

BREEDE VALLEY
Municipality Munisipaliteit U Masipala wase



WORCESTER ▾ RAWSONVILLE ▾ DE DOORNS ▾ TOUWS RIVER

BREEDE VALLEY MUNICIPALITY

HOUSING ADMINISTRATION POLICY

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Chapter 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:

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 shared base in a dense settlement pattern;

Disabled - member of a household 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 grand parents in-law; siblings under 18; siblings 18 and over who are financially dependent; extended family members who are financially dependent (Nation Housing Code).

Municipality" Breede Valley Municipality.

Policy - The policy set out in this document, as amended from time to time;

Prescribed 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

'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

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

'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.

‘Housing Demand Database (the ‘Database’) - The Housing Demand Database is the Municipality’s integrated housing database comprising the consolidation of all the legacy waiting lists or housing databases 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 Lists 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

‘National Housing Needs Register (‘National Register’) – The consolidated National Housing Needs Register that will be (are) the only official database from which prospective beneficiaries will be drawn and be invited to complete housing subsidy application forms

Meaningful Engagement - Affected communities / individuals must be engaged as a group in relation to the impending removal, as well as at an individual and household level, in order to ensure that all relevant personal circumstances are taken into account in the process.

‘Selection Criteria’ – Selection criteria are the factors of parameters used in selecting a set of applicants for the Provincial Housing Needs Register (or Housing Database) for housing opportunities.

‘Strategy for the Allocation of Housing Opportunities Created through the National Housing Programmes’ – A strategy to address the implementation of housing projects in terms of the Integrated Residential Development Programme (IRDP)

‘Target Community’ – a 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.

Council has compiled a Human Settlement Plan which forms part of the Breede Valley Integrated Development Plan as an attempt to expedite housing delivery to its homeless households 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) that the quality and affordability of the housing delivered, is of central importance ; and
- (d) the focus on creating a wholesome living environment conducive to attracting private investment.
- (e) Management and control of the spread of informal settlements, land invasion and evictions from land, and
- (f) Promotion of integrated housing development; and
- (g) the equitable, non-discriminatory administration of housing issues, including housing provision to the disabled
- (h) Registration of all Breede Valley residents' applications for housing assistance into a computerized housing database

It is Council's view that this housing 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 Breede Valley 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 No 19 of 1998)
- Extension of Security of Tenure Act, 1997 (Act No 62 of 1997)
- Less Formal Township Establishment Act, 1991 (Act No 113 of 1991)
- 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, 2000
- National Environmental 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 the Breede Valley Housing Administration 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

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

Affordability

Residential development shall be economically, fiscally, socially and financially affordable and sustainable and houses shall have a market value

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 incorporates 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 cost for residents going to work

Quality

New housing developments shall comply with the minimum quality standards

Environmentally friendly

Promoting the utilisation of environmentally friendly resources and designs 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

Chapter Integrated approach to Human

3 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 provisions of the Human Settlement Plan (HSP), the Spatial Development Framework (SDF) and the Integrated Development Plan (IDP).
- All forms of housing development 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

3.1 Establishing an Integrated approach to human settlements

Council shall make available land for human settlement for Greenfield developments, infill planning, urban renewal or *in situ* upgrading projects as prioritized in the Human Settlement Plan, the SDF and the IDP of the municipality.

- 2.1.1 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 or infill planning sites.
- 2.1.2 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 regard may be required from the developer.
- 2.1.3 Council shall support urban developments within the urban fringe. Rural development shall be supported if proven feasible.
- 2.1.4 Council shall support developments that promote the optimum utilization of infrastructure and resources
- 2.1.5 Council shall support development that is located in close proximity to socio-economic opportunities
- 2.1.6 New housing developments shall only be supported if in line with the Human Settlement Plan, Spatial Development Framework and the Integrated Development Plan of the municipality.

2.1.7 Projects shall be designed to minimize the negative impact on the environment and environmentally sensitive developments shall get preference.

Chapter

Housing Database

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

4.2 Establishment of housing database

4.2.1 The Housing Administration section shall use the Western Cape Provincial Department of Human Settlements Housing Demand Database.

