

**COUNTY GOVERNMENT OF BUNGOMA**



**COUNTY ASSEMBLY OF BUNGOMA**

**SECOND ASSEMBLY – FOURTH SESSION**

**REPORT OF HOUSING AND SANITATION COMMITTEE**

**ON**

**THE HOUSING POLICY FOR BUNGOMA COUNTY**

**MARCH, 2020**

Clerk's Chambers

County Assembly of Bungoma

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## **CHAPTER ONE**

### **1.0 PREFACE**

**Mr. Speaker Sir,** on behalf of the members of the Housing and sanitation Committee, it is my pleasure and duty to present to the House the Committee's report on Housing policy for Bungoma County.

### **1.2 THE MANDATE OF THE COMMITTEE**

**Mr. Speaker Sir,** The sectoral Committee on Housing and Sanitation is constituted pursuant to the provisions of Standing Order No. 196 of the County Assembly of Bungoma and executes its mandate in accordance with Standing order 196(5) which provides as follows:

- a) Investigate, inquire and report all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments.
- b) Study the programme and policy objectives of departments and the effectiveness of the implementation;
- c) study and review all county legislation referred to it;
- d) study , assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- e) investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- f) to vet and report on all appointments where the constitution or any law requires the County Assembly to approve , except those under Standing order 185(Committee on Appointments); and
- g) make reports and recommendations to the County Assembly as often as possible, including recommendations of proposed legislation.

### 1.3 COMMITTEE MEMBERSHIP

**Mr. Speaker Sir**, the Housing and Sanitation committee as currently constituted comprises of the following Members:-

1. Hon. Elvis	Abuka	Chairperson
2. Hon. Hillary	Kiptalam	Vice Chairperson
3. Hon. Metrine	Nangalama	Member
4. Hon. Godfrey	Mukhwana	Member
5. Hon. Sitati	Makhandia	Member
6. Hon. Eunice	Kirui	Member
7. Hon. Joram	Wanjala	Member
8. Hon. Everton	Nganga	Member
9. Hon. Sospeter	Nyongesa	Member
10. Hon. Humphrey	Sifuna	Member
11. Hon. Jack	Kawa	Member
12. Hon. David	Barasa	Member
13. Hon. Frankline	Simotwo	Member
14. Hon. Violet	Makhanu	Member
15. Hon. Charles	Nangulu	Member

## **1.5 ACKNOWLEDGEMENT**

The Committee is thankful to the Offices of the Speaker and the Clerk of the County Assembly for the logistical support accorded to it during the report writing as it executed its mandate.

I wish to express my appreciation to the Honorable Members of the Committee for their resourceful input that informed the content of this report. My sincere gratitude also goes to the members of the Secretariat for their dedication towards compiling this report.

It is therefore my pleasant duty and privilege, on behalf of the Sectoral Committee on Housing and Sanitation to table this report on the **Bungoma County Housing Policy** and its recommendations to the Assembly for deliberation and adoption.

Thank you.

Sign .....Date.....

**HON. ELVIS ABUKA, MCA, MILIMA WARD**

**CHAIRPERSON, COMMITTEE ON HOUSING AND SANITATION**

## CHAPTER TWO

### 2.0. SCRUTINY OF THE BUNGOMA COUNTY HOUSING POLICY

**Mr. Speaker Sir,**

A guide to the legislative process in Kenya by Kenya Law Reform Commission first edition of 2015 provides for salient features of a policy framework. The guide provides that a policy framework should amongst others reflect the following features.

- ✓ Be forward looking, that is, it must have a long term view of the problem and offer a long term solution
- ✓ Benefit from the experience of others who have resolved similar situations.
- ✓ Seek new solutions to old problems by being clear on objectives and outcomes.
- ✓ Be based on a study or current analysis of the problem at hand.
- ✓ Offer an inclusive solution to all the segments of the community in which it would be implemented.
- ✓ Fit into the current policies being implemented by other agencies.
- ✓ Borrow from best practices and learn from implementation mistakes and successes elsewhere.
- ✓ Must have an inbuilt communication strategy for dissemination to the public and all stakeholders.
- ✓ Should have evaluation and review mechanisms as one of its features.
- ✓ Provide a pre-legislation impact assessment statement.

