



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Ref: 3/5/3/5/2/2

2019-08-31

**NOTICE OF A
HUMAN SETTLEMENTS COMMITTEE MEETING
WEDNESDAY 2019-08-07 AT 10:00**

TO Deputy Mayor, N Jindela [Chairperson]

Councillors G Cele (Ms)
A Crombie (Ms)
LK Horsband (Ms)
DD Joubert

Ex officio Executive Mayor, Ald G Van Deventer (Ms)

Notice is hereby given that the meeting of the Human Settlements Committee will be held in the Council Chamber, Town House, Plein Street, Stellenbosch on **Wednesday, 2019-08-07 at 10:00.**

DEPUTY MAYOR N JINDELA
CHAIRPERSON

A G E N D A
HUMAN SETTLEMENTS COMMITTEE MEETING
2019-08-07

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AGENDA HUMAN SETTLEMENTS COMMITTEE MEETING 2019-08-07

4.	REPORT BY THE DIRECTOR(S) RE RESOLUTIONS TAKEN AT THE PREVIOUS MEETING
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NONE

5.	REPORTS FROM OFFICIALS: HUMAN SETTLEMENTS
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5.1.1	REVISION OF THE HOUSING ALLOCATION POLICY
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Collaborator No:
IDP KPA Ref No: D578
Meeting Date: 07 August 2019

1. SUBJECT: REVISION OF THE HOUSING ALLOCATION POLICY

2. PURPOSE

To obtain Council's approval for public consultation of the Draft Housing Allocation Policy for Stellenbosch Municipality.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

The application is for Council to approve the Housing Allocation Policy to ensure the proper management of the housing demand database system and that all prospective housing beneficiaries are selected from the Council's database system. Council has noticed that there is confusion, perceived bias and favouritism in the allocation of houses. There is also widespread dissatisfaction around queue-jumping. Council is also concerned that many people do not understand the procedure for applying for government subsidy houses. It is Council's feeling that allocation procedures for subsidy houses should be transparent and accessible to all the residents of WC024

Council therefore supports the following objectives:

- Promotion of equal access to housing for WC024 residents
- Transparency
- Prevention of unfair discrimination
- Promotion of fair administrative justice

- Apply the principle of “first come first serve”
- Proper recording of all housing applicants

5. RECOMMENDATIONS

- (a) that Council adopts the Housing Allocation Policy as a draft, in principle; and
- (b) that the Housing Allocation Policy for Stellenbosch Municipality be advertised for public comments, whereafter same be resubmitted to Council for final consideration and subsequent adoption.

6. DISCUSSION / CONTENTS

6.1. Background

The purpose of this policy is to provide an effective system with uniform, transparent and fair allocation processes for the selection of potential beneficiaries for state subsidised housing projects with the Stellenbosch WC024 area and also to set out responsibilities of all parties involved in the beneficiary allocation process.

The Municipality recognises that it has a duty in terms of, among others, section 26(2) of the Constitution of the Republic of South Africa 1996, Act 108 of 1996 (the Constitution) to take reasonable legislative measures and other measures, within its available resources, to achieve the progressive realisation of the right to have access to adequate housing.

The Municipality further recognises its duty to ensure that the process undertaken to allocate potential beneficiaries is transparent, fair and free from corrupt interferences. In fulfilling these duties the Municipality must have a coherent and clear policy in selecting potential beneficiaries to be assisted from the Municipal Housing Demand Database.

This policy is implemented in furtherance and fulfilment of the Municipality's duties in terms of the Constitution and other legislation as well as related statutory instruments and case law to provide different housing options using different housing subsidy programmes as approved in the national Housing Code, 2009.

6.2 Discussion

The Municipality has an obligation to ensure that it fulfils its mandate as Housing Implementing Agent to ensure that the housing allocation policy complies with the national and provincial housing policies and legislation. The objective is to outline the policy parameters, objectives and procedures which are consistent with the relevant constitutional and legal framework, which is set out in the following broader terms.

Section 26 of the Constitution provides that:

- a) Everyone has the right to adequate housing.
- b) The state must take reasonable legislative and other measures within its available resources, to achieve the progressive realisation of this right.

To give effect to this obligation the state has enacted various pieces of legislation including the Housing Act 107 of 1997 (which came into effect on 1 April 1998) which provides that:

“Every municipality must, as part of the municipality’s process of integrated development planning, take all reasonable steps within a framework of national and provincial housing legislation and policy, ensure that the inhabitants of its area of jurisdiction, have access to adequate housing on a progressive basis and necessary steps within the framework of national and provincial human settlements legislation and policy to:

- a) Ensure that the inhabitants of its area of jurisdiction have access to adequate housing on a progressive basis, set out housing delivery goals in respect of its area of jurisdiction, identify land and designate land for housing development.

The functions in section 9 of the Housing Act must be viewed within the context of policy guidelines as set out in the White Paper on Housing (1994) which outlined the following fundamental policy principles for the achievement of Section 26 of the Constitution that housing provision should be:

- a. People centred development and partnerships which will ensure that the human settlement process will be participatory and decentralised allowing effective response to priorities and enable all role players to take part in the process’
- b. Fair and equitable in ensuring that people with special needs, the disabled, the aged , single parent families without formal tenure rights, inhabitants of hostels, youth and other people with special needs are accommodated. This must occur within a framework that gives appropriate attention to the needs in both urban and rural contexts.
- c. Promoting transparency to guard against inequitable systems, in which some segments of the population benefit more than the others. Coupled with transparency there should be systems that monitor progress and ensure accountability”

6.3. Financial Implications

There are no financial implications should the recommendations as set out in the report be accepted.

