DRAFT

RESIDENTIAL COMMUNE POLICY

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CITY OF JOHANNESBURG MUNICIPALITY

Development Planning and Urban Management
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1. INTRODUCTION

1.1. Background

A significant number of students attending the tertiary institutions in Johannesburg are from other areas outside of the City, which necessitates the need for accommodation in areas that are conveniently located close to the Universities and Colleges. The same housing need is experienced by the young working class seeking employment or already employed within the City of Johannesburg. The trends also indicate that students prefer to live and work closer to an area where they studied even after completing their studies.

The proliferation of dwelling houses that are used to house students and entry-level working class has resulted in conflict between local communities and the commune operators. Local residents have frequently cited the following concerns in recent years:

- High incidence of anti-social behaviour including noise, particularly late at night.
- Regular partying with associated excessive noise levels
- Littering.
- Traffic congestion and illegal parking, especially in front of driveways and on pedestrian walkways.
- Overcrowded houses.
- Alteration of the residential character of certain properties

1.2 Student Housing Policy versus Commune Policy

Initially the policy was introduced as the “Student Housing Policy” for ease of reference to the issues relating to these establishments, however, the City acknowledges through this policy that not every communal accommodation is exclusively for students. It is recognized that the typical tenants in a commune tend to transient, irrespective of whether they are students or entry-level workers. The policy focuses on the communes irrespective of who lives in them to address the broader challenges in a holistic manner, hence the name “Residential Commune Policy”.

The word “commune” in this policy is in line with the definition in the Draft Consolidated Johannesburg Town Planning Scheme and for the purposes of this policy, there will not be any differentiation between student and workers accommodation in a Residential 1 property, as both will be referred to as communes. The differentiation will create a complicated and tedious application system, that will require new applications each time tenants change from students to workers and vice versa.

1.3. Need for policy

1.3.1 Need for affordable accommodation

The establishment of students and workers 'communal accommodation is not unique to the City. It is an international trend experienced especially in areas where tertiary institutions of learning are established. The phenomenon of “student areas” is a growing trend around the world and places such as Leeds in the UK. It is futile therefore to believe that prohibiting the
establishment of communes will make them disappear. Furthermore communes serve a housing purpose for a targeted group of the population and it is the City’s responsibility to plan for better integration of these uses within the urban fabric.

These accommodation types are mostly affordable to students and entry-level workers. They also serve to provide a choice in housing typologies in line with the City’s Spatial Development Framework on housing and densification strategies as well as principles of Breaking New Ground and inclusionary housing. Although the Rental Housing Act of 1999 governs rental accommodation, the City aught to balance the community’s needs with providing convenient location for students and workers close to their areas of education and employment.

Overall, communes provide an income base for owners and renters of such accommodation while fulfilling the students and working class’ need for suitable, affordable accommodation in convenient locations.

1.2.2 Illegal Uses

Not only have unauthorized commune establishments continued to mushroom without any formal regulation, but also some of the authorized commune establishments have also contravened conditions of approval that were imposed by Council.

1.2.3 Slum Lording

The residents are not only complaining about the communes, they are also concerned about slum lording and the general decay of the residential area as a result. The slumlords often take advantage of less fortunate students and low paid workers and have them overcrowded in inhumane conditions for profit. These owners live elsewhere, while causing decay in other areas.

Many problems arising from Communes are intensified due to lack of accountability on the owner’s part. This is to be rectified through conditions and standards proposed in this policy.

1.2.4 Town Planning

Communes, which mostly happen in Residential 1 (dwelling houses), are regulated through the provisions of the 13 Town Planning Scheme within the City of Johannesburg. There are different town planning processes that are currently applied through the different Town Planning Schemes to achieve the same use, which may be referred to using different names such as Boarding Houses.

Whereas Residential 1 zoning in most Town Planning Schemes does allow the erection of buildings that can be utilized for communal accommodation, the zone does not make provision for the utilization of dwelling houses for communes as a primary right. Judging by the number of complaints received from the local communities, the need to regulate communes even more, predominantly on dwelling houses is apparent.
1.2.5 Crime

Crime has also been associated with student communes, especially in the Auckland Park and surrounding areas as the area houses two prominent Universities i.e. University of Johannesburg and Wits University.

