures to this policy. The Status Quo Report that informs this policy and consultation schedules are held in separate documents.

Applications submitted to the municipality prior to the approval of the Msunduzi Scheme must comply with the definitions of the erstwhile Pietermaritzburg and Ashburton Town Planning Schemes, if within the relevant scheme-controlled area, or schedule 3 of the Msunduzi SPLUMA By-Law, if outside the scheme-controlled areas.

Applications that fall outside of the Town Planning Scheme, must comply with the applicable legislation such as the KwaZulu-Natal Ingonyama Trust Amendment Act (Act No 9 of 1997). Since the Msunduzi Municipality has adopted a 'Wall to Wall Scheme', within its current Municipal Delineation, there should be no land that is situated outside a Scheme area. The entire Msunduzi Municipal area is therefore regulated by the Msunduzi Scheme.

### 5.2 Scheme and other relevant definitions

The policy relates to development across the entire Municipal area of jurisdiction. Consequently, land development will be subject to the Msunduzi Scheme definitions and provisions. Land development outside the Scheme will be subject to schedule 3 of the SPLUMA By-Laws.

The definitions are as follows:-

**"Adequate"** when used to describe a standard or manner in which anything required by these By-Laws shall be done, means the standard or manner that, in the opinion of and the Town and Regional Planner or "authorised official" is sufficient to safeguard public interest and to achieve the purpose and apply the norms and intent of this policy and "adequately" has a corresponding meaning;

**"Ambient sound level"** means the reading on an integrating impulse sound level meter taken at a measuring point in the absence of any alleged disturbing noise at the end of a total period of at least 10 minutes after such meter was put into operation in terms of the Noise Control Regulations GR 2544 of 1990 in terms of Section 25 of the Environment Conservation Act (Act No 73 of 1989).

**"Amenity"** means a natural or created feature that enhances a particular property, uses, place or area from the perspective of its aesthetic quality or visual appeal, which may make it more attractive or satisfying or unique.

**"Animal"** means a creature or living thing, other than human, being able to move of its own accord and in this policy includes birds and poultry.

**"Authorised official"** means any official of the Municipality who has been authorized by the Municipality to administer, implement, and enforce the provisions of these By-Laws.

**"Bed and Breakfast"** Means the provision of short-term accommodation for travellers in, or in conjunction with a dwelling. The Short-Term Accommodation may include backpackers lodge and online accommodation bookings but excludes Student Accommodation and a Hotel. **The Bed and Breakfast establishment shall comply with the approved policy**

**“Coverage”** means the maximum proportion of Erf that may be covered by roofed buildings and is expressed as a percentage of the Erf area. Provided that any roofed-area over pedestrian concourse or mall, or roof overhangs or unroofed cantilevered canopy or unroofed or carport or balcony shall be excluded from such coverage and further that in the case of an open-sided structure, coverage shall be taken as the area contained within the outer limits of the upright supporting columns thereof.

**“Dwelling”** Means a building, with inter-connected suite of rooms containing a kitchen and the applicable ablutions, used for the living accommodation and housing of one household, together with such outbuildings and subsidiary dwelling units as is ordinarily permitted therewith. Save with the Consent of the Municipality a second kitchen may be permitted. Additional dwelling units shall exclude auxiliary units.

**“Existing use rights”** means any existing building or existing use which is not in conformity with this Policy or amended Schemes, but for which legal authority was obtained from the Municipality prior to 28 October 2021, being the adoption of the Msunduzi SPLUMA By-Law and/ or prior to the adoption date of this Bed and Breakfast Policy and which is currently used for the purpose for which it was designed and/or was completed legally and so used after the said adoption dates may continue to be so used, subject to compliance with any conditions which may have been imposed by the Municipality in the application process, and provided that:

- (a) any alteration or addition or change of use which in the opinion of the Municipality alters the character of an existing building or use of land, shall automatically remove such building or land from the category of building or existing use;
- (b) where the free entry uses, written authority or Special Consent of the Municipality have previously been obtained for a specific development, the approval is deemed to be valid, provided that the general and other specific requirements of the scheme for that zone at the time of approval are observed;
- (c) any subsequent alterations, additions or extensions to any building or additional uses within the building will be subject to the submission of a new Site Development Plan and a Building Plan that are in accordance with this policy, its amendments, Scheme and Building regulations operative at the time of application;
- (d) provided further that if, in the opinion of the Municipality, the character of the area will change as a result of any such alterations, additions or extensions, the Municipality shall require the applicant to apply for such authority or Special Consent, as the case may be; and
- (e) where the non-conforming existing use of any building or land is discontinued for a continuous period of 18 months or longer, such an existing use shall be deemed to have lapsed and shall not be recommenced.

**“Floor Area”**, Means the sum of the areas of the building on each floor level, inclusive of wall thickness but excluding:

- (a) any basement.
- (b) garages, canopies, or carports or shelters.
- (c) In the case of fuelling and service stations, the areas covered by canopies,
- (d) staircases, lift shafts /lift motor rooms other than on one floor,
- (e) balconies, verandas, porches or colonnades and similar type of structures that are roofed but open to the elements on at least one side,
- (f) corridors that are open to the elements on at least one side,

**“Floor Area Ratio”**: The ratio of the permissible floor area of an Erf in relation to the surveyed area expressed as a decimal.

**“Frontage”**: The length of the boundary of an Erf which fronts onto an existing or proposed road.

**“Interested and affected party”**: any person or body who, in accordance with the provisions of this By-Law and the Msunduzi Schemes and adopted By-Laws in terms of SPLUMA, has lawfully submitted, in writing, any objection, comment or representation, in respect of any matter regulated in terms of this By-Law, the Msunduzi

Schemes or any other legislation or policy applicable to the Msunduzi area of jurisdiction providing for objections, comments or representations.