6.4 Legal Implications

Although not exhaustive, the following legislation and policies apply to this draft policy:

- ❖ Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996)
- ❖ National Housing Act 107 of 1997;
- ❖ National Housing Code 2009.
- ❖ Rental Housing Act, 1997 (No 107 of 1997)

6.5 Staff Implications

This report has no staff implications for the Municipality.

6.6 Risk Implications

This report has no risk implications for the Municipality.

6.7 Comments from Senior Management:

Comments from Internal Departments of the Municipality will be obtained simultaneously with the public participation process.

ANNEXURES

Annexure A: Draft Housing Allocation Policy

FOR FURTHER DETAILS CONTACT:

<i>NAME</i>	ROTANDA NONA SWARTBOOI
<i>POSITION</i>	MANAGER: HOUSING ADMINISTRATION
<i>DIRECTORATE</i>	PLANNING AND ECONOMIC DEVELOPMENT
<i>CONTACT NUMBERS</i>	021 808 8757
<i>E-MAIL ADDRESS</i>	Rotanda.Swartbooi@stellenbosch.gov.za
<i>REPORT DATE</i>	

ANNEXURE A



STELLENBOSCH MUNICIPALITY
DRAFT HOUSING ALLOCATION
POLICY

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1. DEFINITIONS

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1. DEFINITIONS

In this Policy, the following words shall, unless otherwise stated or inconsistent with the context in which they appear, bear the following meanings:

‘Approved Beneficiary’ – A beneficiary whose application for a housing subsidy has been approved by the Provincial Department of Human Settlements.

Aged - meaning any person / household who receives and qualifies for a state pension (60 years and older).

Anti-social behaviour -can be described as people who persistently destabilise the community through the illicit sale of drugs, liquor without a licence and gang related activities.

Basic municipal engineering services – limited to water services, sanitation services, access roads and open lined storm water systems provided on a share base in a dense settlement pattern.

Catchment area- The geographic area surrounding a town designated by the municipality for a project (e.g. farms surrounding the area)

Core Household- The minimum sized household eligible for a housing subsidy as prescribed by the national Housing Code

Disabled – member of a house hold who receives a permanent disability grant from SASSA until the person reached the old aged grant (pensionable age of 60).

Financial dependent – Minor biological children, adopted children, foster children, children 18 years and over who are studying AND financially dependent, biological parents and grandparents, parents and grandparents in-law, siblings under 18, siblings 18 and over who are financially dependent, extended family members who are financially dependent (Nation Housing Code).

Beneficiary – Member of the public who has completed a registration for assistance to acquire a house from the variety of housing options available through the National Housing Programmes, and whose details have been captured on the National Housing Needs Register.

Capacity to contract- means that the person must be 18 years of age or older, and be mentally sound

Guardian- Any person legally appointed by a Court of Law or on recommendation by the Social Welfare Department to be the guardian for minor children left in occupation of the property.

Housing Allocation – Allocation of a new state subsidised house or rental unit to a specific applicant who has met the selection criteria for the dwelling or project.

Household income- means the gross income of the prospective tenant and his/her spouse.

Household members- any person other than children and grandchildren who formed part of the family when the tenancy commenced or was subsequently registered as household members by having been born, legally adopted or fostered into the family. This includes brothers, sisters, nephews, nieces, cousins, grandchildren, uncles, aunts and friends

Housing demand database (the database) – The Housing Demand Database is the Municipality’s integrated housing database comprising the consolidation of all the legacy waiting list or housing database and lists of the different areas and towns within the Municipality.

Housing Opportunities – Housing opportunities include the full spectrum of opportunities available in terms of the Integrated Residential Development Programme and includes the allocation of serviced stands to households that do not qualify for housing subsidies.

Housing Projects – Housing projects undertaken by the Municipality in terms of the National Housing Programmes (UISP, IRDP, CRU, EHP, PHP)

Housing Waiting List – Housing Waiting List are subsets of Housing Databases.

Integrated Residential Development Programme – A National Housing Programme based on an area- wide development orientation and the de-linking of subsidy beneficiaries from project process.

Location preference- A data field on the database indicating the area/location in which the individual or household prefers to reside

Meaningful Engagement – Affected communities/individuals must be engaged in relation to the impending removal, in order to ensure that all relevant personal circumstances are taken into account in the process.

Municipality- Stellenbosch Municipality

Policy – The policy set out in this document, as amended from time to time.

Prescribe form – the application form/affidavit attached to this Policy for emergency housing assistance.

Professionally Declared – The professional opinion and recommendation of a consultant who specialize in that field of expertise.

Project Town- The town in which a particular project is undertaken and for which beneficiary selection is being considered

Registration date ordering- The ordering of database entries (eligible for subsidy) from earliest to latest registration date proxy for the purposes of selecting beneficiaries for a project.

Selection Criteria – Selection Criteria are the factors of parameters used in selecting a set of applicants from housing demand database for housing opportunities.

Spouse- means any partner (including same sex) with whom a prospective tenant habitually cohabits.

Target Community – Target community is the specific group of potential beneficiaries that might benefit from a new housing project. By implication, the target community is project specific.

Vulnerable – Meaning any person/household living in dangerous circumstances (which is life threatening), dilapidated structures (not informal structures), gross overcrowding.

2. Introduction

Council has approved the housing pipeline which forms part of Stellenbosch Integrated Development Plan as an attempt to expedite housing delivery to its households in need of housing within its jurisdiction.