It has been illustrated through engaging with different stakeholders that students are not the cause of crime and in most instances they are the targeted victims of crime. This suggests that communities with a high number of students are impacted by the crime rate.

2. POLICY OBJECTIVES

The objective of the Communes Policy is to improve the decision making process on which commune applications are evaluated, assessed and finalized by:

- Enabling and simultaneously ensuring adherence to the principles and intent of both the Housing Act and the Rental housing Act, particularly pertaining to the provision of a variety of (affordable) housing opportunities in the rental market;
- Setting standards for premises to be used for communes.
- Providing safe, affordable and varied housing option in line with National Building Regulations and the City’s Public Health by-law.
- Providing for management strategies for all premises used for communes
- Outlining the application process for the communes

These key factors, aligned with existing policy objectives such as the Regional Spatial Development Frameworks, Transit-Oriented Development, Inclusionary Housing etc. will ensure effective growth management of the communes within urban spaces.

The overarching rationale for the policy is that the community and other interested or affected parties will have adequate information on the application process and requirements as well as standards for all communes.

3. APPLICABLE LEGISLATIVE FRAMEWORK

3.1 Town Planning Schemes

The 13 Johannesburg Town planning Schemes are applicable relating to applications to Council for commune establishments. The Town Planning Schemes are:
- Johannesburg Town Planning Scheme, 1979
- Halfway House and Clayville Town Planning Scheme, 1976
- Sandton Town Planning Scheme, 1980
- Roodepoort Town Planning Scheme, 1987
- Randburg Town Planning Scheme, 1976
- Lenasia South East Town Planning Scheme, 1998
- Modderfontein Town Planning Scheme, 1994
- Peri-Urban Areas Town Planning Scheme, 1975
- Southern Johannesburg Town Planning Scheme, 1979
- Wilkervell Town Planning Scheme, 1994
The zoning of the properties on which commune accommodation is found is primarily Residential 1 across all Town Planning Schemes.

Consent or Rezoning applications in some instances are necessary to establish communes (boarding houses) in line with the prevailing Town Planning Schemes.

Once the consolidated Johannesburg Town Planning Scheme is approved the provision of the new scheme will apply and consent applications, which provides for an easier process as compared to rezoning will be lodged for all new communes.

The act also outlines the relationship between tenants and landlords.

3.2 Housing Act of 1997

The act states that housing process should provide a choice of housing and tenure options, as is reasonably possible.

3.3 The Rental Housing Act 50, 1999

The Act obliges government to:

- Promote a stable and growing market that progressively meets the latent demand for affordable housing by improving conditions of rental housing.
- Optimize the use of existing urban transport infrastructure

3.4 City of Johannesburg Spatial Development Framework (SDF)

The City’s densification strategy contributes towards optimizing the use of land and provides accommodation in close proximity to urban opportunities to ensure a mix of typologies and income groups.
4. METHODOLOGY

In order to compile a policy that appropriately responds to the challenges being experienced as a result of the current situation, the methodology that was be followed includes the following:

- Desktop study on international and local trends relating to communes, especially relating to student accommodation and what measures were put in place to resolve the situation.
- Consultation with the Universities, commune operators, student community, Council Departments, Ward Councillors and the residents. Three public meetings were held at the University of Johannesburg with stakeholders in the commune establishments.
- Analysis of the Auckland Park and surrounding areas (Attached as Annexure B)
5. POLICY PROPOSALS

The policy focuses on communes (residential houses converted to student or workers accommodation or a combination of both).

5.1 Definitions

The definitions below align with the content of the Draft Consolidated Johannesburg Town Planning Scheme. Applications that are submitted prior to the approval of the Draft Town Planning Scheme must comply with the definitions of the applicable Town Planning Scheme. This definitions shall be amended accordingly should the definitions in the Draft Consolidated Town Planning Scheme be amended.