**“Land Use Zone”** means an area of Land, indicated by an appropriate colour notation on the Land Use Scheme Map whereon the use is limited in accordance with the appropriate land use schedules contained in Section 3 of the Scheme.

**“Liquor”** any liquid substance, specifically alcoholic or spirituous fluid, either distilled or fermented, as brandy, wine, whisky, beer etc.

**“Municipality”** means the Msunduzi Municipality or its successors in law and includes its Executive Committee or any other body, acting by virtue of powers delegated to it in terms of legislation, or any officer to whom the Executive Committee has delegated any powers and duties with regard to these By-Laws or a service provider fulfilling a responsibility under these By-Laws, assigned to it in terms of Section 81 (2) of the Local Government: Municipal Systems Act (Act No. 32 of 2000), or any other law, as the case may be.

**“Municipal Consent”** Means the written consent of the Municipality for any activity on or use of land or buildings for which an application is made, in terms of the applicable Municipal Land Use Scheme and other relevant legislation.

**“National Building Regulations and Building Standard Act”** Means the National Building Regulations made in terms of Section 17 of the National Building Regulations and Building Standards Act (No. 103 of 1977), as amended.

**“Noise control officer”** means a person with a qualification equivalent to a senior certificate plus three years tertiary education in engineering, physical sciences, or health sciences, who is registered with a professional council.

**“Noise disturbance”** means any sound which disturbs or impairs or may disturb or impair the convenience or peace of any person.

**“Noise level”** means the reading on an integrating impulse sound level meter taken at a measuring point in the presence of any alleged disturbing noise at the end of a total period of at least 10 minutes after such meter was put into operation, and if the alleged disturbing noise has a discernible pitch, for example, a whistle, buzz, drone or music, to which 5 dBA is added.

**“Noisiness index”** means a number expressed in dBA, as defined in SABS 0117.

**“Occupier”** in relation to any premises, means any person:

- (a) residing on the premises in accordance with the conditions of the lease agreement between the owner and the occupier/ tenant; or
- (b) the owner of the premises who is required to reside on the premises with his/her family, in accordance with the intent of this Policy.

**“Owner”** means:

- (a) the person in whose name the land is registered in the deeds registry within whose area of jurisdiction the land is situated.;
- (b) the beneficial holder of a real right in land and
- (c) the person in whom land vests; and
- (d) the legal representative of an owner or his or her estate where such registered owner lacks legal capacity for any reason, including age, mental health, mental disability, death, or insolvency

**“Ownership”** in relation to property, means the person or entity in whose name that property is registered in a deeds registry, and may include the holder of a registered servitude right or registered lease, and any successor in title.

**“Outbuilding”** means structure, whether attached or separate from the main building, which is ancillary and subservient to the main building on a land unit. It shall not exceed 25% of the main dwelling coverage. Save with Consent of the Municipality the size may be increased to a maximum of 40% of the main dwelling coverage. The outbuilding shall not be used for business purposes save with the consent of Municipality. Refer to Section 5.33 for additional controls.

**"Permit"** means a public health permit issued by the Municipality in terms of section 11 of the Msunduzi Municipal Public Health By-Laws of 2015

**"Person"** means a natural person or a juristic person, and includes an organ of state.

**“Powers and Functions”** If any provision in this By-Law vests or imposes any power, function or duty of the Municipality in or on an employee of the Municipality, and such power, function or duty is in terms of Section 81 (2) of the Local Government: Municipal Systems Act, 2000, or any other law, assigned to a service provider:

- (a) the reference to such employee shall be read as a reference to the service provider; or
- (b) where applicable, an employee of the service provider authorized by it.

**"Premises"** means -

- (a) any land without any buildings or other structures on it;
- (b) any building or other structure and the land on which it is situated;
- (c) any land which adjoins land referred to in paragraph (a) or (b) and any building or other structure on the adjoining land, if that land, building or structure is occupied or used in connection with any activity carried out on the premises referred to in paragraph (a) or (b); or
- (d) any vessel, vehicle or movable structure which is used for a scheduled use.

**“Property”** means that to which a person has a legal title, whether in his possession or not; thing owned; an estate, whether in lands, goods, or money; as, a man of large property, or small property.

**"Public health nuisance"** means the use of any premises or place in a manner which creates conditions that significantly increase the risk of a public health hazard occurring or which compromises any aspect of public health to an extent that is more than trivial or insignificant, and without limitation, includes those circumstances in which a public health nuisance is considered to exist in terms of Schedule 1 of the Msunduzi Municipal Public Health By-Laws of 2015;

**"Public place"** means any road, street thoroughfare, bridge, overhead bridge, subway, foot pavement, footpath, sidewalk, lane square, open space, garden park, path, bus or taxi rank, servitude or enclosed space vested in the Municipality and includes any road, place or thoroughfare which is in the undisturbed use of the public or which the public have the right to use.

**“Residential Areas”** a residential area is a type of land use where the predominant use is housing. In areas that are zoned residential, buildings may include single family housing, multiple family housing such as apartments, duplexes and townhomes.