The cornerstone of this policy is:-

- (a) the focus on creating partnerships between the various spheres of government, the private sector and communities
- (b) the quality and affordability of the housing delivered, is of central importance; and
- (c) The focus on creating a wholesome living environment conducive to attracting private investment.
- (d) Management and control of the spread of informal settlements, land invasion and evictions from land, and
- (e) Promotion of integrated housing development, and
- (f) The equitable, non-discriminatory administration of housing issues, including housing provision to the people living with disabilities and the aged
- (g) Registration of all Stellenbosch residents' applications for housing assistance into an online housing demand database system.

It is Council's view that this housing allocation policy complies with the national and provincial housing policies and legislation. Its objective is to outline the policy parameters, objectives and procedures to be followed in addressing the above issues.

2.1 Legal Framework

Although not exhaustive, the following legislation and policies provide the appropriate legislative framework within which the Stellenbosch Housing Administration Policy is drafted:

- Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996)
- Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998 (Act No19 of 1998)
- Extension of Security of Tenure Act, 1997 (Act No 62 of 1997)
- Municipal Systems Act, 2000 (Act No 32 of 2000)
- Local Government Municipal Finance Management Act, 2003 (Act No 56 of 2003)
- Housing Act, 1997 (No 107 of 1997)
- Rental Housing Act, 1999 (No 50 of 1999)
- National Housing Code, 2009
- National Environment Management Act, 1998 (No 107 of 1998)
- Land Use Planning Ordinance, 15 of 1985

2.2 Guiding Principles

The following principles serve as guides in the implementation of Stellenbosch Municipality's Housing Allocation Policy:

Sustainability

Promotion of the establishment of socially and economically viable communities and safe and healthy conditions for human settlement while ensuring that residential developments do not to impact adversely on the environment.

Fairness and Equity

Housing development shall promote equal access to opportunities as well as promote equity in respect of race, gender, religion and creed.

Integration

Integration social, economic, institutional, physical and environmental issues in the development of sustainable human settlements whilst ensuring the new developments lead to the integration of urban and rural areas in support of one another.

Affordability

Residential development shall be economically, fiscally, socially, financially affordable, sustainable

Innovation and Choice

Promoting innovative responses that increase the availability of choice and variety to the consumer

Combating Urban Sprawl

Ensuring that new developments contribute to the compaction of towns and are contained within the urban fringes as defined in the Spatial Development Framework of the municipality

Community Participation

Ensuring that affected communities actively participate in the development process

Empowerment

Ensuring that development incorporate capacity building programmes that promote the utilisation of local skills and resources, as well as the participation of previously disadvantaged communities.

Habitability

Only suitable land for human occupation shall be considered for housing development

Proximity to Economic Opportunities

Land for housing shall be ideally located next to economic opportunities to lessen the transport costs to residents accessing their places of work

Quality

New housing development shall comply with the minimum quality standards

Environment friendly

Promoting the utilisation of environment friendly resources and design that focus on energy

Nature Centred Development

Creating synergy between man-made and ecological systems through the continuation of green spaces in human settlements and the utilisation of environmentally friendly resources and designs that focus on energy saving

Human Centred Development

Ensuring that the developmental needs and activities of people living in settlements are catered, for and that opportunities for people to achieve their full potential through their own efforts are maximized.

Integrated approach to Human Settlements

It is Council's view that,

- Housing development shall be located closer to economic opportunities
- Housing development shall lead to the compacting of the towns and avoid urban sprawl
- Housing development shall be integrated with other municipal services – social, economic and infrastructure to establish sustainable human settlements
- All housing developments (low, middle and high-income) within the Municipality shall be approved by Council in line with the provision of the Human Pipeline, the Spatial Development Framework (SDF) and the Integrated Development Plan (IDP).
- All forms of housing developments shall be promoted
- Municipal departments be coordinated to work together in planning and implementing housing projects
- The promotion of middle and high-income housing will in turn generate resources to improve low-income areas
- Equal preference be given to urban and rural development projects
- To promote environmental sensitive and energy efficient housing

2.3 Establishing an Integrated approach to human settlements

Council shall make available land for human settlement for Greenfield development, infill planning urban renewal or in situ upgrading projects and prioritized in the Housing Pipeline, the SDF and the IDP of the municipality.

- 2.3.1 Council shall support and participate in, where feasible, the development of a variety of high, middle and low-income residential developments which combine single residential as well as cluster housing on both Greenfield and Urban renewal, in-situ upgrading of infill planning sites.
- 2.3.2 All future development proposals shall show how due consideration has been given to social, physical, environmental and economic aspects in the project design. An environmental Impact Assessment or any other study to support decision-making in this regards may be required from the developer.
- 2.3.3 Council shall support urban developments within the urban fringe. Rural development shall be supported if proven feasible.
- 2.3.4 Council shall support developments that promote the optimum utilization of infrastructure and resources.
- 2.3.5 Council shall support development that is located in close proximity to socio-economic opportunities.
- 2.3.6 New Housing developments shall only be supported if in line with the Housing Pipeline, Spatial Development Framework and the Integrated Development Plan of the Municipality.
- 2.3.7 Projects shall be designed to minimize the negative impact on the environment and environmentally sensitive developments shall get preference.

CHAPTER 1: ADMINISTRATION AND MANAGEMENT OF HOUSING DEMAND DATABASE

1. Application of Policy

This chapter applies to the management and administration of the housing demand database.