4.3.2 The Database is housed at the Western Department of Human Settlements.

4.3.3 The Database shall be linked and accessible through computers in the in the Breede Valley Municipality housing offices.

4.3.4 The manager Human Settlement is tasked with the responsibility to oversee the management of the housing database.

4.3.5 The housing database will be made of the following components

- Occupants of informal settlements
- Back yard dwellers
- Occupant of municipal rental housing accommodation
- Occupants of houses not registered in the name of owners

4.3.6 The housing database, in addition to the above will also contain the waiting list of applications seeking accommodation

4.3.7 The housing database shall be dynamic and flexible to be able to accommodate new needs such as land ownership, sites serviced with water and sanitation, etc.

4.3.8 The Housing Waiting List shall be updated regularly as and when new allocations are made during the course of the year and when new applications are received.

4.3.9 Auditing of the housing database will be undertaken as necessary and required by the internal auditing section of Council

4.3.10 Housing officials dealing with the database will access the system through a password that must be kept secret.

4.3.11 The Manager Human Settlements should ensure there is segregation of duties with the management and administration of the database.

- 4.3.12 After the updating of the database, on a monthly basis, the list must be distributed to the various offices in BVM to make the information available to the community, to check and verify their information.

Chapter New Housing Development Allocations

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- 5.1 Council has noticed that there is confusion, bias and favoritism 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 Breede Valley.

Council therefore supports the following objectives:

- 5.1.1 Promotion of equal access to housing for Breede Valley residents
- 5.1.2 Transparency
- 5.1.3 Prevention of unfair discrimination
- 5.1.4 Promotion of fair administrative justice
- 5.1.5 Apply the principle of "first come first serve"
- 5.1.6 Proper recording of all housing applicants

5.2 Allocation framework

- 5.2.1 All persons who want to qualify for state financed housing must complete the standard application form to be registered on the housing database.
- 5.2.2 Only applicants who appears on the housing database will be considered for any state subsidized housing assistance
- 5.2.3 Completed applications shall be lodged with the Manager Human Settlement who shall capture the information in the Housing Demand Database (Provincial).
- 5.2.4 Housing allocation shall be decided on a first come first serve basis (selected in order in which they were registered on the database) subject to the provisions below:
- (a) Applicants shall be Breede Valley residents for a period not less than three (3) years
 - (b) The principle of "First come first serve" shall apply
 - (c) The **aged** (including person living on farms), the **disabled**, **HIV/AIDS** victims and persons staying in **dangerous or very vulnerable** situations shall be prioritised without unduly undermining the principle of first come first serve. 5% of housing opportunities will be reserved to the above mention group.
 - (d) 50/50 split will be accommodated between occupants of informal areas and back yard dwellers (households living in overcrowded conditions in forma areas)
 - (e) Allocation of housing subsidies shall comply with the provisions of the Housing Act, the Housing Code, the Provincial and Municipal housing policies;

- (f) Waiting list numbers are not transferable to other members of a household in any circumstance, especially in circumstances where the person on the waiting list does not qualify for a government subsidy. No waiting list transfers will be allowed.
- (g) Financial dependents can only be used once for a subsidy application approval and the necessary support documentation (proof of adoption, affidavits if extended family financial dependent must be provided);
- (h) Where a person is living with HIV / AIDS (stage 4) will be classified as vulnerable (support documentation must be provided (doctor / clinic certificate / report).
- (i) The Housing department will investigate each case in terms of section (c) and submit a detail report on the circumstances for approval.

5.2.5 After an application has been approved, the Municipality or service provider 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) Notices on the notice boards of the Municipality and its satellite offices

5.2.3 The full list of approved allocations will be display on notice boards at municipal offices (where a project is implemented) for transparency purposes and also for possible comments.