Therefore,

**Mr. Speaker Sir,** the committee scrutinized the Bungoma County Housing Policy based on the framework stated hereunder:

- ✓ Introduction
- ✓ Situation analysis
- ✓ Challenges or problem/issues to be addressed
- ✓ An analysis of the existing legal framework
- ✓ Strategies for its implementation
- ✓ Actors/stakeholders including the roles and responsibilities
- ✓ Targeted audience and their role and obligations
- ✓ Monitoring and evaluation mechanism
- ✓ Review measures
- ✓ Provision of legal instrument for its operationalization

## **2.1 INTRODUCTION**

### **2.1.1 BACKGROUND INFORMATION**

**Mr. Speaker Sir,** Housing being one of the basic needs and an indicator of quality of life that a citizen enjoys, it also helps in creating conditions conducive to the achievement of crucial goals in matters pertaining education, health, sanitation and living standards of the people. Access to adequate housing has long been viewed as a basic human right and is considered to be an integral factor for all. According to the United National (UN) committee on Economic, social and cultural rights, satisfactory housing consists of: legal security of tenure; availability of accessible services, facilities and infrastructure; habitability; accessibility (e.g. access to employment, health services, schools, e.g.); cultural adequacy; and affordability

**Mr. Speaker Sir,** The ideal and recommended position in a legislative process is that policy proceeds the formulation of a bill or any other legislative instrument. The importance of developing a policy framework first is intended to amongst other salient features allow the executor to determine a clear road map, conduct an assessment of the problem and possible solutions and define the opportunity to be embraced and the modalities or approaches to realize the benefit prior to processing a necessary legal framework

**Mr. Speaker Sir,** The Bungoma County Housing Policy framework presents an outline of the main challenges, priorities and implementation mechanisms for housing matrix in our County. The policy was duly received in the County Assembly on 16th of December, 2019. The same was committed to the committee on Housing and Sanitation for scrutiny and recommendation by the Hon. Speaker.

### **2.1.2 LEGAL FRAMEWORK**

**Mr. Speaker Sir,** The constitution of Kenya 2010 Article.43 (b) on economic and social rights elaborates that; every person has a right to accessible and adequate housing and to reasonable standards of sanitation. The fourth schedule part 2 paragraphs 8(d) elaborates on the mandate of the County government which includes county planning and development, including housing. This key provision in the Constitution strengthens the formulation of legislative agenda and policies by the County Governments.

## **2.2 KEY HIGHLIGHTS IN THE POLICY**

### **2.2.1 BACKGROUND INFORMATION**

**Mr. Speaker Sir,** Chapter one of the policy provides the background information. This includes an elaboration on the Universal Declaration of Human rights of 1948 which recognizes the right to affordable housing as an important component of the right to adequate standards of living. It also provides greater emphasis on the Constitution of Kenya on ensuring provisions of decent housing for all citizens, both at national and county level through self-initiated interventions. There is emphasis on the County Government to improve housing for the County population, the fact which has been influenced by the fact that the improvement in housing stock is a strategically important social and economic investment.

It also puts emphasis on the County's long term objective to move towards a situation where every individual or family lives in decent affordable housing whether publicly or privately developed to meet the necessary requirements of security, health and privacy.

**Mr. Speaker Sir,** this chapter also provides an account of the policy evolution in the country, this is perhaps to give a backdrop of the challenges experienced so far in housing. The first Comprehensive Housing policy for Kenya was developed in 1966/67. The policy directed the Government to provide the maximum number of people with adequate shelter and a healthy environment at the lowest possible cost. It advocated for slum clearance and encouraged mobilization of resources through self-help and co-operative efforts. Coordination was also advocated to increase efficiency. The policy paper also advocated for research in use of locally available building materials.

**Mr. Speaker Sir,** the chapter further expounds on the problems and challenges in housing; the investments in the housing sector have been minimal and sporadic and thus the demand for housing still outstrips supply. High rates of urbanization, increasing poverty and escalation of housing costs and prices have made the provision of housing infrastructure and community facilities one of the daunting challenges in the socio-economic development.