Without a credible database Council finds it difficult to know the extent of housing needs within the Municipality. This complicates housing allocations and administration. If housing applications are not systematically recorded and no dedicated officials appointed to handle them, the housing database as well as Council's vision to provide for shelter in a fair and transparent manner as envisaged by the Constitution of South Africa will be flawed.

- 2.1 The aim of the housing demand database is as follows:
 - Promotion of fair administrative justice in the administration of housing allocations
 - Centralisation of all housing information
 - The housing demand database shall serve as the core instrument in the implementation of housing allocation
 - The housing demand database shall serve as a planning tool to human settlements, planning and infrastructure departments
- 2.2 **Management of the housing database**
 - 2.2.1 The Housing Administration section has the housing support and demand section which is responsible for the administration of the demand database
 - 2.2.2 The Western Cape Demand Database and the Council's database will be used for selection of potential Beneficiaries

- 2.2.3 The Database shall be linked and accessible through computers in the Stellenbosch Municipality Human Settlements offices.
- 2.2.4 The Manager: Housing Administration is tasked with the responsibility to oversee the management of the housing database.
- 2.2.5 The housing database will be made of the following components
- Occupants of informal settlements
 - Back yard dwellers
 - Farm workers
 - Applicants for municipal rental housing accommodation
 - Applicants for municipal public rental housing accommodation
 - Middle Income market Group (R7001-R22000)
 - Non-Qualifiers (R3501-R7000)
- 2.2.6 The housing database shall be dynamic and flexible to accommodate new needs such as land ownership, enhanced serviced sites, etc.
- 2.2.7 The Housing Demand Database shall be updated regularly as and when new allocations are made during the course of the year and when new applications are received.
- 2.2.8 Auditing of the housing database will be undertaken as necessary and when required by the internal auditing department of Council.
- 2.2.9 Housing officials dealing with the database will access the system through a unique password and all changes effected on the data will be tracked by the authorised employee to ensure credibility of the data and to eliminate tampering with the data
- 2.2.10 The Manager Human Settlements should ensure there is segregation of duties with the management and administration of the database.
- 2.2.11 The Database Unit shall update the housing demand database every five (5) years to ensure applicants who no longer reside in the municipal area do not get selected for housing opportunities

2.3 Assigning registration dates to new entries on the database

A registration date will be given to each individual who completes the necessary documentation required to be entered on to the database, provided that the individual:

- Does not own fixed property in the municipality
- Is a minimum of 18 years old
- Is a citizen or has permanent residence in South Africa

The registration date is the date at which the municipality accepts the documentation submitted for registration on the database as complete. The municipality will communicate the registration date to the applicant/s and provide him/her with documentary proof of that date. The registration date will remain constant until the applicant/s receive ownership-based housing opportunity

2.4 Criteria for selection from the demand database

- 2.4.1 All persons who want to qualify for state financed housing must complete the standard application form to be registered on the housing database.
- 2.4.2 Only applicants who appear on the updated housing database will be considered for any state subsidized housing assistance.
- 2.4.3 Completed applications shall be lodged with the Housing Support and Demand Section officials who shall capture the information in the Housing Demand Database (Provincial and Council's).
- a) Application dates are not transferable to other members of a household in any circumstance, especially in circumstances where the person on the database does not qualify for a government subsidy. No database transfers will be allowed.
 - b) Financial dependents can only be used once for a subsidy application approval and the necessary supporting documentation (proof of adoption, affidavits if extended family financial dependent must be provided.
 - c) Where a person is living with disability (supporting documentation must be provided (doctor/clinic certificate/report and a report from SASSA).
 - d) The Housing Administration department will investigate each case in terms of aged and disability status and submit a detail report on the circumstances for approval by Council

CHAPTER 2: ALLOCATION POLICY-GREEN FIELDS DEVELOPMENTS

1. General Mechanisms

Selection will be done strictly on the active entries on the Housing Demand Database and the principle of “**first come first serve basis will be applied**”

2. Selection Criteria

Selection will be done based strictly on the active entries on the Housing Demand Database registration and the principle of “first come first serve basis” will be applied. Allocation of housing subsidies shall comply with the provision of the Housing Act, the Housing Code, the Provincial and Municipal Housing Policies

- 2.1 Housing allocation shall be decided on a first come first serve basis (selected in order which they were registered on the database) subject to the provisions below:
Applicants shall be Stellenbosch Municipal area residents for a period not less three (3) years
- a) The principle of “First come first serve” shall apply
 - e) The **aged and people with disabilities** shall be prioritised without unduly undermining the principle of first come first serve
 - f) In a project 40% of the opportunities in the project component will be allocated to applicants on the waiting list residing in the project town including its wards.
 - g) 20 % will be allocated to residents of WC024 on the housing demand database
 - h) 10% of opportunities will be allocated to households in emergency as defined in the Emergency Assistance Housing Policy
 - i) 10% of opportunities will be allocated to farm workers
 - j) 20% will be allocated as a right-sizing to elderly residents (ages from 55 and above) and indigent tenants residing in the Public Municipal Rental Units as a form of right sizing and allowing economically active applicants to occupy those flats for financial sustainability of Council. The final allocation for this category will be approved by Council for each project.
 - k) Applicants will only be eligible for selection in a project if they have updated “**their status**” on the housing demand database on the year preceding the project

- 2.4.5 After an application has been approved, the Municipality shall inform the applicant through any of the following:
- a) A letter, where an address has been provided in the application form
 - b) A telephone call/Sms/email
 - c) A fax, where a fax number has been provided, and
 - d) Notice on the notice boards of the Municipality and its satellite offices
- 2.4.6 The full list of approved allocations will be displayed on notice boards at municipal offices for transparency purposes and for comments by the public.