“Commune” Means a dwelling house where the habitable rooms are rented out for an extended period to unrelated persons who share the communal facilities such as the kitchen, lounge and or dining room as well as bathrooms.

“Dwelling House” Means a detached, self contained inter-leading suite of rooms containing a Kitchen with or without an ancillary scullery and the appropriate ablutions, used for the living accommodation and housing of one family, together with such outbuildings and subsidiary dwelling unit as permitted in the Scheme.

“Family” Means a man or a woman with or without their parents and with or without children of the said man or the woman or both, living together as one household. A family can also include orphaned children living together as a family under the custodianship of an adult.

“Occupants per dwelling unit” A dwelling house shall not be occupied by more than one family together with not more than four other persons who shall live together with the family. Under such circumstances the letting/leasing of habitable rooms is not permitted unless the owner, who resides permanently in the house rents out habitable rooms to a maximum of four tenants.

“Consent” Permission granted by the Council, after due consideration of all relevant facts and after following a reasonable and lawful process in terms of which a specific aspect of land management is permitted, in addition to the primary uses rights applicable to the property.

“Outbuilding” Means a structure, whether attached or separate from the main house, which is ancillary and subservient to the main building on a land unit, and includes a building which is designed to be normally used for the garaging of motor vehicles, and any other normal activities in so far as these are usually and reasonably required in connection with the main building.”

Accommodation for staff residing on the on the property is also considered an Outbuilding provided that it is limited to 20% of the built floor area.

“Owner” The registered owner of the land, which shall include the holder of a long term lease, or the holder of a land tenure right such as permission to occupy certificate, deed of grant, leasehold or initial ownership, a designated executor, administrator, guardian or holding any other official capacity, any successor in title, a duly authorized agent”
5.2 Application of the Policy

5.2.1 Exemptions from Town Planning application

Most of the prevailing Town Planning Schemes as well as the Draft Town Planning Scheme allows for a family and four other people to live in a normal dwelling house. For this reason this policy proposes that:

- Where the homeowner rents out bedrooms in the main house or in the subsidiary dwelling to one, two, three or four tenants, it is not necessary to apply for consent for a commune, provided that the owner:
  - Resides permanently on the said property.
  - Obtains a health permit
  - Adheres to standards as contained in this policy

Failure to comply shall result in the closure of the establishment through law enforcement. The above is without prejudice to powers of the Council derived from any other law or the applicable Town Planning Scheme.

5.2.2 Applications for New Commune Establishments

- The policy proposals will be applicable to all single residential stands (i.e. zoned - Residential 1) throughout the entire City of Johannesburg.

- Communes will be assessed on individual merit in relation to the character of the area.

- There will not be any differentiation between accommodation of students and/or workers in Residential 1 properties unless stated. This is due to the fact that communes are not always fully occupied by students or workers.

- Prior to approval of the Draft Johannesburg Town Planning Scheme, applications for communes may require a different name (e.g Boarding House) in terms of the provisions of the applicable Town Planning Scheme. Once the consolidated Johannesburg Town Planning Scheme is approved, all applicants must apply for consent for Communes.

5.2.3 Illegal Communes

- Any illegal commune will have to undergo the necessary application process put forward within this policy to avoid possible prosecution. Submission of the application does not guarantee approval thereof.

5.2.4 Existing authorized communes (boarding houses)

Commune establishments that were previously approved by Council will also be required to comply with the new policy, provided that requirement to comply with the policy, may not have the effect of taking away existing rights, relating to the number of people that may be
accommodated in a commune and parking requirements as approved in terms of the applicable Town Planning Scheme.

5.3 Commune Standards

5.3.1 Number of tenants in a Commune

Communes are primarily located in Residential 1 properties. In order for communes to harmonize with the character of a residential area the number of the inhabitants within the commune should resemble a number of family members that would reside on that property. The average size of the family in South Africa is taken to be 6 people/household.

The policy acknowledges that there is pressure for affordable housing throughout the City of Johannesburg and it is deemed reasonable within the City of Johannesburg’s context to allow a maximum of 10 people (including the caretaker) per commune in line with the number or bedrooms that are ordinarily available in a dwelling house. This is also to encourage compliance with the other standards in this policy based on the average number of tenants allowed in current establishments throughout the City.