**"Scheduled use"** means a use listed in Schedule 2 of the Msunduzi Municipal Public Health By-Laws of 2015.

**“Self-Contained Residential Unit/ Granny Flat”** means a self-contained, interleading group of rooms, with not more than one kitchen and used for living accommodation. It shall not contain more than two bedrooms. The Unit shall not be used for business activities, save with the consent of Municipality. It is an Ancillary to the

dwelling and shall not exceed 30% of the main dwelling coverage. Save with Consent of the Municipality the size may be increased to a maximum of 50% of the main dwelling coverage. **“Municipal Consent”**: Means the written consent of the Municipality for any activity on or use of land or buildings for which an application is made, in terms of the applicable Municipal Land Use Scheme and other relevant legislation. **“Site Development Plan (SDP)”**: means a plan required for application purposes.

The site development plans shall amongst others provide for but not be limited to:

- (a) To-scale drawing of the site/s, indicating statistical information about the extent of the proposed development (floor area ratio, coverage and height), and building lines applicable, and parking supply; existing services, existing and proposed servitudes, etc.
- (b) The design and layout of proposals including details as to the functioning thereof.
- (c) The layout of the property, indicating the use of different portions thereof.
- (d) The position, use and extent of buildings.
- (e) A programme of development.
- (f) Sketch plans and elevations of proposed structures, including information about external finishes.
- (g) Cross-sections of the site and buildings on site.
- (h) External signage details.
- (i) Details of and programme for the provision of essential services including storm water, sewerage disposal, electricity and solid waste disposal.
- (j) Traffic engineering details on the vehicular and pedestrian elements thereof.
- (k) General landscaping proposals, including vegetation to be preserved, removed or to be planted, external paving, and measures for stabilising outdoor areas where applicable.
- (l) Relationship of the proposed development to adjacent sites, especially with respect to access, overshadowing and scale.
- (m) Any other details as may reasonably be required by Municipality.

**“Zoning”** The zoning of a particular site or set of sites in a Town Planning Scheme means the development rights and controls accorded to the property and its associated buildings either as free entry rights, rights that area accorded in term of Special Consent or are prohibited.

## 6 DEVELOPMENT RIGHTS, CONSENT USAGE & POLICY COMPLIANCE

The Msunduzi Scheme accords development rights to properties and building processes in accordance with particular zones. These zones regulate permissible, prohibited, and special consent usage.

As is shown in Table 2, B&Bs are only permitted by “Special Consent/ Consent” in the certain Residential Zones, inclusive of Special Residential, Intermediate Residential, Equestrian Residential, Rural Residential, and Public Housing. .

In these cases, the Municipal planning officials and the interested and affected public can check the applications for compliance with the B&B policy and Scheme regulations. Based on the compliance check the Municipal Planning Official can recommend approval or recommend that the application be turned down if it is not compliant.

Interested and affected parties can also object to the application based on amenity, procedural, substantive, or normative flaws within the application. In addition, the Special Consent accorded can be withdrawn if the policy and scheme regulations are not adhered to. “Special Consent” should only be granted if the **residential character of the area and the amenity of the area is not adversely affected** by the establishment of B&Bs.

*Table 2: Msunduzi Scheme Zones that allow B&Bs by Special Consent*

ZONES THAT ALLOW B&B DEVELOPMENT BY SPECIAL CONSENT			
	TOWN PLANNING SCHEME ZONES	KIND OF APPLICATION REQUIRED	BED AND BREAKFAST POLICY: APPLICATIONS COMPLIANCE CHECK
1	Special Residential Zone 1 & 1A	Consent	Application based policy compliance check
2	Special Residential Zone 2 & 2A	Consent	Application based policy compliance check
3	Special Residential Zone 3 & 3A	Consent	Application based policy compliance check
4	Special Residential Zone 4	Consent	Application based policy compliance check
5	Special Residential Zone 5	Consent	Application based policy compliance check
6	Equestrian Residential	Consent	Application based policy compliance check
7.	Intermediate Residential	Consent	Application based policy compliance check
8.	Rural Residential	Consent	Application based policy compliance check
6	Public Housing	Consent	Application based policy compliance check

The subsequent zones in Table 3 are zones where B&Bs are “expressly permitted” or allowed by ‘free entry’.

Table 3: Msunduzi Scheme Zones that allow B&B by Free Entry Usage

ZONES THAT ALLOW B&B DEVELOPMENT BY FREE ENTRY USAGE			
	TOWN PLANNING SCHEME ZONES	KIND OF APPLICATION REQUIRED	BED AND BREAKFAST POLICY: APPLICATIONS COMPLIANCE CHECK
1.	Low Impact Mixed Use	Permissible	Building Plan Submission including Site Development Plan
2.	Medium Impact Mixed Use	Permissible	Building Plan Submission including Site Development Plan
3.	General Residential 1	Permissible	Building Plan Submission including Site Development Plan
4.	General Residential 2	Permissible	Building Plan Submission including Site Development Plan
5.	General Residential 3	Permissible	Building Plan Submission including Site Development Plan
6.	General Residential 4 (Hotel)	Permissible	Building Plan Submission including Site Development Plan
7.	Special Area 23	Permissible	Building Plan Submission including Site Development Plan

Planning officials need to be particularly vigilant with regard to Policy and Scheme compliance in “permitted” or “free entry zones” because **compliance is only checked when building plans are submitted for approval**. Consequently, all free entry B&B developments must:

- (a) submit a Site Development Plan with the Building Plan for Planning Approval; and
- (b) all Site Development Plans, as defined in this policy, with Building Plans and Building alterations, extensions and additions must comply with this policy, its norms and standards as prescribed by SPLUMA and other relevant legislation and policy.

