

CITY OF CAPE TOWN POLICY ON STAFF OCCUPYING COUNCIL PROPERTY

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CITY OF CAPE TOWN
POLICY ON STAFF OCCUPYING COUNCIL PROPERTY
As approved and adopted by Council on 28 March 2007

1. PURPOSE

- 1.1 To define the policy for staff occupying City of Cape Town property and to provide guidelines for the application thereof.

2. DEFINITIONS

- 2.1 Applicable Service Unit: The service unit to which the post of functional necessity is allocated and under whose jurisdiction the official accommodation vests.
- 2.2 Employee/s: A member of the staff of the City of Cape Town employed permanently or on contract.
- 2.3 Dependants
- 2.3.1 The spouse or life partner of the employee.
- 2.3.2 A child or adopted child of the employee.
- 2.3.3 Any other person whom is dependant on the employee or whom, in the opinion of the approving authority, can be regarded as being a part of the employee's household; at all times being subject to the available habitable extent of the dwelling occupied by the employee.
- 2.4 Lessee: An Employee who has been allocated official accommodation in terms of this policy.
- 2.5 Lessor: City of Cape Town
- 2.6 Functional necessity:
- 2.6.1 Employees who deliver essential services, individually or as a group who are required to be available at all times at or near their work centres.
- 2.6.2 Employees who are required to be present on a continual basis to ensure the safety/operation of municipal plant and machinery.
- 2.6.3 Employees required to be located at or within the immediate vicinity of a work centre where -
- 2.6.3.1 No private housing exists or is permissible.
- 2.6.3.2 Private housing is available within proximity to the work centre but such housing cannot be secured by reasonable means or within a reasonable time.
- 2.6 Municipality: The City of Cape Town or its legal successor.
- 2.7 Official Accommodation: The dwelling, including buildings, out buildings, structures, land,

fittings, machinery and equipment pertaining to the dwelling, and includes furniture which is the property of the City of Cape Town.

2.8 The term “dwelling” includes dwelling houses, single quarters and flats.

3. DIVISION AND GROUPING OF OFFICIAL ACCOMMODATION

3.1 Official accommodation has been categorised as follows:-

3.1.1 Official accommodation occupied by an Employee as an operational requirement/need.

3.1.2 Official accommodation temporarily surplus to requirements let on the open market

4 PRINCIPLES

4.1 Except as provided for below, provision of accommodation is a personal responsibility, and Employees are responsible for their own accommodation according to personal preference.

4.2 Official accommodation may be made available to Employees as a part of a contract of employment controlled by the Director Human Resources. A lease shall be concluded by the Municipality with such Employee in terms of this policy.

4.3 Under the circumstances listed in clauses 4.3.1 - 4.3.3 below, the Municipality shall make official accommodation available from time to time as the need arises for the accommodation of Employees, based on functional necessity as assessed by the Executive Director of the applicable service unit or his delegated authority of the applicable service unit in terms of this policy.

4.3.1 The Employee is required by virtue of occupying an identified post to be accommodated at or within the direct environment of their work centre.

4.3.2 The Employee must be located at a work centre due to the requirements of the post held by them, and no housing exists or reasonable housing is unavailable, or private housing is not permitted within the environs of the work centre.

4.3.3 The Employee must inhabit specific accommodation at or within the direct environment of the work centre based on functional necessity as assessed by the Executive Director of the applicable service unit to which the employee is allocated.

4.4 The provision of official accommodation shall attach to an identified post occupied by the Employee and not to the employee in his/her personal capacity.

4.5 Official accommodation shall be occupied by the Employee and his/her dependents only.

4.6 A lease agreement shall be entered into with the Municipality by every Employee who occupies official accommodation. The terms and conditions of such lease may be varied only as provided for in Clause 12.1 below.

4.7 Official accommodation may not be sub-let or assigned by the Employee or dependant under any circumstances.

4.8 Employees who are allocated and occupy official accommodation shall not be precluded

from purchasing a private dwelling and participating in the applicable housing allowance scheme.

- 4.9 A central database shall be maintained by the Director: Property Management for all official accommodation, which database shall be kept up to date in a register provided for in clause 5.4 below.

5 ALLOCATION OF OFFICIAL ACCOMMODATION - PROCEDURES

- 5.1 Prescribed form: Application for official accommodation shall be made on a prescribed form to the Executive Director of the applicable service unit or his delegated authority, which shall include:

5.1.1 Certification from the line manager of the relevant division/section of the applicable service unit stating the following:-

5.1.1.1 The post occupied by the applicant;

5.1.1.2 The criteria applied to the post to determine functional necessity; and

5.1.1.3 A full and proper motivation supporting the allocation of the official accommodation to the applicant.

- 5.2 Final decision: The decision by the Executive Director of the applicable service unit or his delegated authority in respect of the granting of allocation of such applications shall be final.