Property owners with dwelling houses that are large enough to accommodate more than 10 tenants must apply for rezoning to Residential 3 or 4 or consent for a residential building in terms of the relevant Town Planning Scheme, notwithstanding the provisions of the City’s densification Strategy and the prevailing Regional Spatial Development Frameworks (RSDF’s).

Communal accommodation for over 10 tenants should only be considered in areas where densification is supported in terms of the prevailing Regional Spatial Development Framework and other approved City policies. Even in that case, each application should be dealt with on its own merit.

5.3.2 Provision of Parking

The minimum number of parking bays required shall not be less than 1 parking bay per double room and 0.5 parking bay per single room, which may be relaxed on satisfactory motivation based on proximity to public transport facilities, Universities/Colleges etc.

5.3.3 Environmental Health Permit

No Commune shall be operated from a house without a valid permit issued by the City’s Dept. of Health (A permit must be applied for and obtained after the Town Planning approval, prior to operation of the establishment).

- The health requirements as stipulated in the City’s Public Health By-Laws shall be adhered to at all times.
5.3.4 Aesthetics

- All parking areas, drying yards and or entertainment areas shall be screened from neighbouring residential properties and or public streets;
- The commune establishment shall not create a nuisance.
- No cooking of meals shall be permitted in individual bedrooms or any common area except in an area designated on an approved building plan as a kitchen.

5.3.5 Building Requirements

- Commune establishments can only be operated from an approved dwelling house, an approved second dwelling or a combination of the two.
- Not more than two tenants may be accommodated in any double bedroom and such double bedroom shall have a floor area of not less than 14 square meters.
- Not more than one tenant may be accommodated in a single bedroom, and such single bedroom shall have a floor area of not less than 7 square meters.
- Communal bathrooms shall be provided in a ratio of 1 bathroom per four tenants.
  A bathroom shall consist of at least:
  - A water closet (toilet);
  - Shower;
  - Hand washbasin.

- Provision shall be made for a common room(s) and kitchens within the student commune in the following ratio:
  - Kitchen 0.8m² per tenant
  - In-house recreation area (excluding passages) 0.8m² per tenant.

Over and above the requirements stipulated in this policy, the National Building Regulations and Building Standards Act shall be adhered to at all times.

5.3.6 Caretaker

- Either the owner or caretaker/manager of the commune shall reside permanently on the property for management purposes and accountability.
- A compulsory signage relating to student housing, which shall not exceed A3 size. The signage must have a 24hr telephone number and an email address where the residents/neighbouring community can contact the caretaker or owner of the commune in case of any disturbances/emergency.
- The appointed caretaker may also be a tenant in the commune.

5.3.7 Engineering Infrastructure Services

- No commune should be permitted without clearance from the City of Johannesburg’s infrastructure departments (Joburg Water, City Power, Joburg Roads). The increased population is to be supported by infrastructure services.
5.3.8 Alteration of Houses for Communes

- The residential character of the dwelling house shall not be altered in such a manner that, in the opinion of Council, may detract from the character of a dwelling house;
- The provisions of the Heritage Authority shall be complied with for any proposed alterations or additions to a dwelling house that has heritage value (buildings older than 60 years)

5.3.9 Emergency Services

- The street address must be clearly visible for the purposes of emergency services;
- A 4.5kg dry chemical powder fire extinguisher must be kept safely in the property.

5.4 Preferred location for commune establishments

While residential properties that are within a kilometer distance from tertiary institutions or public transport facilities are ideal for commune establishments, purely from proximity point of view, each application should be assessed on its merit and special attention should be given to the impact of the proposed use on the surrounding area.

Generally Communes should be located:

- Within 1km walking distance from the university/college entrance/s.
- Within 2km from Phase 1 BRT
- Within 500 m from mobility roads and spines with access to public transport
- Sites that will provide transition/buffer between the core residential area and uses of more intensity such as businesses.