## 7 LEGAL REQUIREMENTS TO OPERATE A BED & BREAKFAST

For ease of reference, the requirements for a Bed and Breakfast (B & B) to legally operate, requires the owner to comply with the following applicable legislation:

- (a) The National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) where all buildings constructed on the premises must comply with this Act and its regulations.
- (b) Businesses Act, (Act No. 71 of 1991) which provides for the licencing of businesses, including informal businesses.
- (c) The Msunduzi Scheme with specific reference to parking, floor area ratio, height, coverage and zoning, number of rooms, if prescribed by a Town Planning Scheme applicable to the area where the property is located and with Council's Outdoor Advertising Bylaws concerning signage. Application must also be in compliance with the Msunduzi SPLUM By-Law.
- (d) The Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) and the Regulations governing general hygiene requirements for food premises and the transport of food, formulated under the Health Act, 1977 (Act No. 63 of 1977), where a Certificate of Acceptability must be obtained from the Council's Senior Health Inspector.
- (e) The Broadcasting Act, 1999 (Act No. 4 of 1999) if the lettable room is supplied with a television set; (e) the South African Music Rights Organisation (SAMRO) where a license is required if background music is to be played to the guests;
- (f) The Tobacco Products Control Act, 1993 (Act No. 83 of 1993) where it is a requirement that signs are displayed in areas designated for smoking and no-smoking signs are displayed elsewhere.

### 7.1 Facility Requirements

The B&B premises must provide the following:

- (a) Access to bedrooms and bathrooms at all times for registered guests.
- (b) A serviceable lock and key (for privacy) to each lettable room.
- (c) An area where breakfast will be served, adequate for the use of, and easily accessible to any guest on the premises.
- (d) A bathroom and toilet for each lettable room suitably placed in a separate compartment which is close to the lettable room and is easily accessible to the guest/s of a lettable room and separate to that of the owner of the facility.
- (e) No kitchen facility may be provided to guests in the lettable rooms.
- (f) The operation of the B&B may not detract from the residential character and amenities of the property or the immediate surroundings.
- (g) The B&B must be of such a nature that the predominant land use is retained and if in a residential area, the residential character of the house is retained.
- (h) The B&B may not include a place of public assembly or a place of public amusement.

### 7.2 Licencing

Licensing is required to legally operate a B&B

- (a) Municipal consent is required to operate a B&B.
- (b) When the municipality receives an application for such special consent and, before deciding whether or not to approve the application, the council;

- i. may request the applicant to provide any further information which the council considers relevant to enable it to make an informed decision
- ii. will take into consideration –
  - (i) the scale and size of the proposed establishment about the character of the area;
  - (ii) whether the premises are suitable for the proposed use;
  - (iii) whether there are sufficient on-site parking facilities for motor vehicles and (iv) any other matter which would, in its opinion, interfere with the amenities and character of the neighborhood; and
  - (iv) must ensure that the relevant premises are inspected by authorized officials as soon as reasonably possible.

**The Municipal council may –**

- (a) approve the application for special consent subject to such terms and conditions that are reasonably aimed at eliminating or reducing the risk, if any, which is likely to be caused by the relevant activity; or
- (b) refuse the application for special consent.
- (c) The applicant must also apply for and obtain a Business License from the Licensing Authority for the area in which the facility is located.

Since a B&B is a business, there is a requirement to register the business under the Companies and Intellectual Property Commission (CIPC).

The above information (section 6.1 to 6.3) has been accessed from: [Legal requirements for Bed and Breakfast in South Africa \(hospitalitycourses.co.za\)](http://hospitalitycourses.co.za), accessed on 17/02/23 @ 11:52 am.

The implications of these different pieces of legislation are summarised in the table (table 4) below:

### 7.3 Standards based on Tourism.

The Tourism Council grading system provides a large range of standards which are useful in guiding the more important aspects associated with Bed and Breakfast establishments. A few of the important norms are provided below.

*Table 4: Grading Standards (tourism Council Grading Standards)*

Facility	Tourism Council Standards
<b>Bedrooms</b>	Recommended reasonably spacious room 6m <sup>2</sup> . Good access to all furniture and facilities. No areas of restricted access or obstruction. Not necessary to have a self-contained sitting area but room must be large enough to comfortably contain 2 easy chairs in addition to the standard bedroom furniture. No creaky boards or intrusive noise.
<b>Bathrooms</b>	Shower/bath and hand basins may be built open plan within the bedroom however the toilet should be enclosed.  Establishments with open plan bathrooms must inform guests of the design before the booking procedure goes through.  Bathroom facilities must be en-suite. If not, exclusive use of bathroom facilities per room is mandatory.
<b>Dining room</b>	Standard “domestic” style and quality of décor. No wear and tear. Use of wall hangings, pictures, etc. Competent workmanship.
	Provision of all on-site and/ or designated parking areas should conform to local municipal by-laws inclusive of signage which needs to be of an acceptable condition, be clearly visible,

Facility	Tourism Council Standards
Parking, Driveways and signage	fit for purpose, ensuring guests are correctly guided to the appropriate entrances at all times, with appropriate safety measures in place.
	Acceptable external security lighting in all areas. Clear signage directing guests to and from designated parking bays. Signage where provided to be clearly visible, illuminated or reflective.
Safety and security	All external public pathways must be well lit. Person responsible for safety and security must be contactable. Emergency information, procedures and after hours contacts for assistance clearly communicated in English, and in pictograms.
Universal Accessibility	Clear signage and pictograms
	Grounds and garden pathways kept clear of obstacles / obstructions
	Textured surfaces, such as roughened finishes, on all ramps, stairways and main circulation paths.

