



KWAZULU-NATAL PROVINCE

HUMAN SETTLEMENTS
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POLICY NOTE ON THE CORRECT INTERPRETATION OF THE PROVISIONS OF THE NATIONAL HOUSING CODE

The following is for the attention of ALL MUNICIPALITIES AND IMPLEMENTERS of human settlements programmes in Kwazulu-Natal.

A policy note on the correct interpretation of the provisions of the National Housing Code of 2009 was issued by the Director-General of the National Department of Human Settlements on 28 July 2021. The purpose of the policy note is to provide clarity regarding the provision of interim engineering services and basic services.

1. BACKGROUND

- 1.1 The Housing Act, 1997 (Act No. 107 of 1997) provides for the roles and responsibilities of national, provincial and local government.
- 1.2 The National Housing Code, 2009 contains several National Housing Programmes, one of which is the Upgrading of Informal Settlements Programme (UISP). The UISP specifically contains prescripts and guidelines on how to implement the Programme. Each of the National Housing Programmes contains a set of specific prescripts which are designed to assist programmatic interventions. Importantly, it also provides for the role of municipalities.
- 1.3 The National Housing Code also contain the detailed technical guidelines which provides for the National Norms and Standards for the Creation of Serviced Stands and the Construction of Stand Alone and Higher Density Semi-Detached, Two and Three Storey Walk-up Residential Dwellings Financed through the National Housing Programmes (National Norms and Standards). These Minimum Norms and Standards also provide for guidelines for Municipal Engineering Services that must be financed through the Human Settlements Development Grant. It also highlights that interim engineering services include communal water and communal sanitation services.
- 1.4 The UISP caters for the provision of the following municipal engineering services:
 - **Interim municipal engineering services** as a first phase to alleviate the immediate/emergency need to access portable water, sanitation services and certain preventative measures to curtail the occurrence of disasters;
 - **The upgrading of such interim services** into permanent municipal engineering services and/or;
 - **The provision of permanent municipal engineering services** from the outset of the project as may be required by local project circumstances; and
 - **The programme will finance permanent municipal engineering services** in as far as they pertain to the internal township reticulation and will not finance any bulk and/or connector services.
- 1.5 Provinces may utilise a maximum of 2 per cent of the Human Settlements Development Grant (HSDG) for the provision of bulk infrastructure projects for basic services in non-metropolitan municipalities to unlock human settlement projects on condition that the funding is complementary with commitments by municipalities in their IDP and municipal budget for provision of such bulk

and other infrastructure with Municipal Infrastructure Grant funding. Prior approval of the transferring officer is required for this spending.

- 1.6 Municipalities must coordinate and facilitate the provision of bulk and connector engineering services through other funding sources including funding from the MIG/USDG.
- 1.7 The Minister has during the financial year 2016, issued a policy directive that describes the norms and standards for housing and engineering services that must be provided on a permanent basis.
- 1.8 The 2016 National Sanitation Policy defines interim sanitation as: “an interim measure to provide privacy to the user, be readily accessible and in close walking distance, and provide for the safe disposal of human waste, including hygiene and end-user education”.
- 1.9 The Minister has also issued National Norms and Standards for Domestic Water and Sanitation Services in September 2017.

2. INTERIM SANITATION SERVICES

2.1 The Strategic Framework for Water Services recommends that service authorities/providers must typically address the following situations regarding water and sanitation services:

- In urban areas, where many businesses are located and where residential densities are high, waterborne sanitation is generally the most appropriate technical solution and should be regarded as a basic level of service for the purposes of the free basic sanitation policy.
- In rural areas, where housing densities are low and few businesses are located, on- site technical solutions are an appropriate basic level of service.
- In intermediate areas (for example, peri-urban areas or rural areas where settlement densities are high), **a water services authority must decide on an appropriate technology** which is financially viable and sustainable. In most instances, on-site sanitation systems are likely to be the most appropriate solution. Care must be exercised when choosing waterborne sanitation systems in this context. The water services authority must ensure that the water services provider will be able to maintain and operate this system sustainably over time with the available funds.

2.2 The National Norms and Standards for Domestic Water and Sanitation Services states that interim sanitation services must aim at providing access to a safe, reliable fixed point sanitation facility that properly and safely contains human excreta and provides a facility for hygiene in order to eradicate open defecation.