The above criteria show the City’s broad preference for the location of communes based on the overall densification strategy of the City. Communes in other residential areas of the City will also be considered, based on the standards as set out in this policy. This is to ensure that communes are spread out throughout the City and that areas of high pressure can also be relieved of some of the accommodation load.

Generally, communes should not exceed 20% of the Residential 1 properties in a township. This will ensure that the residential amenity is enhanced while provision for a different housing option is provided.

6 Land Use Procedures

- Applications have to be submitted when four or more unrelated persons are charged rental for accommodation on one property with or without the owners of the house living on the property and when more than two to a maximum of four unrelated persons are charged rental for accommodation on one property without the owners residing on the property.
- Permission granted to operate a commune establishment shall be attached to the property and not the property owner or commune establishment operator.
- Relevant applications must be submitted to Council and approved for all communes prior to operation of the said use.

6.1 Application Process

6.1.1 Approval of Consent Application

- Consent applications (or rezoning prior to the approval of the Consolidated Town Planning Scheme) shall be submitted to the Executive Director: Development Planning and Urban Management in the City of Johannesburg.
- A typical application form stipulating the appropriate steps and documents required is attached hereto as Annexure A. The form relates to the applicable Town Planning Schemes and may be amended from time to time.
- Development Planning and Urban Management department will assess the application and either refuse it or approve it with conditions. If there are objections to the application, the matter will be referred to the Planning Committee of the City of Johannesburg and the Planning Committee will at the scheduled hearing make a decision based on the facts presented to them.

6.1.2 Approval of the Site Development Plan (SDP)

- The owner shall submit to the Planning Department a site development plan for approval indicating adherence to the development standards listed herein.

6.1.3 Approval of the Building Plan

- The owner shall submit building plans in accordance the approved SDP for the altering of the Dwelling House to a Commune.

6.2 Contravention of Policy Requirements

6.2.1 Consent Withdrawal

A consent or approval granted by Council in terms of the applicable Town Planning Scheme shall be subject to termination by the Council if any breach of a condition upon which such consent or approval was granted is not remedied in compliance with a notice served by the Council upon the owner or occupier of the site concerned.

The notice referred to above shall require that the breach be remedied within a specified period.
6.2.2 Fine

A fine of 7.5 % of the value of the property per annum, shall be introduced pending the court processes on actions taken against non-compliance. The fine shall be prorated and will depend on the length of the process.

7 Monitoring and Compliance

7.1 Roles and Responsibilities of Key Role Players

7.1.1 City of Johannesburg

→ Receive and process commune applications
→ Law Enforcement specifically relating to illegal uses, Illegal Buildings, health
→ Termination of Consents not complying with conditions of approval
→ Issuing of Health Permits and Health Inspections
→ Keeping and Updating of the database for approved communes
→ Crime prevention in association with SAPS

7.1.2 Operators of accommodation establishments

- Every person who conducts an accommodation establishment must –
  → Keep the premises and buildings in a clean, hygienic and good condition at all times;
  → Take adequate measures to eradicate pests on the premises;
  → Maintain the garden in the property and in front of the property at least once a week
  → Provide the tenants with a formal contract/lease agreement, which includes a code of conduct to be signed by the tenants and the operator.
  → Register with the Universities if housing students
  → Ensure that provisions of the Rental Act are adhered to
  → Ensure that the commune establishment do not create a nuisance

7.1.3 Tertiary Institutions

→ Accreditation of suitable student accommodation
→ Keep and update a database of students living in the nearby neighborhoods. The student body may play a critical role in creating a database of students residing in the nearby neighborhoods

→ Educate students about various accommodation options by means of the following:
  - Student Housing Handbook Guides and Guidance,
  - House-hunting talks, leaflets, Internet, and so on,
• Information directories with contacts and timings
• Noise awareness campaigns:
• Awareness and recycling campaigns
• Crime prevention

→ Education on being a good neighbour and the responsibilities of tenants
→ Draft Codes of behaviour for both on and off campus students
→ Provide accommodation for 20% of their registered students in line with the requirements of the Department of Education. (It should be noted that the City will not be able to enforce the desired accommodation percentage)