## 8 THE PLANNING POLICY CRITERIA

### 8.1 Planning guidelines

- (a) The Msunduzi Scheme are used by the Council to manage the use of land and / or buildings within the KZ 225 Municipal area. The Scheme defines a number of Land Use Zones and Reservations within which uses are classified as being either expressly permissible, expressly prohibited or which may be permitted by the Council's Special Consent/ Consent procedure.
- (b) The Council must consider any applications for its Consent in terms of a procedure which is laid down in section 45 and the associated provisions of the By-Law which became the application process on 28 October 2021. These procedures include the public advertisement of the application by the applicant and the serving of individual notices as per the provisions of the applicable law. (See attached procedure, Annexures B).
- (c) In terms of Schedule 4 of the SPLUMA by-laws, the decision-making authority must consider the matters listed in this schedule, including the information contained in the application, the municipal IDP, the SDF, the Scheme, the planner's comments, norms and standards, and other matters mentioned. The municipal decision-making authority, in terms of the provisions of section 34 (6) (a) of the Msunduzi SPLUM By Law, has 60 days to make a decision on an application, once the administrative and consultation processes provided in schedule 5 has been concluded.

### 8.2 Planning Criteria

- i. Amenity  
There shall be no interference with the amenity of the surroundings. Any new structure or alteration to the existing house or outbuilding must fit in with the residential character of the relevant area.
- ii. Building regulations  
A Bed and Breakfast, including an Air Bed and Breakfast, may only be operated from a structure approved in terms of the National Building Regulations and Building Standards and thus informal/temporary structures or containers cannot be permitted.

- iii. Compliance with the provisions of the Noise Regulations R2544 under the Environment Conservation Act, 1994(Act No.52 of 1994) stipulate that a home based business shall not produce a noise level exceeding 7db above the ambient noise level, measured at any point on the property boundary
- iv. Demand on services  
The establishment shall not impose a greater load on any public utility service than that which is ordinarily required by other uses permitted in the area in which the activity or use is situated.
- v. Health Requirements  
Be operated in accordance with all relevant Council By-Laws and other Legislation, which shall include:
- registration of the premises in terms of the Regulations Governing General Hygiene Requirements for Food Premises under Government Notice No. R918 (1999).
- vi. Liquor Use  
No sale of liquor shall be permitted on site.
- vii. Location  
Applications for municipal consent are restricted to those zones, specified by Msunduzi Scheme.
- viii. Maximum number of persons  
The Bed and Breakfast operation shall be limited to accommodation of a maximum of 12 persons at any one time, subject to the number of bedrooms and the associated square metres.
- ix. Nuisance  
No activities which may cause a nuisance or disturbance to the residents in other neighbouring residences are permitted.
- x. Number of Rooms  
Shall be to the satisfaction of the Municipality.
- xi. Owner resident on property  
The Bed and Breakfast establishment shall be conducted by the owner of the property who shall be resident therein, provided that, as provided in the current Town Planning Scheme definitions, Council may grant its Special Consent, in exceptional circumstances, for the activity or use to be conducted by a person other than the owner.
- xii. Parking
- (a) Be limited to providing vehicular parking within the boundaries of the site on the basis of one bay per guest room and that such parking shall be located and screened to the satisfaction of Municipality.
  - (b) Not require the regular parking of vehicles with a tare mass exceeding 2 000kg, on or adjacent to the site.
- xiii. Retaining residential character
- xiv. Not require any additions or alterations to a building on a site that would prevent the site from reverting to being used as a single family “dwelling” in the event of the use ceasing.
- xv. Signage  
Be limited to the erection of a sign which shall:

- not be larger than 600mm x 450mm.
  - be in compliance with the Msunduzi Advertising Sign's By-Laws.
  - be placed either on the wall of a Building within the site or on the boundary wall or fence adjacent to the entrance to a site, and
  - be of material and style which shall compliment the character of the dwelling.
- xvi. Universal access  
Applications to include universal access provisions, including appropriate signage, wheelchair access and related universal access provisions.
- xvii. Criminal record  
There must be no record of any criminal activity on the property in question;
- xviii. Grounds for reviewing a decision  
Should the business cause a nuisance or criminal activity be reported after approval, the approval will be withdrawn. Similarly, if the property owner deviates from the municipal planning authority, business licence or liquor licence authority conditions, the approval will be withdrawn.
- xix. Lapse of approval  
The approval will be linked to the owner and/or permanent resident of the property and will lapse in the event of any change of ownership / occupation;
- xx. Operations ceased  
Applicants who have ceased the operation of the business must inform the municipality in writing.

## 9 APPLICATION PROCEDURES

The SPLUMA application process requirements are depicted in **Annexure B**.

## 10 THE PLANNING PROCESS AND TIMEFRAMES

The planning process and timeframes is depicted in **Annexure C**.

## 11 LAW ENFORCEMENT

Chapter 7 of the SPLUM by-law of 2021 provides for enforcement of the provisions of the By-law.

The above provisions give Council the right to investigate a complaint/alleged illegal activity, to ascertain the validity and/or extent thereof. It also allows Council to serve a notice on an offender to cease activities which may also include a notice of intent to take further legal action, if required.

Any aggrieved person may lodge a complaint contemplated in Section 107(1) (which refers to Offences and penalties in relation to municipal planning approval) in accordance of Section 113 (1) of the Msunduzi SPLUM By Law. The complaint must include:

- (a) the name of the alleged offender, if known;
- (b) street Address and or property description if known;
- (c) photographs if available;

(d) description of the alleged contravention of the scheme and the impact.

The Municipality must investigate, within 30 days of receipt of the complaint.

In terms of Section 113A (1) of the SPLUM By-Law, the Municipality must serve a compliance notice on a person if the person is suspected of being guilty. The offender has 14 days to respond.