2.3 Interim sanitation services must provide at least the following:

a) Communal and shared facilities:

- i. Users shall be consulted on the siting and design, and the responsible cleaning and maintenance of shared toilets. Clean toilets are more likely to be frequently used.
- ii. Plumbing in and for communal and shared facilities needs to be more robust than that installed on private premises, and shall comply with the general principles of the National Building Regulations. Precautions need to be taken in the design against vandalism, theft and misuse.

- iii. Efforts shall be made to provide people living with chronic illnesses, such as HIV and AIDS, with easy access to a toilet as they frequently suffer from chronic diarrhoea and reduced mobility.
- iv. Where possible, communal and shared toilets must be provided with lighting, or users provided with torches. The input of the users must be sought with regard to ways of enhancing the safety of users.
- v. Efforts to build a sense of communal ownership and pride of possession shall be made so that cooperation is voluntarily given or assured by peer pressure.
- vi. Sufficient sanitation facilities shall be provided for the number of users:

Type	Toilet seats	Urinal points	Hand washing
Communal toilet	1 seat per 50 users	1 unit per 100 users	1 basin per 10 toilets seats
Shared toilet mostly used all the time	1 seat per 20 users	1 seat per 50 users	1 basin per 4 toilet seats

- vii. Shared and communal facilities shall have:
 - Separate toilet blocks for men and women with separate entries;
 - Waste bins with lids in toilet blocks for women - emptied once a week and disposed of appropriately;
 - Urinal facilities for men;
 - Seats for children in the section for women;
 - Waiting / circulating area;
 - Separate washing cubicles for men and women;
 - Facility to store large volumes of water (water-borne sanitation);
 - Appropriate wastewater disposal system; and
 - Store room for keeping the cleaning material / equipment.

- (b) Water and anal cleansing material: Water must be provided for toilets with water flush and/or hygienic seal mechanisms. For a conventional pit toilet, it may be necessary to provide toilet paper or water for anal cleansing. Users must be consulted on the most culturally appropriate cleansing methods and materials, and the safe disposal thereof.
- (c) Menstruation consideration: Women and girls of menstruating age must have access to suitable materials for the absorption and disposal of menstrual blood. Women and girls must be consulted on what is culturally appropriate. Toilets must include provision for appropriate disposal of menstrual material (waste bins with lids that are emptied regularly) or private washing facilities.
- (d) Containment of children's faeces: Particular attention must be paid to the disposal of children's faeces, as they are commonly more dangerous than those of adults (excreta-related infection among children is frequently higher and children may not have developed antibodies to infections). Parents and caregivers must be provided with information about safe disposal of infants' faeces, laundering practices and the use of nappies (diapers), potties or scoops for effectively managing safe disposal.

- (e) Accessibility for all: It may not be possible to make all toilets acceptable to all groups, but special toilets need to be constructed for children, older people and persons with disabilities, e.g. toilets with kiddie seats, or hand rails, or provision of potties or commodes.
- (f) Operation and maintenance: The services provider is fully responsible for the capital, operation, maintenance and refurbishment actions and costs pertaining to interim sanitation services. Blockages and health risks must be addressed and rectified within 24 hours.
- (g) Hygiene promotion: A municipality as part of local government, through its Environmental Health Practitioners is responsible for promoting health and hygiene awareness, for ensuring an environmentally safe approach to sanitation, and for monitoring the impact of sanitation processes on the environment.
- (h) Asset management: The services provider shall account for all sanitation services assets in a way that ensures financial sustainability in an asset management plan as part of their Water Services Development Planning. All assets must be taken into account when calculating the current and future financial requirements for the replacement and refurbishment.

2.4 Types of sanitation infrastructure/facilities: The type of sanitation infrastructure or facility adopted and installed shall be an improved facility and depends on the preferences and cultural habits of the intended users, the capacity of the services provider (financial and skills), the existing infrastructure, the availability of water (for flushing and water seals), the soil formation (for groundwater and surface water protection) and the capacity of the applicable wastewater treatment methods.