- 5.3 Lease to be concluded: Notwithstanding the provisions of section 5(1) of the Rental Housing Act 1999, a written lease agreement shall be drawn up by the applicable service unit and must include the details specified in Sections 5(6), 5(7) and 5(8) of the Rental Housing Act 1999. Such lease shall be entered into between the Employee and the Municipality in respect of the allocated official accommodation, and no occupation of the official accommodation may be permitted until the said lease is signed by both parties. A copy of the lease agreement and all supporting documentation shall be placed on the employee's staff file at the Human Resources Department. All originals shall be kept by the Director: Property Management.

- 5.4 Standard lease agreement: The Director: Property Management shall be responsible to draft and maintain a standard lease agreement, which is to be used in all cases. Such an agreement shall be published on the CityWeb. Any deviation from the standard lease agreement must be agreed to by the Director: Property Management prior to signature of the document.

- 5.5 Register of delegated decisions: The Executive Director of the applicable service unit or his delegated authority shall keep a register of such decisions taken and the reasons for same.

6 GUIDELINES FOR ALLOCATION OF OFFICIAL ACCOMMODATION

Allocation in terms of functional necessity shall be effected according to the following guidelines:-

- 6.1 Allocation under normal circumstances shall be effected according to the criteria, which pertain to the applicable service unit as determined by the Executive Director of that service unit from time to time.

- 6.2 If the job functions of two or more Employees satisfy the requirements for functional

necessity, the official accommodation shall be allocated to the Employee who, in the opinion of the Executive Director of the applicable service unit or his delegated authority, is most able to render the required service.

6.3 In the event of the following circumstances, Employees may apply for alternative official accommodation in the normal manner and such applications shall enjoy a higher priority than applications from other Employees who are not in similar circumstances.

6.3.1 If an Employee, occupying official accommodation from functional necessity is transferred to a work centre under the same conditions of service, which work centre is situated more than a set distance from his/her current official accommodation; (which distance shall be determined by the Executive Director of the applicable service unit from time to time).

6.3.2 If the official accommodation allocated and occupied by the Employee is alienated and the Employee is required to occupy official accommodation and perform the same function in the interests of the Municipality.

6.3.3 If repairs, restoration or other activities in respect of a Employee's existing official accommodation must be carried out which in the opinion of the line manager of the Employee will render the accommodation for such employee and his/her dependants uninhabitable.

6.3.4 In the event that a natural disaster or extraordinary circumstance renders the official accommodation unsafe or uninhabitable. (The onus of inspection and assessment to be on the Executive Director of the applicable service unit or his delegated authority).

6.4 Employees who already occupy official accommodation may apply for alternative official accommodation. In the event of competition for such accommodation, the merits of such applications shall be assessed by the Executive Director of the applicable service unit or his delegated authority on the degree of functional necessity of the functions performed.

6.5 Bridging period: Employees who occupy official accommodation who are subsequently appointed to posts not of functional necessity may continue to reside in such accommodation for a period not exceeding 3 months, subject to the accommodation not being required immediately for allocation in terms of functional necessity to another Employee.

6.6 Allocation to Property Management: In the event that surplus official accommodation is no longer required **permanently** (as shall be determined by the Executive Director of the applicable service unit) then such accommodation shall be allocated to the Director: Property Management to be sold or leased at market value on the open market, subject to the responsibility for securing such accommodation remaining that of the applicable service unit until such time as the accommodation is suitably rezoned.

7 REQUIREMENT TO VACATE OFFICIAL ACCOMMODATION

7.1 Not of functional necessity: Employees who do not occupy posts of functional necessity (or their dependants) who are occupying official accommodation other than by contractual agreement or written lease shall be given notice to vacate such premises OR be required to enter into a written lease at market related rentals within a period of 3 months from date of adoption of this policy.

- 7.2 The responsibility for causing such notices to vacate to be issued or for causing such leases to be concluded shall be that of the Director: Property Management.
- 7.3 Change of employee status: Employees (or their dependants) occupying official accommodation whose status in terms of this policy has changed by virtue of:-
- 7.3.1 Retrenchment, retirement, disablement (such as to preclude exercise of the job of functional necessity) or death of the Employee;
 - 7.3.2 Termination of employment of the Employee;
 - 7.3.3 Promotion or new appointment to post not of functional necessity in respect of the applicable service unit in which the official accommodation is located;
 - 7.3.4 Demotion to post not of functional necessity in respect of the applicable service unit in which the official accommodation is located; or
 - 7.3.5 Transfer of the Employee to a post not of functional necessity in respect of the applicable service unit in which the official accommodation is located

shall vacate such accommodation within a period not exceeding 3 months from the effective date of such retirement, retrenchment, disablement, death, termination, new appointment or transfer.

- 7.4 The City Manager may, at his sole discretion, extend this period in exceptional circumstances upon application by the employee or dependant, supported by the Executive Director of the applicable service unit. The terms of the lease in respect of such extension as may be granted shall be determined by the City Manager upon the merits of each case.
- 7.5 Notification of termination: In the event of termination of the employee's services, the Executive Director of the applicable service unit or his delegated authority shall inform the Director: Property Management forthwith.
- 7.6 Termination of lease: Employees and their dependants shall vacate official accommodation upon expiry of the lease agreement in respect of such accommodation.