In terms of Section 113B, A compliance notice must –

- (a) identify the person at whom it is directed;
- (b) describe the activity concerned and the land on which it is being carried out; state that the activity concerned is illegal and inform that person of the particular offence contemplated in section 107 of the Msunduzi SPLUM By-law, which that person allegedly has committed or is committing through the carrying on of that activity;
- (c) invite the person to comment in writing on the alleged contravention;
- (d) call on the person to lodge the comments with the contact person stated in the notice;
- (e) state how the comments may be lodged;
- (f) state the date by when the comments must be received;
- (g) inform the person identified of the latter's right to remain silent, and of the fact that any confession, admission or other statement made by that person could be used in evidence against that person; and
- (h) Issue a warning to the effect that (i) the person could be prosecuted for and convicted of an offence contemplated in 107 of the SPLUM By-law;
- (i) on conviction of an offence, the person could become liable to the penalties provided for in sections 107 and 108; and
- (j) if convicted, the person could be required by an order of the High Court to demolish, remove or alter any building. Structure or work illegally erected or constructed. Or to rehabilitate the land concerned.

The monitoring and control of the illegal entities will require a high level of commitment and dedication as well as co-operation between all role players including the South African Police Services and the law enforcement section of the Municipality.

There are also numerous other sets of legislation (Acts, municipal by-laws and regulations) that are potentially applicable to the operation of B&Bs, - e.g. building regulations, nuisance/noise by-laws, health and safety by-laws.

## 12 ANNEXURE A: COUNCIL RESOLUTION

## 13 ANNEXURE B: MSUNDUZI SPLUM BY-LAW APPLICATION PROCESS

### Chapter 4: Section 32: Preparing and application.

23(3) A consent application must be made by an appropriately qualified person as per subsection 1 or a person working under the or under the direction or in association with such a person who is registered with his or her appropriate governing body.

### Section 24: Pre-application procedure

24(1) An applicant must obtain approvals from organs of state, including municipal departments, and any other information which are necessary for determining an application for municipal planning approval.

(2) Organs of state, including municipal departments, must provide an applicant with the information that he or she needs in order to make an application for municipal planning approval within 60 days from being served with a request for the information, or such further period as agreed upon with the applicant.

25(1) An organ of state shall be regarded as having no comment on an application for municipal planning approval, if it did not provide comment on the proposed application within the time permitted, unless the use or development of land is dependent on an engineering service that it must provide.

### Section 26: Application requirements

- (a) an application form;
- (b) a comprehensive motivation by the applicant in support of the application;
- (c) proof of registered ownership and a copy of the property diagram;
- (d) written consent of the registered owner of that land, if the applicant is not the owner thereof;
- (e) written consent of the land owner's association, if applicable;
- (f) written support of the traditional council for the application, if the land is located in a traditional authority area;
- (g) proof of circulation of an application to organs of state, including municipal departments.
- (h) if an application is an application for the subdivision or consolidation of land or township establishment- see **26 (1) (h) I and ii** of SPLUM By Law
- (i) the proposed property descriptions
- (j) a layout Plan if applicable
- (k) an approved service agreement, if applicable
- (l) a phasing plan, if applicable;
- (m) any other plans, diagrams, documents, ESRI Shapefiles, information or fees that the Municipal Planning Registrar may require.
- (n) the application fee.

### Section 26 Lodging of the application , Section 27 Records of Receipt and Section 28 Additional Information from Registrar

26(2) An application for municipal planning approval must be lodged with the Municipal Planning Registrar, the Municipal Manager or another person designated by the Municipal Manager to receive applications.

27(3) An application for municipal planning approval is regarded as complete, if the Municipal Planning Registrar did not request additional information within 30 days, or a further period (not more than 60 days) as agreed upon with the applicant.

In terms of item 28(1), an applicant must provide the Municipal Planning Registrar with the additional information required for the completion of an application within 90 days, or such further period as agreed upon with the applicant, which may not be more than 180 days from the request for additional information.

### Section 32. Public consultation

The Municipal Registrar must determine if it is necessary to consult the public for the application concerned. Where public comments are required, the processes in schedule 5 (Public Notice) must be followed.

### Section 34- 38. Assessment of the application, hearing and inspection if required and decision

Following the above process, the Municipal Planning Registrar will confirm the correctness of the application, refer it to the Municipal Planning Tribunal for a final decision. This decision-making process may include a hearing and inspection.

## 14 ANNEXURE C: POLICY RATIONALE AND PRINCIPLES- CHECKLIST

### 14.1 Principles and criteria stemming from Legal and Contextual Research

The table below gives an indication of the requirements/ checklist for the establishment of a B&B.