3. DISCUSSION

- 3.1 It has come to the attention of the National Department of Human Settlements that there are varying interpretations regarding certain provisions of the UISP as articulated in the National Housing Code, 2009.
- 3.2 The upgrading of the UISP provides that interim municipal engineering services can be provided as a first phase of upgrading an informal settlement.
- 3.3 This must be separated from the provision of temporary basic services which is a core function of municipalities and may be funded through the Urban Settlements Development Grant (USDG) or other infrastructure related grants.
- 3.4 All Heads (HODs) of Provincial Human Settlements Departments must note that the UISP as set out in the National Housing Code does not make use of the term: temporary engineering services.
- 3.5 All Heads of Provincial Human Settlements Departments must note that the provision of chemical toilets is not an interim engineering service that is implied in the National Housing Code and as such cannot be financed by the HSDG. This implies that chemical toilets may be part of the temporary basic service which is provided through a municipal infrastructure as operated and maintained by the respective municipalities.
- 3.6 The Division of Revenue Act contains several conditions which must be adhered to by the different categories of municipalities before implementing projects for water, electricity, roads or any other municipal service.

3.7 All Heads of Provincial Human Settlements Departments must note that the phrase interim engineering services, currently refers to engineering infrastructure that must be provided in line with the approved engineering designs or networks. Such interim services should serve as a first phase after joint planning and alignment of funding streams between a Provincial government and municipalities.

Table 1: Minimum level of services permitted in terms of the National Norms and Standards

Type of Service	Minimum Level
Water	Single standpipe per stand (all water uses and/or supply shall be metered and tariffed).
Sanitation	As per the requirements of the National Norms and Standards for Domestic Water & Sanitation Services.
Roads	Graded or gravel road access to each stand. This does not necessarily require a vehicle access to each property.
Stormwater	Lined open channels.
Street lighting	High mast security lighting for residential purposes where this is feasible and practicable, on condition that such street lighting is not funded from the MIG initiative or from other resources.

4. DIRECTION TO PROVINCES AND MUNICIPALITIES

- 4.1 Municipalities must take the responsibility for providing temporary basic services.
- 4.2 Municipalities must take responsibility for acquiring, operating and maintaining the related temporary infrastructure.
- 4.3 Provinces must take all reasonable and necessary steps to support and strengthen the capacity of municipalities to effectively exercise their powers and perform their duties in respect of housing development.
- 4.4 Provinces must co-ordinate housing development in the province;
- 4.5 Provinces must take all reasonable and necessary steps to support municipalities in the exercise of their powers and the performance of their duties in respect of housing development;
- 4.6 Provinces must refrain from financing the provision of chemical toilets through HSDG.
- 4.7 Failure to implement these directions will lead to withholding of the HSDG allocations.
- 4.8 Provinces are reminded that the National Housing Code stipulates that business plans must be prepared by municipalities and should be considered by the MEC's. It further stipulates that as part of the evaluation criteria, the MEC must consider the principle of value for money, which should always guide all parties concerned.
- 4.9 All Heads of Provincial Human Settlements Departments were urged to bring the contents of this directive to cities and municipalities within their areas of jurisdiction.

REVISED POLICY DIRECTIVE ON THE LIMITATION OF ALLOCATION OF HOUSING PER UMUZI: RURAL SUBSIDY PROGRAMME (FORMERLY ONE HOUSE PER UMUZI)

The Revised Policy Directive on the limitation of allocation per umuzi was approved by the Head of Department of KZN Human Settlements for implementation with effect from 01 March 2021. The policy directive replaces the existing 'One House Per Umuzi' Policy that did not give consideration to vulnerable groups like disabled and aged persons who have highlighted their vulnerability through platforms such as the Disability and Senior Citizens Parliaments.

1. BACKGROUND

The legislation and policies relating to housing are silent on the number of houses to be built per umuzi. In the context of this document, "umuzi" is interpreted as a homestead in rural areas, and in the context of rural subsidies, homesteads in Ingonyama Trust areas. The current provincial rural guidelines indicate a maximum number of one thousand units to be built per project area. In order to achieve this number more than one house per umuzi was built. Densification initiatives by developers, implementing agents, and/or project managers to achieve economies of scale, resulted in more than one house per umuzi being built. This resulted in an unequal distribution of resources in certain municipalities and/or traditional council areas.

There are also limited resources to cater for a variety of housing needs and initiatives within the province which include among others, Informal Settlements Upgrading (ISU).

Since rural housing delivery processes resulted in a concentration of subsidies in some areas due to delivering more than one house per umuzi to achieve numbers. The Department issued a policy directive in May 2009 limiting the allocation of only one house per umuzi to ensure a fair distribution of rural subsidies.

