

# HOUSING POLICY



**MAY 2022**

# HOUSING POLICY

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## **PREAMBLE**

Everyone has a right to proper and adequate housing in terms of the South African Constitution of 1996, this therefore means the state must take reasonable legislative and other measures, within its powers and available resources, to achieve the abovementioned right;

The Winnie Madikizela Mandela Local Municipality realizes that;

- Housing as basic shelter, fulfils human needs,
- Housing is vital for socio-economic wellbeing of the community.

## **1. OBJECTIVES**

The Winnie Madikizela Mandela Local Municipality Housing policy provides for the Initiation, Coordination and facilitation of a sustainable housing development process. This process must lay down guidelines that will direct, where, how and when shall housing development be taken within municipal jurisdiction.

To establish and maintain a habitable, stable and sustainable public and private residential environments by ensuring viable households and communities, in areas allowing convenient access to economic, education and social amenities, in which all residents will have access to;

- Permanent residential structures with secure structure tenure.
- Clean water, sanitation and electricity.
- To ensure economic, social and physical integration of residents.

## **2. PRINCIPLES**

The following are to be upheld as reflected in the Housing Act 107 of 1997 in order to achieve and satisfy housing needs;

- Prioritise housing needs for the poor.

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- Provide as wide as possible tenure options for beneficiaries.
- Be economically, fiscally, socially, financially affordable and sustainable.
- Be in line with the IDP
- Be environmentally conscious.
- Be administered in a transparent, accountable and equitable manner, based on the principle of good governance.

### **3. INFORMAL SETTLEMENTS ERADICATION**

The development of informal settlements is an indication of either improper urban planning or the inability of the town to cope with urbanization. This might be due to a number of issues which include; Organized land invasions or desperate people needing proper shelter.

Regardless of the reasons for this growth in informal settlements, they are by their nature a threat to human life and dignity as by their nature they are mostly inaccessible, filthy, dark, have no sanitation facilities and serve as safe haven for criminal activities, thus meaning they are undesirable and therefore should be eradicated.

The processes and intervention to do away with them should be done hand in hand with the local inhabitants, with the Municipality and other relevant stakeholders using available resources, as long as they are not in conflict with any National and Provincial Legislations and Regulations and Municipal Strategic Development Policies.

The prevention of further expansion of existing informal settlements and mushrooming of new ones is of critical importance to any successful systematic development of urban areas. This therefore raises the need for proactive strategy, to manage rapid urbanization without infringing upon people's freedom of movement and right to housing. And this strategy needs to be linked to the Municipality's housing development objectives and goals.

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This strategy could include the upgrading of such areas into formal settlements if the location and other factors allows. Such initiative must be underpinned by secure tenure and basic and adequate services.

In the event where such activity is not feasible alternative land can be sourced for resettlement, such land should not perpetuate dislocation and displacement.

#### **4. ECONOMIC AND PHYSICAL INTEGRATION**

It should be considered that not only South African citizens are in need of proper accommodation when they move into Winnie Madikizela Mandela Local Municipality, but foreigners from neighbouring countries as well.

As much as foreigners do not qualify for state subsidized housing, they are however protected by the Constitution of the Republic of South Africa as human beings, so their need for housing needs to be met in one way or another to preserve human dignity.

Therefore, Housing development in Winnie Madikizela Mandela Local Municipality must take this into account and ensure a socially, economically and physically integrated society over a period of time is archived.

New housing projects must be located close to the existing infrastructure services, as well as existing economic nodes.

#### **5. HOUSING DELIVERY**

Housing delivery is one of the most important activities in stimulating the economy and tackling urbanization. While it is a fact that most Housing developments are done privately whether by individuals or through developers, there are people who might not afford either of the abovementioned activities, thus raising the importance of Municipal Housing Policy to give direction to housing development.

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## 5.1 Low Cost Housing:

When planning the development of housing to accommodate the low-income earners careful considerations must be given to the location of such development. In relation to close proximity to work opportunities, Shopping Centres, essential services such as primary healthcare facilities, schools etc.

These kinds of development must limit the distance to be travelled by residents to important amenities.

## 5.2 Prioritization

People who do not fall under destitute but homeless be prioritised by Council.

We have different types of Low-Cost Housing delivery systems which are as follows:

**a) Disaster;** The Mayor has a prerogative to declare an area as a disaster zone, and once this has been done, the Municipality together with other relevant stakeholder will assist in terms of getting the lists of affected people, conduct assessments and making sure affected people are assisted as soon as possible, by erection of temporary structures as a short-term relief.

**b) Destitute:** For this type of project to take place, the Municipality will identify a ward where there is a need for assistance of destitute people which incorporate people living with disability, child headed households, and elderly people, guided by existing guidelines, the list will be compiled and submitted by the affected Councillor, then an application will be submitted to the Department of Human Settlements for assistance by the municipality

**c) Full Scale Housing Project:** This is the bigger project, where for it to take place, the Winnie Madikizela Mandela Local Municipality Council will have to prioritize wards that are in dire need for housing through relevant structures, then the Councillor will compile the list and submit it to the Municipal Housing Section for submission to the Department of Human Settlements.