Table 5: Policy criteria

Conditions		Standard	Principle
Authorisation	Consent use maximum of 2 rooms	X	
	Rezoning & Council approval 3 or more rooms	X	
Conditions	No more than 20% -25% of dwelling unit for use in renting	X	
	Rights not transferable		X
	Owner operate lodging, B&B and/ or GH	X	
	Owner reside in dwelling	X	
	Rooming & lodgings max 2 bedrooms 4 guests	X	
	GH & B&Bs Max 6 paying guests & 3 bedrooms	X	
	GH & B&Bs max 8 paying guests & 4 rooms	X	
	GH & M&Bs max 12 paying guests & 6 rooms	X	
Zones where accommodation options allowed via consent or freely permissible	<b>CONSENT:</b> Special Residential 1; 1A; 2; 2A ; 3; 3A; 4 & 5; Equestrian; Intermediate; Rural Residential and Public Housing.	X	
	<b>FREELY PERMISSIBLE:</b> Low Impact Mixed Use; Medium Impact Mixed Use; General Residential 1, 2, 3, 4 and Special Area 23	X	
Amenity	No interference with amenity surroundings	X	
	Capability reverting back to dwelling if rights lapse	X	
	Not pose greater load on public utility services	X	
Parking	Off street parking to be provided as provided (as below)		X
	1 bay per rented room	X	
	1 bay per 25m <sup>2</sup> used for guest occupation	X	
	No more than 2 vehicles for home use	X	
Signage	Wall of a building within the site or on the boundary wall or fence adjacent to the entrance to a site	X	
	Material and style which shall compliment the character of the dwelling	X	
	In compliance with the Msunduzi Advertising Signs Bylaws	X	
	Not be larger than 600 mm by 450 mm	X	
Health requirements	In accordance with health by-laws meet health and safety requirements as per the relevant legislation	X	
	Meet requirements of food regulations	X	
Employment	No more than 3 additional workers allowed over and above the domestic workers	X	
Trading	No sale of liquor on site	X	
Hours of operation	Normal business hours	X	
Nuisance	No loud music or events permitted outside the provisions of the Noise Control Regulations GR 2544 in terms of the Environment Conservation Act No52 of 1994	X	
	No illegal activities result in conditions that significantly increase the risk of a public health hazard occurring or which compromises any aspect of public health or degrading of neighbourhood	X	

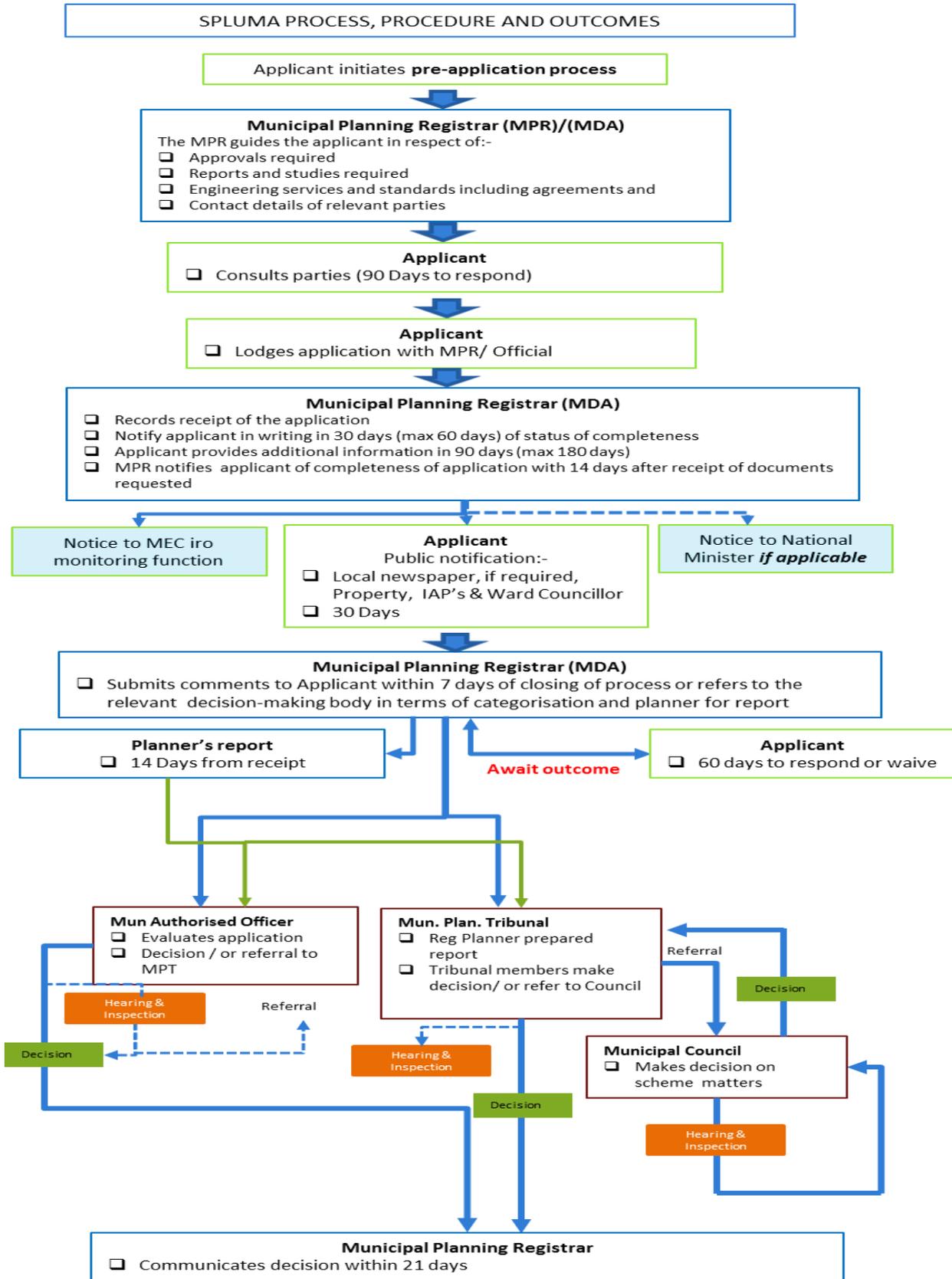
## 14.2 Standards based on the Tourism

The Tourism Council grading system provides a large range of standards which are useful in guiding the more important aspects associated with Bed and Breakfast establishments. A few of the important norms are provided below.