CHAPTER 3: ALLOCATION POLICY: MUNICIPAL PUBLIC RENTAL STOCK

1. OBJECTIVES

The objectives of this chapter are to:

- provide rental accommodation to those citizens of Greater Stellenbosch whose gross monthly household income does not exceed R7 000;
- eliminate unfair discriminatory practices, if any exist;
- promote and apply the principle of fair administrative justice; and
- Ensure that each and every pre-allocation step of the administrative and procedural actions is complied with.

2. PRINCIPLES

Vacant rental units to be allocated only to applicants on the Housing Demand Database according to date of application, taking into account the following prescriptions regarding to the size of the family:

- One bedroom unit : A household with 2-3 members
- Two (2) bedroom unit : A household with 4-6 members
- Three (3) bedroom : A household with 5-8 members

2.1 The Municipality renders a fair and efficient service to its housing tenants.

2.2 There should be fair allocation of rental stock according to set and agreed procedures.

2.3 All existing public housing will be regarded as such, with no third party having influence on any allocation.

2.4 The lease automatically terminates on the death of the tenant. The matter is then dealt with in terms of the policy in respect of transfer of tenancies or unlawful occupation, whichever is applicable.

2.5 Transfer of tenancy will be dealt with in the following order of succession to a qualifying:

- spouse;
- child;
- grandchild;
- sibling;
- relative; and
- other household member.

2.6 The income limit for persons in occupation of an existing rental property shall be a household income not exceeding R7 000.00 p.m. as categorized under the eligibility criteria.

2.7 Prospective tenants and tenants transferring to alternative accommodation must qualify in terms of the eligibility criteria.

3. ELIGIBILITY CRITERIA

All prospective tenants must qualify in terms of the following eligibility criteria:

3.1 Must be a South African citizen with a valid identity document or have a permanent residency document.

3.2 Must have the capacity to contract.

3.3 Must have an active status registered application captured on the housing demand database.

3.4 Must not be current registered property owner/s at the time of allocation.

3.5 Gross household income must be less than R7 000.00 p.m.

3.6 The rental fee should not be more than 25% of income

3.7 In cases of a need for emergency housing arising Manager: Housing Administration can accommodate families as a matter of priority. This to be done after submitting an urgent report and its approval by the Mayoral Committee

4. TRANSFER OF TENANCY AND EXCHANGE OF RENTAL UNIT

Transfer of tenancy takes place in instances where the tenant has died, divorced, vacated or relinquished the tenancy and people have remained in occupation of the property.

4.1 Transfer of Tenancy to Spouse

4.1.1 Due to death of tenant

- The tenancy may be transferred to the spouse on the death of the tenant.
- Tenancy commences the day following the death of the tenant.
- Where the tenant and spouse were married in community of property, half the arrears shall be transferred to the new account.

4.1.2 Due to divorce

- The tenancy will be allocated to the spouse who has been granted custody of the minor children of the marriage or, in the case of joint custody, to the spouse whose home is the primary residence of the minor children.
- Where the parties received joint custody of the minor children, the tenancy will be decided by mutual agreement of the parties failing which they will be required to produce an amended divorce decree insofar as the occupation of the premises is concerned.
- Where there are no minor children to be considered, the tenancy will be decided by mutual agreement of the parties failing which they will be required to produce an amended divorce decree insofar as the occupation of the premises is concerned.
- Any exceptions to the above will be dealt with on merit.
- Where the tenant and wife were married in community of property, half of the arrears shall be transferred to the new account.

4.1.3 Due to separation after cohabitation or traditional marriage

The tenancy may be transferred to the partner of the tenant who is in occupation of the unit after a period of absence by the tenant of more than three months.

The tenancy commences the day following the date that the affidavit (confirming the absence of the lessee) is submitted.

Half of the arrears will be transferred to the new account.

4.1.4 Due to desertion

The tenancy may be transferred to the partner in occupation after having followed the due process of the Law.

Where the tenant and spouse were married in community of property, half of the arrears will be transferred to the new account.

4.1.5 Due to separation after customary marriages

The tenancy may be transferred to the partner in occupation after a period of absence by the tenant of more than 3 months or on producing a divorce certificate and/or affidavit e.g. Talaaq.

Tenancy commences the day following the date of the divorce, or the day following the date that the affidavit (confirming the absence of the lessee) was submitted, whichever date is the earlier.

Half of the arrears will be transferred to the new account.

4.1.6 Transfer of tenancy to sole occupant (Child, Household Member)

Transfer of tenancy to a sole occupant may be considered if:

- (a) The person is a household member.
- (b) The person has been in occupation with the tenant for an unbroken period of two (2) years prior to the tenant having died/vacated subject to substantive proof being provided. Consideration may be given to cases where absence was through circumstances beyond his/her control.
- (c) Persons who are not in occupation at the time of the termination of the tenancy may be considered on the merits of the case.
- (d) The tenancy commences on the day following the death of the tenant, vacation by the tenant of relinquishing of tenancy.
- (e) If the person is over-housed in a non-saleable unit, he/she must be right sized where possible. Should the offer of right sizing be refused, notice will be served on the occupant to vacate the premises. The household member may purchase the dwelling if saleable.
- (f) The rent arrears will be dealt with in accordance with appropriate legislation.

4.1.7 Transfer of tenancy to children (including grandchildren) or household member

(a) The person is of legal age and had been in occupation with the tenant for an unbroken period of two (2) years prior to the termination of the tenancy subject to substantive proof being provided. Consideration may be given to cases where absence was through circumstances beyond his/her control.