Another important factor here is making sure that no more than one housing Unit is provided per household.

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### 5.3 Rural Housing

It is a fact that most parts of Winnie Madikizela Mandela Local Municipality are located in rural areas, thus raising the need to also shift low cost housing development to rural areas, to counter urbanization and improve people's lives not only in urban areas but rural areas as well. This project is pretty much similar to the Low-Cost Housing and prioritization is the same as Low Cost Housing.

This development is easy to get off the ground and manage as not many technical issues have to be considered as most of these projects are in-situ. Another important factor here is making sure that no more than one housing Unit is provided per household.

### 5.4 Housing Subsidy System

All subsidies under this Policy must be administered through the Housing Subsidy System and no parallel system will be allowed. All approved Housing Subsidy Scheme beneficiaries must be recorded in the National Housing Subsidy Data-base (NHSDB) and municipal records.

### 5.5 Eligibility

The following entry levels of qualification criteria apply:

- a) **Resident** (i.e. citizen of the Republic of South Africa or in possession of a permanent residence permit. Certified copies of the relevant documents must be submitted with the application.
- b) **Competent to contract** : He or she is legally competent to contract (i.e. over 18 years of age or legally married or legally divorced and of sound mind)
- c) **Not yet benefitted from government assistance:** Neither that person nor his or her spouse has previously derived benefits from the housing subsidy scheme, or

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any other state funded or assisted housing subsidy scheme which conferred benefits of ownership, leasehold or deed of grant or the right to convert the title obtained to either ownership, leasehold or deed of grant. In the event of a divorce involving a person who previously derived benefits, the terms of the divorce order will determine such a person's eligibility for benefits under this policy.

d) **Not previously owned a fixed residential property:** Neither the person nor his/her spouse has previously owned or currently owns a fixed residential property. In addition to the above requirements, any applicant must also satisfy the following general criteria, as linked to the benefits of the policy.

e) **Married or cohabiting:** He or she is married (in terms of the Civil Law or terms of a customary marriage) or habitually cohabits with any other person. The word "spouse" includes any partner with whom a prospective beneficiary habitually cohabits. Where an application is made for a subsidy on the basis of a legal marriage or cohabitation arrangement. It is required that the property must be allocated in the names of both spouses. Documentary proof of the marriage and affidavits from both spouses in respect of cohabiting arrangements and customary marriages must be provided.

f) **Single with Financial Dependents:** or he or she has proven financial dependants. A financial dependant refers to any person who is financially dependent on the subsidy applicant and who resides permanently with the housing subsidy applicant. Financial dependants include any or a combination of the following proven financially dependent persons of, and residing permanently with, the subsidy applicant:

- i. Biological parents or parents-in-law
- ii. Biological grandparents or grandparents-in-law
- iii. Brothers/sisters under the age of eighteen (18) years who are still studying and who are financially dependent on the applicant:
- iv. Children under the age of eighteen (18) years, i.e.
  1. Grand children
  2. Adopted children

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3. Foster children
  4. Biological children
  5. Any of the above persons over the age of eighteen (18) years who are still studying and who are financially dependent on the applicant, and
- v. Extended family members who are permanently residing with the applicant due, for example, to health problems and who are therefore proven financially dependent on the housing subsidy applicant.

Special provision: It is a requirement that in cases where housing subsidy applications are submitted by single persons with financial dependents, that the particular from the identification document of such dependents must be recorded on the application form and the information must be captured in the Housing Subsidy System. The following documents must accompany an application for a housing subsidy:

**Certified copies of:**

- a) Birth certificates, bearing the thirteen digits identity number for children who do not have a bar coded identity documents;
- b) Bar coded identity documents
- c) Divorce settlement documentation (to prove custody of children) where relevant
- d) Affidavit for unions solemnised in terms of SA Civil Law and accompanied by sworn statements to prove the authority of the relationship to the applicants, where applicable; and
- e) Court orders or, orders issued by the Commission of Child Welfare to prove guardianship for foster children, where relevant. In addition to the above requirements, any applicants must also satisfy the following general qualification criteria, as linked to the benefits of this policy.
- f) **Single persons without financial dependents:** the subsidy may be allocated to such individuals at the discretion of the MEC of Human Settlements to make provision for widows and others who may have lost their dependents.



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g) **Monthly household Income:** Persons must comply with the provisions of the Policy funding schedule as annually approved by MINMEC.