### **2.2.2 THE POLICY VISION AND MISSION**

**Mr. Speaker Sir,** Chapter two of the housing policy is basically on the goals and objectives.

The vision, mission and the core values of this policy are outlined as follows;



**Vision;** “to excel in sustainable management of land and housing.”

**Mission;** “to facilitate efficient land administration and management for resource utilization and provision of affordable housing in the County.”

**Mr. Speaker Sir,** the Core values that will guide in the service delivery as outlined in this policy include amongst others; Professional integrity, passion for results, participatory approach, customer orientation, commitment to team work, Commitment to welfare of employees, innovation and visionary, transparency and accountability and ethical Standards.

### **2.2.3 THE GOALS OF THE POLICY**

The overall goal of this housing policy is to facilitate the provisions of adequate shelter and a healthy living environment at an affordable cost to all socio-economical groups in Bungoma County in order to foster sustainable human settlements. This in the long run will minimize the number of citizens living in shelters that are below the acceptable habitable living conditions. It will also curtail the mushrooming of slums and informal settlements especially in the major towns.

### **2.2.4 THE POLICY OBJECTIVES**

**Mr. Speaker Sir,** the basic objectives of the policy are: -

- a). To facilitate progressive realization of the right to adequate housing by all ;
- b) To promote the development of housing that is functional, healthy, aesthetically pleasant and environmentally friendly;
- c) To earmark and set aside land for public housing development in urban areas;
- d) To facilitate access to land and security of tenure for all socio-economic groups;
- e) To eliminate legal and customary barriers, where they exist, to enhance equal access and control of land and finance to women and people with disabilities;
- f) To increase the proportion of the exchequer allocation for housing delivery and human settlements facilitation;
- g) To facilitate greater access to funds from the domestic markets by housing developers and to promote innovative ways of mobilizing finances by the vulnerable groups;
- h) To assist the low-income earners and economically vulnerable groups in housing improvement and production;
- i) To improve the quality of existing stock of houses;
- j) To encourage research and popularize the use of appropriate building materials that are locally

available and low cost building technologies to reduce the cost of housing;

- k) To contribute to the alleviation of poverty by creating employment among the poor through building material production and construction processes as well as promote income-generating activities within the built environment;
- l) To provide and improve infrastructural facilities in both the rural and urban areas so as to improve human settlements and living environments.
- m) To protect the environment of human settlements and of ecosystems from pollution, degradation, and destruction in order to attain sustainable development;
- n) To mobilize resources and strengthen capacity building in order to facilitate increased investment in the housing sector;
- o) To streamline the legal and institutional framework to promote housing development;
- p) To promote inclusive participation of the private sector, public sector, community based organizations, Non-Governmental Organizations, co-operatives, communities and other development partners in planning, development and management of housing programmes.

## **2.2.5 THE HOUSING POLICY AREAS**

**Mr. Speaker Sir**, under the Housing Policy Areas, the following are highlighted;

The major elements of the Housing Policy are:

- (i) Poverty alleviation;
- (ii) Public housing;
- (iii) Urban housing
- (iv) Rural housing
- (v) Vulnerable groups

Land use planning and management;

- (i) Infrastructure;
- (ii) Building materials and research;
- (iii) Financial resources for housing;
- (iv) Management;
- (v) Legal and institutional framework.

## **2.2.6 POLICY STATEMENTS FOR EACH POLICY AREA**

Based on the 2009 national Population and Housing Census there are about 1,375,063 people in Bungoma County. Given the average household size of 4 persons from the census, there are about 100 households in urban areas and 1,000 households in the rural areas that need to be housed. The County Government will endeavor to facilitate an annual output of 100 housing units in urban areas and 300 units in rural areas in the next five years in order to be able to meet that demand. This excludes additional housing needs arising from increased household formations as well as housing that will become dilapidated from the existing stock.