Chapter Housing Allocation in Respect of Municipal Rental Stock

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6.1 Housing allocation in respect of Municipal Rental Stock

- 6.1.1. All applicants can apply at all Municipal offices in the Breede Valley.
- 6.1.2. Applications shall be made on a standard application form obtainable from the Housing Department
- 6.1.3. Applicants shall declare in the application form, their current residential address, income profile, marital status, gender, age and disability.
- 6.1.4. After submitting an application, an applicant shall be issued with a housing application receipt with an official municipal stamp reflecting the date of application and the signature of the Manager or his/her delegatee;
- 6.1.5. Completed applications shall be captured on the Housing Database.
- 6.1.6. Allocations shall be made strictly on the basis of the earliest date on the waiting lists; (first come first serve)
- 6.1.7. The name of the applicant who has been successful with an allocation will be updated on the waiting list database as assisted.
- 6.1.8. The approved applicant shall sign a lease agreement with the Municipality and the rental fee in terms of the tariffs for that particular financial year will be applicable.
- 6.1.9. Upon the death of a legal occupant, a rental contract must be entered into with the surviving family member/s who at the time of death were residing in that specific unit.
- 6.1.10. In the case of the death of a legal occupant where no surviving family members resides with the legal occupant at the time of death, the unit will be allocated to the next person on the waiting list.
- 6.1.11. Where a person is in possession of a rental Unit and still has other residential property, the Council will forthright take the rental unit and reallocate it from the waiting list (one person one property).
- 6.1.12. Where a tenant signs off his/her rental unit for whatever reason, all his/her belongings and people or dependents must vacate the unit.

- 6.1.13 People with physical disabilities have the first option to be relocate to a bigger unit or a unit on the ground floor that suits his / her disability.
- 6.1.14 The ground floor of all multi story buildings / flats will be reserved for persons / families with physical disabilities. Council will also endeavor to adapt the ground floor units to suit the requirements of disabled persons / families based on budget availability.
- 6.1.15 A list of all households who wants to be relocated to bigger units will be recorded on the housing database and will be assist when bigger units becomes available on a first come first serve bases.
- 6.1.16 A household will only qualify to be assisted with relocation to a bigger or other unit, ONCE. No other relocation will be allowed.

6.2. ALLOCATION/QUALIFYING CRITERIA

- 6.2.1 Applicants shall be residents of the Breede Valley Municipality for a period of at least 3 years;
- 6.2.2 Single persons without financial dependents will not be considered.
- 6.2.3 An applicant must automatically be placed on both the Rental and low cost housing lists if the applicant did not possess any property that was or is registered in his or her name

6.3 RENT FORMULA / AFFORDABLE RENT

- 6.3.1 The rental to be paid will be charged in terms of council policy and budgets applicable for that particular financial year.
- 6.3.2 All household who rent a unit will pay deposit based on the tariffs for that particular financial year.
- 6.3.2 Councilor/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.
- 6.3.3 The above charges include all other municipal services and charges excluding water and electricity.
- 6.3.6 Rental is payable monthly in advance.

Chapter Dealing with Evictions – Rental stock

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

7.1.1. PRINCIPLES

7.1.1.1 An unlawful occupant 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).

7.1.1.2 Children of former tenants who move into their parents' 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 the tenant (working out of town)
- (c) They are not in occupation of another 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 tables to the Manager.

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

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

7.1.1.5 Council will not consider any illegal occupant for legalization provided the court of law dictates otherwise: In such an instance the Manager of Housing will set an eligibility criteria for 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) That 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 moved 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 woman, whether there are 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 or face eviction.
- 7.2.5 Mayoral committee will be informed about eviction action taken against families through Member of the Mayoral Committee Member responsible for Housing
- 7.2.6 After the 14 day's notice period a process of meaningful engagement will be followed to discuss options not to render the unlawful occupant homeless.
- 7.2.7 Where no agreement can be reach with the unlawful occupant or all alternatives has been explored and eviction is the only option, Council's attorneys will be instructed to institute the required proceedings for the eviction.
- 7.2.8 The same process (*notification, interview and meaningful engagement, eviction*) will be followed against a tenant who is responsible for anti-social behaviour.
- 7.2.9 The ward councilor will be consulted during the processes and will be able to make representations in writing.

Chapter Emergency Housing Assistance

8

8.1 AIMS

To establish a basis for the implementation of all relevant and applicable legislation which is utilised in the decision making process on the provision of emergency housing. The aim is to provide temporary aid and assistance in the form of basic municipal engineering services and/or shelter in emergency situations to persons who are destitute and in desperate need and/or crisis situations.