A prospective beneficiary will be required to submit adequate proof of income, and, in the case of income received through self-employment, must sign an affidavit stating the amount earned. For the purposes of assessing whether any particular person is entitled to receive a housing subsidy, the income of his or her spouse (if any) shall be added to that person's income, and income shall include:

- Basic salary and/or wages
- Any allowances paid on a regular, monthly or seasonal basis as part of an employment contract
- Any loan interest subsidy, or other remuneration payable regularly on a monthly basis to the individual (and/or to his or her spouse) by his or her employer;
- Any financial obligations met on behalf of the individual (or his or her spouse) by his or employer on a regular monthly basis
- Any commission payable to the individual (and/or to his or her spouse) on a monthly basis (an average of the most recent 12 (twelve) months will be determined for eligibility assessment purposes;
- Income received through self employment; and
- Any retirement or disability benefits received on regular (monthly) basis.

h) **Persons in polygamous unions;** polygamous unions are recognized and subsidies may be allocated accordingly. In such cases, where available, applicants must submit affidavits from traditional leaders or the person who performed the marriage. Each wife should use a separate application form with her details and that of the husband and financial dependents (if any). All wives would qualify under the policy if they meet all requirements;

i) **Persons classified as aged;** aged persons who are single without financial dependents may also apply for subsidisation. Aged persons can be classified as male

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and female persons who have attained the minimum age set to qualify for governments old age social grant; and;

j) **Child headed households and minors;** persons falling in this category will qualify for a rural housing subsidy, provided that legal guardianship arrangements are in place. If these arrangements are not in place, such persons must be dealt with in accordance with the directives of the Department of Social Development and may be accommodated in rental housing opportunities if available or special facilities for this purpose.

k) **Number of units allowed per erven;** for every site that a house should be built on ONE (01) unit is allowed.

### **ANNEXURE A**

#### **GUIDELINE FOR THE DEREGISTRATION OF MISSING BENEFICIARIES OF GOVERNMENT SUBSIDIZED HOUSES**

##### **1. POLICY INTENT**

To provide a guideline to be followed, when government housing subsidy beneficiaries are missing, or are unable to take physical occupation, and the properties need to be deregistered in the Office of the Chief Registrar of Deeds.

Deregistration, or the cancellation of registration of transfer, refers to a process whereby a name of a property owner is removed from the title deed and the Deeds Register of the Chief Registrar of Deeds, and is necessary to:

i) Enable a beneficiary, who has acquired registered ownership of a government subsidized property in his/her name, but who, for various reasons, could not take possession and/or occupation of the property, to qualify again for a housing subsidy. Current qualification criteria, *inter alia*, stipulate that an applicant for a subsidy should not have

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previously received a housing subsidy, nor owned a residential property;  
and

- ii] Re-allocate the vacant, but complete, subsidized property registered in the name of a missing beneficiary to a new subsidy beneficiary, which would not be possible if the property remains registered in the name of the original housing subsidy beneficiary.

It is also important that these re-allocation initiatives take place in order to avoid a situation where the house remains unoccupied for an extended period, thereby exposing it to the risk of vandalism and illegal occupation.

### **2. GUIDELINES**

Commencing from 1 July 2005 the following guideline will apply and, must be administered by the developer [Provincial Housing Department and/or municipality]:

#### **2.1 PROCEDURE FOR DEALING WITH A MISSING/UNTRACEABLE HOUSING SUBSIDY BENEFICIARY**

In the case of missing/untraceable housing subsidy beneficiaries, the following actions must be followed:

- a) Where the housing subsidy beneficiary is not present, not yet traced or confirmed as being alive, the Member of the Executive Council of Housing and/or developer must ensure that everything possible is done to locate the beneficiary and therefore a notice must be placed in the:

- i] *Government Gazette*; and

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- ii] once a week, for two [2] consecutive weeks, in a newspaper circulating in the area in which the property is situated;
- b) If the beneficiary cannot be traced or, is traced or, cannot take occupation and no response to the notices is received, an application must be lodged with the High Court for the issue of an order, in terms of Section 6 of the Deeds Registries Act, 1937 [Act No. 47 of 1937], for the cancellation of the registration, in the name of the existing owner;
- c) On receipt of this Court Order, the developer must, through a conveyancer, lodge the relevant Court Order, together with an application for cancellation of registration, with the relevant Registrar of Deeds;
- d) Such a de-registered owner may then be replaced with the next approved beneficiary, and, the housing subsidy application will be subject to the normal qualification criteria evaluation process; and
- e) once the subsidy application is approved, the name of the new owner must be reflected as an endorsement on the original copy of the title deed.

### **2.2 PROCEDURE TO BE UNDERTAKEN WHEN A HOUSING SUBSIDY BENEFICIARY IS TRACED**

In a case where a housing subsidy beneficiary comes forward, after the period of fourteen [14] days of the notices has expired, but, the relevant person cannot, for reasons beyond his/her control, take occupation of the property that is registered in his/her name, the processes described in paragraph 2.1(b)-(e) must be followed.

### **2.3 HOUSING SUBSIDY BENEFICIARY NOT BEING ABLE TO TAKE OCCUPATION**

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payments or sub-milestones to accommodate specific project implementation requirements. Developers will now be able to effect transfer of a house to a beneficiary on or after physical occupation of the house by the approved beneficiary solving the problems related to the process of registration of transfer before physical occupation is realized.

### **5. THE NATIONAL HOUSING SUBSIDY DATA BASE AND THE HOUSING SUBSIDY SYSTEM**

The deregistration of beneficiaries must be reported to the National Department of Housing, with substantiating documentation, to enable the Department to effect the required changes to the National Housing Subsidy Data Base and the Housing Subsidy System.

Signed on the 20<sup>th</sup> day of June 2022

  
MUNICIPAL MANAGER