



**Mossel Bay**  
M U N I C I P A L I T Y

<b>POLICY NAME</b>	<b>POLICY ON THE LEASING OF MUNICIPAL HOUSING PROPERTY TO THE PUBLIC</b>
Directorate	Planning and Economic Development
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## 1. INTRODUCTION

The Municipality currently has housing property in the form of blocks of flats in Mossel Bay (commonly referred to as Extension 13) and Greenhaven. These were all inherited from previous dispensations.

The Housing Act, No. 107 of 1997 does not make provision for the management of leasing housing properties by Municipalities. Nonetheless, appropriate eligibility criteria and income limits applicable to existing National Housing Programs have been used as a guideline for transfer of tenancies in respect of the Municipality's housing property.

The Rental Housing Act, No. 50 of 1999 defines the Government's responsibility in respect of housing property and sets the framework in which housing property must operate in South Africa. The rights and responsibilities of the landlord and lessees as provided for in the Act have been incorporated in the Municipality's lease agreement.

## 2. PURPOSE

To provide a procedural and management framework for leasing of Municipally owned housing property to the public taking into consideration, inter alia, the Municipal Asset Transfer Regulations.

## 3. DEFINITIONS

In this Policy, unless inconsistent with the context the following words and phrases shall have the meanings ascribed to them as follows:

- 3.1 **"Applicant"** means a person, with his spouse and listed household members, who has registered his housing need with the Municipality.
- 3.2 **"Desertion"** means when the legally allocated Lessee leaves the flat unattended for a period of 2 months without any prior arrangement with the Municipality.
- 3.3 **"Housing property"** means the rental property to be leased, be it flat, hostel, room, house, apartment, outbuilding, garage, storeroom, and any structure

which is leased as part of the lease for residential purposes and owned by the Municipality and **“Premises”** shall have a correspondent meaning.

- 3.4 **“Household members”** means any person registered by the Lessee as being a person residing with him in the Housing property on a permanent basis;
- 3.5 **“Household income”** means the gross income of the prospective Lessee and all household members.
- 3.6 **“Lessee”** means the person occupying the housing asset in terms of a legal lease agreement and **“Tenant”** shall have the corresponding meaning.
- 3.7 **“Lease agreement”** means the contract between the Municipality and the Lessee that allows the Lessee rights to the use of the property owned or managed by the Municipality for a period of time, as determined in the contract for an amount as agreed to in terms of the contract.
- 3.8 **“Municipality”** means the Mossel Bay Municipality or its successors in title established in terms of sections 12 and 14 of the Local Government: Municipal Structures Act, 1998, being the owner of the housing property, which is leased and includes any duly authorised agent of the Municipality and **“Lessor”** and **“Landlord”** shall have a corresponding meaning;
- 3.9 **“Rental”** means an amount of money to be paid by the lessee to the Landlord as will be determined by the Landlord from time to time.
- 3.10 **“Spouse”** means any partner (including same sex) with whom a Lessee is married; and
- 3.11 **“Transfer of tenancy”** means the lessee has died, divorced, vacated or relinquished the lease and persons (household members) have remained in occupation of the property.

#### **4. ADMINISTRATION**

The Directorate Town Planning and Economic Development is responsible for the administration and enforcement of this Policy.

## **5. QUALIFICATION CRITERIA**

5.1 In order for an application for the lease of a Municipal housing property to be considered the Applicant must be:

5.1.1 a South African Citizen with a valid Identity Document or have a permanent residency document.

5.1.2 older than 18 years of age.

5.1.3 have the legal capacity to enter into a lease agreement.

5.1.4 residing or permanently employed within Municipal area.

5.1.5 a natural person; and

5.1.6 must submit proof of the annual household income.

5.2 The Applicant may not be a registered property owner.

5.3 The Applicant must complete the prescribed application form and submit all the required documentation in terms thereof.

5.4 Preference may be given to special and vulnerable persons and groups such as the elderly.

## **6. DETERMINATION OF RENTALS PAYABLE**

6.1 The Tariffs and fees payable are subject to change and will be formulated in terms of the Municipality's Tariff list.

6.2 The Tariffs and fees in terms of this Policy will be determined annually during the budget process.

6.3 The Lessee must take note that the Tariff will increase annually on 1 July in accordance with the Municipality's approved Tariff list.

6.4 The Lessee will be liable to arrange, at his own cost, for the supply of municipal services include electricity, water, sewage and refuse removal.

- 6.5 The Lessee will be liable for the payment of the municipal services account which may including electricity, water, sewage and refuse removal.

## **7. APPLICATION AND ALLOCATION PROCESS**

- 7.1 The prescribed complete application form with all supporting documentation must be submitted to the Municipality.
- 7.2 The Municipality will consider applications on a first come first serve basis, firstly taking applicants that have been placed on the waiting list into consideration.
- 7.3 Applicants will be informed of the outcome of an Application within 30 days after a complete application has been submitted.
- 7.4 If an application cannot be approved due to no housing properties being available, the applicant will be informed accordingly and placed on a waiting list.
- 7.5 The Municipality reserves the right to introduce a right sizing option according to family size and composition, special needs, and vulnerable groups.
- 7.6 Should an application be successful the Municipality will provide the applicant with a Lease Agreement for signature, which must be duly signed and returned, before the housing property may be occupied.
- 7.7 A lessee allocated a specific rental unit must occupy the dwelling and may not sub-lease the unit.