Note that the provision of this type of assistance does not detract from the municipalities overall objectives in terms of section 26 of the Constitution and does not promote queue jumping in that the provision of this type of temporary assistance is limited to emergencies and homelessness due to evictions.

8.2 SCOPE AND CRITERIA

8.2.1 SCOPE

Persons who are destitute and who find themselves in desperate need and/or crisis situations, such situations being referred to and defined below as “Emergencies”, and only these persons will qualify for temporary emergency housing assistance.

The Municipality also acknowledges that there is a relationship between housing and evictions. A wealth of jurisprudence in respect of housing and evictions law was developed over the last number of years that influence the Municipality’s involvement in providing alternative accommodation to evictees who will be rendered homeless. Municipalities must provide reasonable steps to realize the right to housing as enshrined in Chapter 26 of the Constitution of the Republic of South Africa and also endorsed by the Grootboom case (Government of South Africa and other vs Grootboom and others, 2001, Constitutional Court.

8.2.2 CRITERIA

Assistance provided under this Policy will only be of a temporary nature, and is not intended to provide a permanent solution and should not be considered as such.

8.2.2.1 **"Emergencies"** An emergency exists when the Municipality, after application by the affected persons on the prescribed form, has confirmed that the persons affected qualify as a “Beneficiary”.

Where such a beneficiary have become:

- a) Destitute and homeless as a result of a declared state of disaster, where assistance is required, including cases where initial remedial measures have been taken in terms of the Disaster Management Act, 2002 (Act No. 57 of 2002) by government, to alleviate the immediate crisis situation;
- b) destitute and homeless as a result of a situation which is not declared as a disaster, but destitution is caused by extraordinary occurrences such as floods, strong winds, severe rainstorms and/or hail, snow, devastating fires, earthquakes and/or sinkholes or large disastrous industrial incidents;
- c) Or live in professionally declared dangerous conditions such as on land being prone to dangerous flooding, or land which is dolomitic, undermined at shallow depth, or prone to sinkholes.
- d) Or live in the way of engineering services or proposed services such for water, sewerage, power, roads or railways, or in reserves established for any such purposes;
- e) Or are legally evicted or threatened with imminent eviction in accordance with a final eviction order from a competent Court from land or from unsafe buildings, or are in unsafe situations where based on professional advice warrants proactive steps ought to be taken to forestall such consequences;
- f) Or whose homes are demolished, or who are in situations where proactive steps ought to be taken to forestall such consequences;
- g) Or are displaced or threatened with imminent displacements as a result of a state of civil conflict or unrest, or are in situations where pro-active steps ought to be taken to forestall such consequences;
- h) Or live in professionally declared conditions that pose immediate threats to life, health and safety and require emergency assistance;

8.2.2.2 **“Evictees”** – person or persons evicted from private or public land that will become homeless due to a court granting a final eviction order.

8.3 FUNDING

8.3.1 The Municipality recognizes that it has a obligation, within its available resources, to implement this Policy and will, within its available resources and insofar as is possible, assist those persons who require immediate assistance, in terms of this policy. The Municipality will therefore budget for emergency housing assistance annually.

8.3.2 The Municipality will also apply for any/all possible funding available from outside sources.

8.3.3 An emergency revolving fund will be established in which all funds including funds obtained from the relevant provincial department in terms of the relevant application; funds from other sources of the Municipality as well as external funding contributions received will be deposited in order to address the objectives of this Policy.

8.4 CATEGORIES OF ASSISTANCE

The various categories of assistance provided under this Policy depend on the specific circumstances and are dictated by the specific situation, as the case may be.

The various categories are the following:

- (a) **accommodation kept in reserve for possible disasters** · This entails the accommodation of persons in community halls or other buildings designated for this purpose as a temporary measure.
- (b) **temporary accommodation that is readily available** · This entails the temporary accommodation of persons at any place as decided by Council from time to time. Persons assisted will be provided with a temporary residential unit of a dignified nature and have access to services, which may be communal.
- (c) **transitional accommodation** · this form of accommodation will be established under the relevant housing programme of national and provincial government by setting aside sites for formal housing in human settlement projects, as identified and earmarked by the Municipality from time to time, and applying for funding in this regard, depending on the need that may exist.