(b) Persons who are not in occupation at the time of the termination of the tenancy may be considered on the merits of the case.

(c) The person is not of legal age and has been in occupation with the tenant for an unbroken period of two (2) years prior to the termination of the tenancy subject to substantive proof being provided, except in the case of circumstances beyond his/her control. There is a guardian residing the property who undertakes the responsibilities of the lease on behalf of the child until he/she becomes eligible.

(d) The tenancy commences on the day following the death of the tenant, vacation by the tenant or relinquishing of the tenancy.

(e) The rent arrears will be dealt with in accordance with appropriate legislation.

4.2 Exchange

4.2.1 Tenants who require an exchange to another dwelling must themselves find a tenant who is prepared to exchange dwellings. Such exchanges are dealt with administratively by the Housing Administration Office. Should there be no complicating factors such as co-tenants, rental arrears or maintenance to be done the exchange may be considered;

4.2.2 Applications for transfer to ground level units, due to mobility handicapped and poor eyesight are considered by the Manager: Housing Administration

4.2.3 Consideration will be given to special needs applicants in the immediate vicinity of the vacant rental unit

5. Rentals

5.1 Rentals charged

Where the tenancy is transferred to a spouse, the rental will be determined in accordance with the terms and conditions of the financial policy adopted by Council.

In case of transfer to tenancy to other household members, guardians or single persons, the rental charged will be the full Economic Rental. In cases where the household income exceeds R7 000.00, the 8 % surcharge will be added to the rental.

5.2 Other occupants

Other occupants will be dealt with in terms of the proposed Unlawful Occupation Policy for Rental Accommodation.

6. GENERAL COMMENTS

Any deviations from the above will be left to the discretion of the Director: Planning and economic Development and Manager: Housing Administration.

Persons who are not in occupation at the time of the termination of the tenancy may be considered on the merits of the case.

All lease agreements will be for a fixed term of five years, after which it may be renewed.

6.1 RENT FORMULA/AFFORDABLE RENT

6.1.1 The rental to be paid will be charge in terms of council policy and budgets applicable for that particular financial year.

6.1.2 All household who rent a unit will pay deposit based on the tariffs for that particular financial year.

6.1.3 Councillor/s of any Local Authority, Members of Provincial or National legislatures and/or employees of any Government department or any person/s who earns more than R7500 must be charged market-related rent.

6.1.4 The above charges include all other municipal services and charges excluding water and electricity.

6.1.5 Rental is payable monthly in advance

7. Dealing with Evictions-Rental Stock

7.1 POLICY FRAMEWORK IN RESPECT OF UNLAWFUL OCCUPATION OF COUNCIL RENTAL UNITS.

7.1.1 PRINCIPLES

7.1.2 An unlawful occupants is a person who:

- has moved into a vacant municipal rental unit without Council's authorization, or
- has forced the legal tenant out of a municipal rental unit or
- has been left behind by a vacating tenant or when the tenant dies and is not a family member of the original household (includes families living in backyard structures)

7.1.3 Children of former tenants who move into their parent's municipal rental unit will not be considered as unlawful provided that.

- a) They can show that they have lived in the municipal rental unit for a period of not less than 24 months (unbroken) prior to the termination of the tenancy.
- b) They can prove that their absence from the Unit was due to economic reasons and are actively contributing to the livelihood of tenant (working out of town)
- c) They are not in occupation of other Council owned dwelling
- d) Doubtful cases will be referred to the Manager: Human Settlements for adjudication after an inspection was undertaken and a report was tabled to the Manager.

7.1.4 In dealing with unlawful occupants, Council will ensure that the rights of the occupants are not Undermined.

7.1.5 Unlawful occupants will be dealt with in terms of set administrative procedures.

7.1.6 Council will not consider any illegal occupant for legalization provided the court of law dictates otherwise: In such an instance the Manager: Housing Administration will set an eligibility Criteria of legalization.

7.2 ADMINISTRATIVE PROCEDURES: UNLAWFUL OCCUPANT:

7.2.1 A home visit must immediately be conducted after a report is received or it is suspected for any reason that there is an unlawful occupant in occupation to establish the following:

- a) Date the tenant vacated or died
- b) Those persons who are members of the tenant's household and who may have claim to the tenancy are no longer in the dwelling.
- c) Ascertain the date unlawful occupant move into the dwelling

- 7.2.2 The unlawful occupant/s details are checked and any special circumstances pertaining to the Occupant/s noted (e.g. invalids, terminally ill persons, health stricken, pregnant persons, Wheelchair-bound persons, whether the household is headed by a women, whether there are a Minor children, elderly, whether they are employed, etc.)
- 7.2.3 At the interview, the unlawful occupant must be advised about his/her rights as well as the implications of the illegal occupancy.
- 7.2.4 The unlawful occupant will be given a maximum of 14 days, notice letter or Sent by registered post to vacate the premises of face eviction.
- 7.2.5 After the 14 days' notice period a process of meaningful engagement will be followed to discuss options not to render the unlawful occupant homeless.
- 7.2.6 Where no agreement can be reached with the unlawful occupant or all alternatives has been explored and eviction is the only option, Council's attorney will be instructed to institute the required proceeding for the eviction.
- 7.2.7 The same process (notification, interview and meaningful engagement, (eviction) will be followed against a tenant who is responsible for anti-social behaviour

8. PREVENTION OF ANTI-SOCIAL BEHAVIOUR BY TENANTS OF MUNICIPAL RENTAL HOUSING STOCK

8.1 PREAMBLE

Stellenbosch Municipality recognises that it has a duty in terms of, among others, section 26(2) of The Constitution of the Republic of South Africa Act, 1996, (Act 108 of 1996) to take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of the right to have access to adequate housing. The Municipality further recognises its duty to assist persons who are destitute and in desperate need of housing.