Table 6: Grading Standards (Tourism Council Grading Standards)

Facility	Tourism Council Standards
Bedrooms	Recommended reasonably spacious room 6m <sup>2</sup> . Good access to all furniture and facilities. No areas of restricted access or obstruction. Not necessary to have a self-contained sitting area but room must be large enough to comfortably contain 2 easy chairs in addition to the standard bedroom furniture. No creaky boards or intrusive noise.
Bathrooms	Shower/bath and hand basins may be built open plan within the bedroom however the toilet should be enclosed. Establishments with open plan bathrooms must inform guests of the design before the booking procedure goes through.
	Bathroom facilities must be en-suite. If not, exclusive use of bathroom facilities per room is mandatory.
Dining room	Standard "domestic" style and quality of décor. No wear and tear. Use of wall hangings, pictures, etc. Competent workmanship.
Parking, Driveways and signage	Provision of all on-site and/ or designated parking areas should conform to local municipal by-laws inclusive of signage which needs to be of an acceptable condition, be clearly visible, fit for purpose, ensuring guests are correctly guided to the appropriate entrances at all times, with appropriate safety measures in place.
	Acceptable external security lighting in all areas. Clear signage directing guests to and from designated parking bays. Signage where provided to be clearly visible, illuminated or reflective.
Safety and security	All external public pathways must be well lit. Person responsible for safety and security must be contactable. Emergency information, procedures and after hours contacts for assistance clearly communicated in English, and in pictograms.
Universal Accessibility	Clear signage and pictograms
	Grounds and garden pathways kept clear of obstacles / obstructions
	Textured surfaces, such as roughened finishes, on all ramps, stairways and main circulation paths.

15 ANNEXURE D: PLANNING PROCESS AND TIME FRAMES



## 16 REFERENCES

### National Policy and Legislation

- South African National Planning Commission. 2013. National Development Plan 2030. Our future – make it work.
- Environment Conservation Act No 73. 1989
- Justice of the Peace and Commissioners of Oaths Amendment Act No 36 of 1986.
- Local Government Municipal Structures Act No. 117 of 1998.
- Local Government: Municipal Systems Act, No 36 of 2000.
- National Building Regulations and Building Standards Amendment Act No 49 of 1995.
- Promotion of Administrative Justice Act No 3 of 2000.
- South Africa. National Building Regulations (SANS 010400 2011
- Spatial Planning and Land Use Management Act No 16 of 2013.
- South African Constitution Act No. 108 of 1996.

### Provincial KwaZulu-Natal, South African Legislation, and Plans

- KwaZulu-Natal Ingonyama Trust Amendment Act. No 9 of 1997
- KwaZulu-Natal Planning and Development Act No 6 of 2008
- KwaZulu-Natal Planning and Development Plan: 2011 – 2030. August 2014 revision, KwaZulu-Natal Planning and Development Commission.
- KwaZulu-Natal Noise Control Regulations GR 2544 of 1990 in terms of Section 25 of the Environment Conservation Act No 73 of 1989

### Local & Metropolitan Municipal Legislation, Reports Schemes & Policies

- City of Cape Town By-Law & Schedule 3: Development Management Scheme, June 2015, [www.capetown.gov.za](http://www.capetown.gov.za)
- Cambridge County Council (2006). Local Development Plan and Local Area Plans. Council Website
- Cork County Council (2009). Local Development and Local Area Plans, [www.corkcoco.ie/co/](http://www.corkcoco.ie/co/)
- Ekurhuleni Metro (2015). Town Planning Scheme, [www.ekurhuleni.gov.za](http://www.ekurhuleni.gov.za)
- Ethekwini Unicity Municipality, December 2001, Durban's Informal Economy Policy
- Ethekwini (2022). Consolidated Outer West Town Planning Scheme, [www.durban.gov.za](http://www.durban.gov.za)
- Greater Giyani Municipality, 31st October 2013, Policy for the Regulation of SMME's on Residential Stands
- Information obtained from <http://www.smesouthafrica.co.za/Find-out-if-your-business-needs-a-trade-license/>
- Msunduzi Municipality, Draft (undated) Tuck Shop Policy (Draft)
- Msunduzi Municipality. 2022. Msunduzi Single Land Use Scheme
- Msunduzi Municipal Public Health By Laws of 2015.
- Msunduzi Municipality. 2015. Urban Network Report. Pietermaritzburg.
- Msunduzi Municipality. 2022. Urban Network Strategy Review and Investment Plan for Prioritized Integration Zone. Pietermaritzburg.

- Msunduzi Municipality. 2016. Msunduzi Municipality Spatial Planning and Land Use Management By-Law, 2016. Pietermaritzburg.
- Msunduzi Municipality. 2016. Vulindlela Local Area Plan. Pietermaritzburg.
- Msunduzi Municipality. 2017. Local Area Plan for Northern Areas, Bishopstowe and Surrounds. Pietermaritzburg.
- Msunduzi Municipality. 2018. Vulindlela- Ward 39 Local Area Plan (LAP). Pietermaritzburg.
- Msunduzi Municipality. 2020. Scottsville Local Area Plan. Pietermaritzburg.

### **Books, Journal Articles and online sources**

- Tourism Grading Council South Africa. 2013. Grading Criteria and minimum requirements: Guest Accommodation. Country Houses, Guest Houses and Bed and Breakfast Establishments
- United Nations General Assembly, 2006, 'Convention on the Rights of Persons with Disabilities', resolution / adopted by the General Assembly, 24 January 2007, viewed 22/02/23 @ 11:28am, from <http://www.refworld.org/docid/45f973632.html>
- Airbnb Requirements: What You Need to Become a Host | Gigworker.com; accessed 22/02/23 @ 11:26 am
- Legal requirements for Bed and Breakfast in South Africa (hospitalitycourses.co.za); accessed on 17/02/23 @ 11:52 am.



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