A TRA (Temporary Relocation Area) can also be established that can provide for alternative accommodation for persons affected in terms of this policy. Persons assisted will be provided with a structure that meets the requirements of the relevant chapter of the National Housing Code and have access to services, which may be communal.

Persons who are evicted and rendered homeless will be assisted under this section of the policy.

- (d) **shelters** · this entails the temporary accommodation of persons at one of the shelters operated or funded by the Municipality, if any ; It is in the discretion of the Municipality to determine which categories of assistance apply to specific persons and which category of assistance to use in a specific situation, depending on, and with reference and having regarded to, the specific circumstances of particular persons.

The assistance is only of a temporary nature and should not be considered as a permanent measure. The Municipality can and reserves the right to, in its discretion, temporarily move persons to another suitable site. Any person assisted under this Policy will be required to enter into an agreement with the Municipality in order to regulate the terms and conditions of such person's accommodation, in particular the temporary nature thereof and any ancillary and/or related obligations.

- (e) **Financial assistance** – this entails paying a financial amount of not more than R1 500.00 to the household where all the belongings of the households has been destroyed in a fire. The household can use this funding to replace school uniforms, other clothing, blankets or food. The money will not be paid to the household directly, but will be facilitated by the municipality. The household can however indicate its preference of assistance.

Chapter Pre-emptive right / Verkoopsreg

9

Brede Vallei Munisipaliteit tree op as ontwikkelaar vir lae koste behuising binne sy regsgebied. Lae koste behuising word gefinansier deur die Provinsiale Departement van Plaaslike Regering en Behuising en word behuising gereguleer deur die Behuisingswet 107 van 1997.

In terme van artikel 10 A van die Wet, word 'n beperking gestel op die verkoop van staatsgesubsidieerde wonings. Die artikel is as volg:

“10A Restriction on voluntary sale of state-subsidised housing

(1) Notwithstanding any provisions to the contrary in any other law, it shall be a condition of every housing subsidy, as defined in the Code, granted to a natural person in terms of any national housing programme for the construction or purchase of a dwelling or serviced site, that such person shall not sell or otherwise alienate his or her dwelling or site within a period of eight years from the date on which the property was acquired by that person unless the dwelling or site has first been offered to the relevant provincial housing department.”

Die Raad tree op as agent vir die Provinsie / Nasionale Regering en sal die woning dus aan die Provinsie / Raad gebied moet word

9.1 BELEIDSDOELWITTE

- 9.1.1 Die Raad erken dat sekere persone wat staatsgesubsidieerde wonings ontvang het, die behoefte het om hulle wonings vir een of ander rede te vervreem voor die tydperk van 8 jaar.
- 9.1.2 Die doel van die beleid is dus om oorweging te verleen aan aansoeke van persone wat staatsgesubsidieerde wonings ontvang het en hulle wonings wil vervreem voor die tydperk van agt (8) jaar.

9.2 BELEIDSPROSESSE

In terme van die Raad se delegasies, is die delegasie om die verkoopsreg van staatsgesubsidieerde wonings op te hef, aan die Direkteur: Gemeenskapsdienste gedelegeer.

Indien 'n persoon wat 'n staatsgesubsidieerde wonings ontvang het en sy woning wil vervreem voor die tydperk van 8 (agt) jaar verval het, moet die volgende prosesse gevolg word:

- 9.2.1. Die eiendom moet eers skriftelik aan die Raad / Departement van Menslike Vestigings aangebied teen die oorspronklike koopprys. Die Raad / Departement van Menslike Vestigings moet sy beslissing op so 'n aanbod skriftelik gee binne drie maande vanaf die datum van ontvangs van die aanbod.
- 9.2.3 Ingeval die Raad / Departement van Menslike Vestigings die aanbod van die hand wys, kan die Raad / Departement van Menslike Vestigings die verkoopsreg ophef en toestemming verleen dat die eiendom vervreem word.