However Council also recognizes that it has a duty to promote a safe and healthy environment for all Who lives within its geographical area of operation? In fulfilment of these duties the Municipality has Developed strategies to address needs of the community, but this is subject to the balance being maintained between both duties, referred to above, which is included within the Constitution. This Policy is implemented in furtherance and fulfilment of the Municipality's duties in terms of the Constitution and other relevant legislation as well as related statutory instruments and case law.

8.2 PURPOSE

The purpose of these implementation guidelines will enable the municipality to prevent and deal With the occurrences of the anti-social behavioural patterns within municipal rental housing stock.

8.3 RELEVANT LEGISLATION

- Constitution of the Republic of South Africa Act, 1996 (Act 108 of 1996).
- Criminal Procedure Act, 1997 (Act 51 of 1977)

8.4 GLOSSARY OF ANTI-SOCIAL BEHAVIOUR

There is no precise definition of anti-social behaviour in housing. Broadly, it is acting in a way that causes or is likely to cause harassment, alarm or distress and even criminal activities, which affects neighbouring tenants.

In order for it to be deemed anti-social behaviour, such behaviour must be persistent in nature.

Anti-social behaviour must be seen to include, but not limited to:

- (a) Sub-letting of the rental units;
- (b) Causing noise pollution;
- (c) Engaging, on the premises or in the rental unit, in the unlawful personal usage of dependency Forming substances and / or drugs;
- (d) Engaging, on the premises or in the rental unit, in the unlawful sale of dependency forming

substances and / or drugs to persons who are users of such substances and / or drugs;

- (e) Engaging, on the premises or in the rental unit, in the unlawful sale of alcoholic beverages to Persons who are users of such alcoholic beverages;
- (f) Possession, usage and / or trafficking dependency forming substances;
- (a) intimidation of neighbours and others through threats or actual violence;
- (b) harassment, including racial harassment;
- (c) verbal abuse;
- (d) homophobic behaviour;
- (e) systematic bullying of children in public recreation grounds;
- (l) Abusive behaviour aimed at causing distress or dear to certain people, for example, elderly or Disabled people;
- (m) Dumping of rubbish and other items;
- (n) Animal nuisance, including dog fouling;
- (o) Vandalism, property damage and graffiti; and
- (p) Criminal activities as described in the South African Criminal Procedures Act.

8.5 IMPLEMENTATION GUIDELINE

8.5.1 When a report / complaint is received that a tenant, a member of his/ her household, A relative, a friend or an associate commits or committed any of the transgressions Described under clause 3 above, on the premises or in the rental unit, the recipient of the Report to ascertain the exact address where the transgression is occurring or has occurred.

8.5.2 Upon establishing the identity of the tenant and that the transgression has indeed occurred At the address of the tenant, a letter is then sent inviting the tenant to call the Housing Administration Departemnt. The interview with the tenant is followed up with a Letter confirming the interview and the contents thereof:

- (a) During the course of the interview, the tenant is advised of the nature of the complaint/ transgression, and the implications, if the report / complaint is found to be true; The source of the report / complaint shall neither be included or divulged to the tenant
- (b) nor recorded in the tenant's file;
- (c) Upon receipt of a second and third report / complaint from the previous or different reporter(s) the tenant shall be served with a letter, warning him / her of the alleged abuse of the premises or rental unit and the degree of criminality attached to the transgression;
- (d) A letter shall be simultaneously forwarded, by the Manager : Housing to the South African Police Services requesting:
 - (a) an investigation of the alleged transgression(s) and
 - (ii) a raid at the address concerned if *prima facie* evidence exists.
 - (iii) an enquiry should be made to SAPS, as to whether they have any convictions against anyone residing at this address.
- (e) In the event of the SAPS' response that no record of convictions exist and reports / complaints are still being received by the Housing Department, a strongly worded letter

must be forwarded to the tenant appealing to the tenant to desist immediately from continued illegal practices on the premises or in the rental unit;

- (f) If more than six months have elapsed since the last report / complaint against the tenant, another letter should be sent to the tenant as a reminder of the reports / complaints against him / her;
- (g) In the event, however, that the SAPS confirms convictions against anyone residing at that address, a detailed report must be forwarded immediately to the Manager: Housing, setting out the activities of the tenant or anybody else residing at that address as well as any convictions against of the tenant or co-habitant. A recommendation for the for the eviction of the tenant must accompany the report to the Director: Community Services
- (h) If the Director approves the recommendation for an eviction, the tenant must be served with months' notice to vacate the rental unit, commencing on the first day of the month. The tenant should be allowed to make representation, why he/she should not be evicted. The notice shall be sent by registered post and shall include and advice that the tenant shall not be considered for re-housing in public rental stock.
- (i) If the tenant fails to respond or vacate the unit by the expiry date of the notice, the matter shall be referred to the municipality's attorneys for an application for an eviction order at court and, if successful, the Sheriff of the court must attend to said eviction. The tenant shall be liable for all cost incurred to effect the eviction.
- (j) Tenants who were evicted as a result of anti-social behaviour or associated misconduct shall not be considered for re-housing in public rental stock.
- (k) A copy of this chapter of the Housing Administration Policy will be attached to a rental agreement for signature and discussion with the tenant.