8 RESPONSIBILITY UPON VACATING OFFICIAL ACCOMMODATION

- 8.1 Disconnection of services: Upon vacation of official accommodation it shall be the responsibility of the Employee who is vacating the accommodation to ensure that all services with the exception of sewerage be discontinued and all meters are read, failing which the Employee and/or dependant shall be held responsible for any wastage, damage or loss which may take place between the date of vacation of the accommodation and the date of re-occupation of same.
- 8.2 Clean and neat: The Employee who is vacating the accommodation shall ensure that the accommodation is left in a clean and neat state to the satisfaction of the Director: Corporate Property Management, failing which, the Council may recover any cost incurred in rendering the said accommodation clean and habitable from the said Employee or Lessor.
- 8.3 Personal effects: The Employee who is vacating the official accommodation shall remove

all personal effects there from, ensure that all windows, outside doors, gates and other access points are closed and locked, all taps are closed, switches are off and that the said accommodation and surrounds are as far as possible secure against trespass and damage.

- 8.4 Inspection: The Director: Property Management shall cause the official accommodation to be inspected from time to time and take all reasonable steps to protect the said accommodation against trespass and vandals.

9 RESPONSIBILITY FOR PERSONAL EFFECTS

The Municipality shall not be held responsible for any loss and damage to the personal property of the Employee or his/her dependants on or in the official accommodation whilst he/she occupies the said accommodation or during the course of moving into or out of the said accommodation.

10 PRIVATE INSTEAD OF OFFICIAL ACCOMMODATION

- 10.1 At the discretion of the Executive Director of the applicable service unit, Employees who qualify for official accommodation may be authorised to secure private accommodation for themselves and their families provided that:-

- 10.1.1 such private accommodation is acceptable to the Executive Director for operational reasons;
- 10.1.2 the official accommodation reserved for the post is satisfactorily utilised; and
- 10.1.3 all costs including purchase and/or rental of such private accommodation are to be borne by the Employee.

11 OWNERSHIP OF OWN DWELLING

Employees who already own fixed property may be allocated official accommodation, subject to their job function qualifying under the definition of functional necessity, and an application in terms of the procedures outlined in this policy being successful.

12 CONDITIONS AND ALLOCATION OF RESPONSIBILITIES IN TERMS OF LEASE

- 12.1 The reasons of any variation in the conditions of the lease relating to occupation, damages, and responsibilities for the payment of rent, water and electricity consumed and all associated costs in respect of the dwelling allocated to a lessee shall be recorded in writing and kept in the register referred to in Clause 5.5 above.
- 12.2 The lease shall stipulate that the official accommodation may only be occupied by the Employee and his/her dependants and may be used for residential purposes only.
- 12.3 The lease shall stipulate that the Employee is responsible for any tax or service charges levied by the municipality for the removal of sewerage, refuse and other sanitary services and for the provision of water, gas and electricity services, and that by signing the lease, the Employee agrees that the Municipality may deduct such charges for services rendered as well as for rental directly from the emoluments of the Employee.

- 12.4 The lease shall stipulate that the Employee and/or his/her dependants may not:-

- 12.4.1 make alterations or additions to official accommodation;
- 12.4.2 make any noteworthy changes to property surrounds; or
- 12.4.3 remove established trees, shrubs or plants

except with the written permission of the Executive Director of the applicable service unit or his delegated authority, subject to any conditions, which may be imposed.

12.5 The Director: Property Management is responsible for ensuring:-

- 12.5.1 that the maintenance internally and externally of all buildings, fixtures, furniture, machines, equipment, and fencing that has been supplied for use by the Employee and/or dependant, as well as the repair of structural defects and normal wear and tear, is carried out by a competent contractor; and
- 12.5.2 that the supply and maintenance of water, gas, electricity and sewerage connections is carried out.

12.6 The Employee is responsible for keeping the surrounds of the official accommodation (i.e. garden, yard, and grassed areas utilised as part of the accommodation) in a neat and tidy condition.

13. RENTAL FOR OFFICIAL ACCOMMODATION

13.1 Determination of Rental

- 13.1.1 If an employee is required to stay on council property a nominal rental per month will be charged except where the tax value of the benefit exceeds the market related rental, then the market related rental will be charged. The market related rental will be determined by the Director: Property Management in conjunction with the Manager Payroll.
- 13.1.2 If an employee is not required to stay on council property the rental shall be determined at market value by the Director: Property Management, which shall be reviewed on an annual basis.
- 13.1.3 The employee will, in all instances, be responsible for the payment of all municipal rates and services.

13.2 Rental Deduction

Pursuant to clause 13.1 above, an authorisation for the deduction of rental (and annual increase thereof as provided for in the lease) directly from the Employee's remuneration shall be completed by the said Employee, and the pay office shall be advised by the Director: Property Management to deduct such rental from the said Employee's salary.

14. CENTRAL DATABASE

A central database of all staff accommodation on council property shall be maintained by the Director: Property Management for reference and control purposes.

15. APPLICATION AND INTERPRETATION

- 15.1 The provisions of this policy are applicable from date of adoption of the policy by the Council of the Municipality or such other date as may be determined by the Municipality.
- 15.2 The interpretation of any matter that is unclear shall be referred to the Director: Property Management for determination.