- 9.2.4 Voordat enige goedkeuring vir die opheffing goedgekeur kan word moet die volgende eers verkry word;
- 9.2.4.1 'n Ondersoek deur die behuisingsafdeling dat die aansoek van die eienaar orde is.
- 9.2.4.2 Dat die versoek verwys word na die Provinsiale Departement van Menslike Nedersetting vir kommentaar.
- 9.2.5 Die aansoeker moet ook in gelig word dat hy / sy nie weer sal kwalifiseer vir staatsfinansering vir 'n woning nie.
- 9.2.6 Indien die Raad nie die verkoopsreg wil of kan ophef nie, en die aansoeker wil steeds die eiendom vervreem, terwyl dit nog nie oorgedra is in sy of haar naam nie, kan die Raad die volgende oorweeg:
- 9.2.6.1 Dat die eiendom toegeken word aan die eerste persoon op die behuisingswaglys, of;
- 9.2.6.2 Oorgedra word aan 'n direkte naasbestaande wat kwalifiseer in terme van die behuisingssubsidu vereistes.
- 9.2.6.3 In die geval sal die Provinsiale Departement van Behuising in kennis gestel moet word sodat die aansoeker se besonderhede van die nasionale databasis verwyder kan word en hy of sy weer kan kwalifiseer vir staatsfinansering

Chapter Regulating Informal Settlements

10

10.1 Preamble

Breede Valley Municipality is faced with the continuous proliferation of informal settlements. This situation restricts the municipality from exercising its mandate in rendering basic services to the affected communities.

It is believed that informal settlements, is driven by the following issues:

- a. A perception by rural migrants and people from poor small towns, that settling in informal settlements, illegal squatting in urban areas will usher them to a better life.
- b. Initial occupants of informal settlements, illegal squatters and evictees often rally the support of other potential occupants to strengthen their negotiation power with the land owner
- c. The perception that people in informal settlements, illegal squatters and evictees are helped first before those on a housing waiting list also fuels the spread of informal settlements
- d. The lack of timeous planning to accommodate population growth
- e. Community ignorance on the intended use of vacant land or open areas earmarked for development within existing settlements.
- f. The lack of a coordinated approach among spheres of government to release land and/or funding for the planning and servicing of priority areas.
- g. The lack of policy and enforcement by authorities.
- h. Land owners that want to use their land for other profitable means, evict residents.

10.2. Addressing informal settlements

10.2.1 The Policy: Existing Informal Settlements

Council will only recognise informal settlements that existed in its municipal area before the adoption of this policy or where the court did not grant a court interdict for eviction of illegal occupants.

Council will only consider *in-situ* upgrading of an existing informal settlement if:

- a) It is recognised as an existing informal settlement.
- b) It is a priority identified in the Integrated Development Plan (IDP) of the Municipality.
- c) It conforms to the Housing Sector Plan and the Spatial Development Framework (SDF) of the Municipality.
- d) It will create habitable sustainable human settlements.
- e) It is in the interest of those staying in the area as well as the rest of the community.
- f) It conforms to the general principles outlined in the policy.

10.2.2 Council will give priority for relocation of residents from an informal settlement if:

- a) The settlement does not comply with any of the conditions set out in 4.1.2 above.
- b) The health and well-being of people staying in and around the area is adversely affected.
- c) The area proofs to be too small to accommodate all residents in a sustainable manner.
- d) The area proofs to be inhabitable.
- e) Basic services cannot be rendered in an affordable and efficient manner.

10.3 Administrative procedures: Existing Informal Settlements

10.3.1 Pro-active measures: Existing Informal Settlements

- a) The implementation of Council's Illegal squatting Policy shall act as a pro-active measure to curb the proliferation of informal settlements.
- b) The implementation of Greenfield developments shall also pro-actively address the need for residential sites, thus impacting on the proliferation of informal settlements.
- c) Where this policy has failed to pro-actively address the proliferation of informal settlements, a distinction shall be made between areas that are suitable for human occupation and those that might adversely affect the health and well-being of the community or adjacent communities.
- d) Those areas suitable for human occupation shall be treated as *in-situ* upgrading projects while those not suitable shall be treated as relocation projects.
- e) A further distinction shall be made between the availability of council property for relocation and cases where suitable land will have to be acquired by council for the purpose of relocation.