Currently, the Department is building a maximum number of five hundred (500) units on a phased basis per project area.

2. POLICY DIRECTIVE

- 2.1 The definition of "*Disabled Person*" in the context of this directive is as defined by the National Department Human Settlements, Housing Definitions document "as a person possessing physical or mental conditions that incapacitates them, making it difficult or impossible to earn a living through gainful employment".
- 2.2 The definition of "Aged" in the context of this directive is as defined in the Older Persons Act 13 of 2006 "as a person who, in the case of a male, is 65 years of age or older and in the case of a female, is 60 years of age or older".
- 2.3 This directive addresses the implementation of housing per umuzi in rural (informal land rights) projects taking into consideration the prioritization of the aged and disabled beneficiary. These

groups are considered to be extremely vulnerable and, in most cases, unable to independently provide for their housing needs.

2.4 The limitation of the allocation of housing per umuzi aims to ensure a fair distribution of rural subsidies within the different geographic areas of the province however still prioritizing persons from the aged and disabled vulnerable groups.

2.5 Beneficiaries in all rural areas are afforded the opportunity to access housing on a progressive basis for example, qualifying siblings or other vulnerable beneficiaries within an umuzi may be accommodated in future phases of housing delivery in the area. This is in line with the progressive right to housing, as stated in the Bill of Rights (Section 26 of the Constitution).

2.6 The limitation of the allocation of housing should be implemented as follows:

2.6.1 The person who holds the uncontested right in the form of a certificate of occupation in respect of the allocated site upon which the umuzi is situated, must be the only person to be considered for a housing subsidy where there are no disabled or aged beneficiaries. The said person must meet all the qualification criteria for a housing subsidy.

2.6.2 In instances where there is a disabled and/or an aged person in a household who is the holder of the PTO or where a member of his/her household is aged and/or disabled, the following scenarios may be applicable:

a) The household must be granted priority as the first beneficiary to be allocated a housing subsidy in the umuzi. The disabled person must produce a medical certificate from a registered health practitioner indicating the nature of disability. On this basis, the principle of one house per umuzi still applies to ensure a greater spread of subsidies. Other qualifying households within the umuzi may be accommodated in future phases of housing delivery in the area.

b) In an effort to address the needs of vulnerable groups, where there is more than one household with disabled and/or aged persons in an umuzi then more than one house per umuzi may be built but not exceeding 2 houses per umuzi. In this instance, the principle of one house per umuzi can be suspended and more than one house per umuzi may be built to accommodate the disabled and/or aged persons. The limitation will prevent a concentration of subsidies in some areas due to delivering too many houses in one umuzi whilst disadvantaging others.

2.6.3 The allocation of a house should be based on the prioritization of needs, as agreed with the traditional leadership and holder of the informal right, as registered in the certificate of occupation with the Department of Corporate Governance and Traditional Affairs. The remaining qualifying individuals including other aged and disabled persons would be considered in future projects on a progressive basis.

2.6.4 In instances where there are polygamous unions, the head of the household may apply for as many subsidies as the number of wives that he has, in terms of the Department's policy on polygamous unions. However, beneficiaries need to be cautioned that should the polygamous union dissolve, the subsidy will have to be refunded to the Department, by the individual, unless it is allocated to another qualifying beneficiary (such as qualifying siblings of such union). It is therefore

recommended that the principle of only one house per umuzi still be applied to ensure a greater spread of subsidies. In this case the holder of the certificate of occupation may elect for the subsidy to be awarded to one of his/her spouses, and/or qualifying siblings of a polygamous union, should they qualify.

2.6.5 In the event that the holder of the right and/or the spouse/s passes on, the law of succession shall apply in terms of:

- a) Last will and testament;
- b) If there is no will, then marital arrangements in the case of surviving spouse (customary or civil, whichever applies);
- c) If both parents have passed on, the rights of siblings are to be determined in terms of customary law or court order where there is a dispute.

2.6.6 The beneficiaries must meet all other qualifying criteria for the housing subsidy.

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The detailed Revised policy directive on the limitation of allocation of housing per umuzi may be accessed on the Department's website using the following link: <https://www.kzndhs.gov.za/index.php/features/policy-documents/provincial-policies>