CHAPTER 4: POLICY ON AFFORDABLE HOUSING

Institutions and developers use their own selection processes

Housing institutions and developers making use of government subsidies must be allowed to run their own selection processes provided these processes are reasonable.

6.1 Projects open to all qualifying across the municipality

The municipality should ascertain that the selection processes run by housing institutions are adequately understood by the citizens of the municipality and uniformly applied across the municipality. All the citizens in the municipality who meet the housing institution's entry requirements should potentially be able to benefit.

6.2 Registration date ordering applied by municipality on developer's list where effective demand is greater than supply

Where the number of the individuals/households meeting the housing institution's or the developer's minimum selection criteria is greater than the number of units supplied in the project under consideration, further selection of individuals/households on the housing institution' or developer's list should occur in order of registration d

CHAPTER 5: INSTITUTIONAL ARRANGEMENT

The responsibilities laid out below pertain to all project component types, except where indicated.

2.5.1 Council

The Council is responsible for:

- Adopting and reviewing, by resolution, the municipality's Selection Policy
- Monitoring the implementation of the selection policy

2.5.2 Municipal Manager

The Municipal Manager is responsible for implementing this Selection Policy.

To enable implementation, the Municipal Manager establishes the required roles and responsibilities as follows:

2.5.3 Director: Planning and Economic Development (referred to as "Director")

The Director has the following roles:

- Recommending the method for selecting beneficiaries for relocating in relocation project components to the council for decision making
- Issuing instructions to the Manager: Housing Administration about how the selection policy will be implemented for each project.
- Reporting to the council on a quarterly basis on how the selection broadly occurred within the affected housing projects i.e. the number of opportunities in the project, the quotas used, the number of opportunities within each quota, the nature of selection parameters and dimensions of the selection parameters, if used.

2.5.4 Manager: Housing Administration

The Manager: Housing Administration has the following general roles:

- Generally ensure that all processes required for selection in the project component as laid out in policy occur.
- With his/her support staff, manage the process of public comment on preliminary lists, deal with queries of the public directed towards him/her where possible by referring any queries to the appropriate officials and informing members of the public about the responses.
- Institutional and affordable housing project components, the Manager: Housing Administration will manage the process of providing lists of possible beneficiaries to housing institutions / developers and / or ordering applicants according to date of registration on the municipal database should the social housing institution or developer require this.
- Should registration date ordering be required, the institution or developer will submit names and Id Number of the individuals or households on its list to the Manager: Housing Administration for ordering according to the registration date and receive the list back.

2.5.5 Beneficiary Committee/ Social Compact

For the relocation project, the Beneficiary Committee/Social compact will develop recommendations for how selection within the relocation project will occur, and submit these to the Project Manager who will in turn make a recommendation to the Director.

The Municipality will establish the Beneficiary Committee/Social Compact by placing an advert in the local community Newspaper and Municipal Offices calling on interested parties to be part of the establishment of a Project Steering Committee/ Social Compact. A community meeting will then be called for the election of the Beneficiary Committee/Social Compact. The Beneficiary Committee/ Social Compact will be elected at a public meeting called by the Municipality and will comprise representatives from the following stakeholder:

- Officials from the Municipality including the Project Manager for the project concerned.
- Representatives from communities in the vicinity of the project site
- Councillors, both ward and PR
- Project consultants

2.5.6 Housing Support and Demand Sub-section

The Manager: Housing Administration will ensure that this section has dedicated officials responsible for updating and administration of the demand database. The role of these officials will be to:

- Process application forms from individuals and households for entry onto the database systems
- Verify and update information
- Store information contained on the application safely
- Apply the Selection Policy and selection parameters to the database to select beneficiaries for the project by order of the Manager: Housing Administration
- Answer any formal queries in writing about any preliminary selection lists that maybe referred to Manager: Housing Administration
- Keep track of status of entries on the database, including whether and when database entries have received subsidy or rental opportunity, and the location of such a property

2.5.8 Contractor or Implementing Agents

Contractors or implementation agents will play no role in selection, except, at the request by the municipality, to contact individuals or households who have been selected in any primarily selection process

2.6 Channel for queries about Preliminary Selection

After the Municipality has undertaken pre-screening of the preliminary lists and before the submission of the successful entries on the list to Department for approval, the Municipality will post the list for public comment.

The details of selected beneficiaries must also appear on Western Cape Housing Demand Database. The list will be posted for a period of 2 weeks to afford the public to submit objections on the names selected.

The Municipality will have 3 weeks to respond to the queries raised by the public

2.7 Communication of the Policy

The Municipality will communicate the Selection Policy to the residents of the Municipality at least twice per year during feedback meetings of Ward councillors. Each housing office will provide information explaining the policy. The full policy will be available on request for reading in all Municipal buildings in which the officials of the municipality will interact with the public in face to face manner when requested to do so. The responsibilities of residents to register and annually update information will be made clear, and the consequences of not fulfilling these responsibilities will be explained to them.

Policy owner	
Policy adopted by Council	
Policy implementation date	
Responsibility for implementation	

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5.1.2	BACKYARDERS SURVEY REPORT
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Feedback will be given at the meeting.

6.	REPORTS SUBMITTED BY THE MUNICIPAL MANAGER
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NONE

7.	NOTICES OF MOTIONS AND NOTICES OF QUESTIONS RECEIVED BY THE MUNICIPAL MANAGER
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NONE

8.	CONSIDERATION OF URGENT MATTERS
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NONE