10.3.2 Administrative Procedures: ***In-situ*** upgrading project

- a) If Council decide to upgrade an existing informal settlement, the Housing Department, shall compile a Site Register of all occupants of the informal settlement.
- b) A cut -off date must be decided by Council to include those residing in the informal settlement in the site register.
- c) The site register shall make a distinction between occupants who qualify for housing subsidies and those who do not qualify, South African citizens and those who are illegal immigrants including those who desire to be relocated elsewhere, etc.
- d) The Housing Department shall capture this information into the Housing Database.
- e) The Housing Department shall report all illegal immigrants to the Department of Home Affairs.
- f) The Housing Department shall consult with the Planning Department to investigate the suitability of the land.
- g) The Administration Department (Property Management) shall verify land ownership and identify alternative land for relocation if necessary.
- h) The Manager Civil Engineering Services shall assess the possibility of servicing the land.
- i) Environmental assessment shall be made to determine the potential impact of the proposed development.
- j) The Manager: Human Settlements shall table a combined report to Council outlining the feasibility of upgrading the informal settlement versus the relocation of the affected community and shall incorporate the various recommendations made from the various departments involved (outcomes of (d) to (g) above).

- k) Council shall approve the project and instruct the completion of the Business Plan for submission to Provincial Housing Department for approval.
- l) Once the process of formalization has been completed, the Housing Department shall allocate sites to potential beneficiaries in terms of the housing allocation policy.
- m) The construction of houses shall then begin.

10.3.3 Administrative Procedures: Relocation to Council Property

- a) The same process will be followed as with the *in-situ* upgrading project [Points (a) to (g)].
- b) However, if the Planning Department has identified that the area occupied by an existing informal settlement is not suitable for human settlement [point (f)] and land is available for relocation [point (g)], the Manager: Human Settlements shall submit a report to council recommending relocation.
- c) Council shall take a decision on the process of relocation and the way sites will be allocated in terms of the housing allocation policy
- d) The Executive Mayor shall be involved in the in negotiating with the affected community around the relocation.
- e) Before a community can be relocated, the Planning Department shall prepare a preliminary layout plan for adoption and approval by Council.
- f) Once the preliminary layout plan has been adopted, the Planning Department shall ensure that the sites are pegged and clearly identified for occupation.
- g) The affected community shall be relocated onto the identified sites per guidelines set by the Council.
- h) Once the community has been relocated according to the guidelines given by council, the Department Civil Engineering Services shall supply basic infrastructure to this community.
- i) The Planning Department shall lodge an application for township establishment with the relevant authorities to formalise the area.
- j) The Housing Department shall lodge a housing subsidy application for those beneficiaries who qualify.

10.3.4 Administrative Procedures: Demolishing of informal structure once formal housing is provided

There is a tendency that residents during *in-situ* upgrading projects or when formal provided, let or sold their informal structure to third parties, thereby creating additional problems and defeating Councils' objectives to eradicate informal settlements.

The following procedure will be applicable:

- a) The person staying in an informal structure who receives a formal house will sign an agreement that he/she will not sell or let his informal structure or plot to a third party and that the structure will be demolished by the owner.
- b) The Manager: Human Settlements will ensure that compliance regarding this policy takes place and that the procedures are followed with regards to the demolishing of the informal structure.

- c) The applicable connection fee for services must be paid in full before the person can move to the new formal house.
- d) The person will only be allowed to move into the allocated formal house once the informal structure is demolished and if an official of the Housing Department certifies to the fact.
- e) No person will be allowed to move into a formal house if the informal structure is not demolished and the material be removed.

Chapter 11 Illegal Occupation of land and Evictions

11.1 PREAMBLE

Breede Valley Municipality is faced with the continuous proliferation illegal squatting and evictions (legal and illegal). These situation restrict the municipality from exercising its mandate in rendering basic services to the affected communities

11.2 Obligations of the Municipality in cases of evictions

11.2.1 We must adopt a reasonable housing policy, which provides not only for permanent housing solutions, but also provides for the provision of adequate accommodation for persons who face homelessness due to an eviction.

11.2.2 We are required to meaningfully engage with the parties to eviction proceedings.

11.2.3 We may be joined to eviction proceedings in instances where the occupiers that face eviction could be rendered homeless due to an eviction

11.2.4 We are required to place sufficient information before a court for it to be able to make a just and equitable decision having regard to all the relevant circumstances.