## **8. SPECIAL CONSIDERATIONS**

- 8.1 Each application will be considered on its own merits according to the information as supplied by the Applicant.
- 8.2 The Municipality reserves the right to not renew a lease agreement after it has expired due to the conduct of the Lessee.

- 8.3 The Municipality reserves the right to prioritise the needs of the elderly, persons with special needs, households headed by women or any other vulnerable group.

## **9. TRANSFER OF TENANCY**

- 9.1 The allocation and or transfer of tenancy of the Municipality's rental property is based on the qualification criteria as outlined above. However, should an Applicant not meet the qualifying criteria such application may be considered subject to the support from the Ward Councillor and approval of the Municipal Manager.

- 9.2 Transfer of Tenancy may be considered in the following circumstances:

9.2.1 Death of a lessee – any amount that may be in arrears may be transferred to the surviving spouse's new account.

9.2.2 Divorce/ separation after cohabitation – tenancy may be prioritised to the partner who provides the primary residence to minor children (if any), should such partner be in occupation of the dwelling and any arrears may be transferred to the new account.

9.2.3 Desertion – tenancy will be transferred to the partner in occupation, the arrears will be transferred to the new account.

- 9.3 A new lease agreement must be entered with the Municipality by the new lessee.

## **10. GENERAL TERMS AND CONDITIONS OF LEASE AGREEMENTS**

- 10.1 A lease agreement will be concluded for a minimum of one (1) year and a maximum of three (3) years.

- 10.2 The Lessee will be responsible for the household contents of the premises.

- 10.3 The Lessee will be responsible for their own security and insurance of household contents.

- 10.4 The Lessee shall not cede, assign, transfer or delegate any of its obligations, duties or rights under the agreement; nor shall it sub-let the premises in whole or in part; nor place anyone else in occupation of the premises or any part thereof, on any conditions whatsoever and/or for any reason whatsoever, without the prior written permission of the Municipality.
- 10.5 The Lessee shall at all times adhere to any applicable legislation, Municipal By-Law, Municipal Policy and the terms and conditions as contained in the lease agreement.

## **11. MAINTENANCE OF HOUSING PROPERTY**

- 11.1 The Municipality will ensure the value and structural integrity of all its rental properties through various maintenance programmes that will be executed to achieve the intended results, subject to budget constraints.
- 11.2 All minor maintenance work identified or reported by the lessees or Municipal officials will be attended to as soon as possible, taking into consideration the Supply Chain Processes of the Municipality and budget constraints.
- 11.3 The Lessee will be responsible for the maintenance of the interior of the housing property, including door handles, light bulbs, windows, interior painting, taps, toilet seats, internal plumbing, electrical plugs, carpentry, tiling and ceilings.
- 11.4 The Lessee is responsible to keep the exterior of the property in a good and tidy condition.
- 11.5 If a Lessee undertakes any repairs for which the Municipality is liable, the Lessee will have no claim of any nature against the Municipality and indemnify the Municipality against all possible claims which may result due to the conduct of the Lessee.

## **12. MONITORING AND INSPECTION**

- 12.1 Municipal officials may regularly conduct inspections to determine whether Lessees comply with the conditions of a lease agreement.



- 12.2 Municipal officials may visit the premises unannounced if any alleged unlawful conduct of the lessee is suspected or reported.
- 12.3 In instances where the lessee, or any person who holds occupancy through him does not adhere to any applicable legislation, Municipal By-Law, Municipal Policy and the terms and conditions of the contract, the Municipality may terminate the lease agreement.
- 12.4 The Housing property may not be left vacant for more than four weeks, unless valid reasons for such vacancy was reported the Municipality.

### **13. RENEWAL OF LEASE AGREEMENT**

- 13.1 A lease agreement will not be renewed if a Lessee`s account is in arrears.
- 13.2 The Municipal Manager may, in consultation with the Director: Planning and Economic Development provide approval to the renewal of a lease agreement if the Lessee has signed an agreement in terms of which the arear amount will be paid in monthly instalments.
- 13.3 A lease agreement will not be renewed if a Lessee has contravened the terms and conditions of the Lease agreement more than once annually.

### **14. TERMINATION OF LEASE**

- 14.1 If after the expiry of the lease agreement the agreement is not renewed or if the lease agreement is terminated due to the breach of any conditions of the Lease Agreement by the Lessee, and the Lessee fails to vacate the housing property, the Municipality will proceed with legal action, which may include an application for the eviction of the Lessee and all household members.
- 14.2 Should any legal proceedings be necessitated the Lessee will be liable for payment of all costs of the Municipality on an attorney and client scale.

### **15. COMMENCEMENT AND IMPLEMENTATION OF THE POLICY**

This Policy will commence on the date of adoption by the Municipal Council and will be applicable on all new leases from that date. Any lease agreement signed prior to

the commencement of this Policy will remain valid until its expiry date, after which a new lease agreement must be entered into in accordance with this Policy.