11.2.5 We are specifically obliged to provide information about its housing policy and how it would provide alternative accommodation to those who require it upon eviction.

11.2.6 We are constitutionally obliged to provide access to adequate alternative accommodation to occupiers who are evicted from their home and would otherwise be rendered homeless due to such eviction.

11.2.7 In light of the *Blue Moonlight* judgment, it is also clear that we are obliged to budget for all categories of persons in desperate or emergency need of housing and, if necessary, we must leverage provincial and/or national funding to do so.

11.3 Addressing illegal occupation of land and evictions (private and public)

11.3.1 The Policy: Illegal occupation of land

11.3.1.1 Council shall not tolerate the illegal occupation of land within its area of jurisdiction.

11.3.1.2 All measures available to Council shall be exhausted to prohibit the illegal occupation of land.

11.3.1.3 Council shall apply to court for the eviction of illegal occupants when due processes has been followed.

11.3.1.4 Once a case of illegal occupation of land has been reported the administrative procedures outlined in the policy shall be adhered to.

11.3.1.5 Council shall only recognise illegally occupied land as an existing informal settlement if:

- (a) The land has been illegally occupied before the adoption date of this policy and an eviction order was not granted by the court
- (b) It is a priority identified in the Integrated Development Plan (IDP) of the Municipality
- (c) It conforms to the Housing Sector Plan (HSP) and the Spatial Development Framework (SDF) of the Municipality
- (d) It will create a habitable sustainable human settlement
- (e) It is in the interest of those staying in the area as well as the rest of the community to be upgraded
- (f) It conforms to the general principles outlined in the policy.

11.3.2 Administrative Procedures: Illegal Occupation of land

11.3.2.1 Pro-Active measures: Illegal occupation of land

- (a) Council shall take all possible measures to prohibit the illegal occupation of land. The following pro-active measures shall therefore be put in place:

(i)	To erect signboards on all open and undeveloped pieces of land stating the purpose of the land and that land invasion or dumping on the site is illegal.
(ii)	To regularly patrol all council property and report invasions immediately.
(iii)	To budget for the planning, pegging and servicing of new residential areas.
(iv)	To timeously identify land needed for future development and budget to acquire the land.

11.3.2.2 Administrative procedures: Illegal occupation of land

- a) Any land invasion to be reported to the Manager: Human Settlements.
- b) Once a case has been reported, the Manager: Human Settlements shall investigate and verify the land ownership.
- c) A detailed report with the details of all the invaders must be compiled and photos must be taken of the area which was invaded.
- d) If it is Council property, notice must be given to the illegal occupants to vacate the area. A process of interview, giving notice, meaningful engagement, relocation or eviction will take place.
- e) If the illegal occupation takes place on private land, the land owner will be informed to take the necessary legislative processes
- f) The process shall then unfold in terms of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, Act No 19 of 1998.

Chapter 12 PREVENTION OF ANTI-SOCIAL BEHAVIOUR BY TENANTS OF MUNICIPAL RENTAL HOUSING STOCK

12.1 PREAMBLE

Breede Valley 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 it's geographical area of operation. In fulfillment 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.

12.2. PURPOSE

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

12.3. RELEVANT LEGISLATION

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

12.4. 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 neighboring 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;
- (g) intimidation of neighbours and others through threats or actual violence;
- (h) harassment, including racial harassment;
- (i) verbal abuse;
- (j) homophobic behaviour;
- (k) systematic bullying of children in public recreation grounds;
- (l) abusive behaviour aimed at causing distress or fear 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.

12.5. IMPLEMENTATION GUIDELINES

- 12.5.1** 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 must make every effort to ascertain the exact address where the transgression is occurring or has occurred.
- 12.5.2** 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 department of housing of Breede Valley Municipality. 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;
 - (b) The source of the report / complaint shall neither be included or divulged to the tenant 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:
 - (i) 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 the tenant or any co-habitant. A recommendation 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 a one month's 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 an 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 notices, 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 costs 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

Policy owner	Director Community Services
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