Disaster management and Environment impact assessment is greatly advocated for. Human resource development that allows for devolution of decision making and resource allocation to those key actors at the lowest administrative level to ensure client-oriented, demand based, timely and responsive delivery of housing facilitation services are well catered for. Environmental Impact Assessment will be applied on sources of building materials, such as quarries to check against negative impacts on the environment. Developers will be required to submit an EIA report together with the development proposals. Where in the opinion of the approving authority, the development activity is likely to have injurious impact on the environment; such a development will not be approved unless remedial measures are appropriately put into place.

The policy statement under Monitoring and Evaluation is elaborative. The key actors, in County Government, Co-operatives, Private Sector and other Institutions will develop and implement Action Plans to suit local needs in consultation with the relevant stakeholders. The Action Plans will cover a time frame of one year for time bound implementation as well as incorporation into the County Development Plan.

**Mr. Speaker Sir**, in the same Chapter, there exists a Legal framework that is key for successful implementation of any policy.

The Chapter also has institutional framework which entails key stakeholders i.e. the Department in charge of housing, the private sector, financial institutions, co-operatives professionals, Non-Governmental Organizations' (NGO) and Community Based organizations (CBOs), International Agencies and Research institutions. The County Government will facilitate both public and private sectors to assist their employees to acquire housing in accordance with the **Employers Ordinance CAP 109 Sec 41**, and in recognition of the fact that adequately housed labor-force generates higher productivity.

**Mr. Speaker Sir**, Appropriation In Aid (AIA) is also captured in the Chapter-The rent received has not been sufficient to assist rebuilt the houses. The policy advocates for (AIA) so that the department can use the monies collected from rent to put the houses that need repair in good condition to attract more rent income which will in long run be beneficial to the county

Facility usage is also elaborated and will include: User obligations and responsibility, prohibited activities, renting of residential facilities, Use of recreational facilities, house allocation, procedure for allocating houses, occupation of government houses and house rent tenancy agreement.

Social housing/affirmative action is greatly explained. The department proposes to have 2 bedroomed houses in each Ward majorly to target majorly the following groups: widows, orphans and vulnerable children, the elderly, the physically handicapped, people with disabilities (PWDs) and those living with HIV/AIDS.

#### **2.2.7 COMPLIANCE WITH THE POLICY AND STANDARDS & POLICY REVIEW**

**Mr. Speaker Sir**, this chapter dwells on compliance with the Policy and Standards and Policy Review. It elaborates on the need for all stakeholders to comply with the policy to ensure effective implementation of the housing programme in the County. Compliance requirements and obligations shall include: reporting obligations, abiding by the principles of the policy, abiding by the agreed quality, quantity, time and standard.

Non-compliance with the policy is to be managed with relevant legal and regulatory provisions. The review of the policy is also provided as is to be done in a participatory process after every 3 years.

## **CHAPTER THREE**

### **COMMITTEE OBSERVATIONS AND RECOMMENDATIONS**

#### **COMMITTEE OBSERVATIONS**

**Mr. Speaker Sir**, after a thorough scrutiny of the Bungoma County Housing Policy, the Committee observed that;

1. The policy framework is well drafted and structured
2. The policy will greatly empower the County Government in streamlining the housing sector in the County
3. Through public-private partnership the policy gives the County government the much needed reinforcement to push for a well-structured housing plan.
4. The policy complies with the national laws and regulations governing monitoring and evaluation.
5. The policy provides an elaborate implementation framework that involves multi-stakeholder actors
6. The policy is not self-executing.

## COMMITTEE RECOMMENDATION

Mr. Speaker Sir, the committee makes the following recommendation;

**THAT** this Honorable House approves the Bungoma County Housing Policy in order to provide a legal framework to guide implementation of Housing related projects in the County with the following amendments to the policy;

1. Clause 3.5.1.Legal Framework; Policy statements .Amend the sub-clause by deleting *sub-clause (a)* entirely and replacing it with the following sub-clause: *The County Government to enact a Housing Act* So as to read; a)The County Government to enact a Housing Act.- *Justification-* currently, there is no Housing Act to be re-named the Housing Corporation Act.
2. *Sub-Clause f*-the phrase **Rent restriction Act** be deleted and it be replaced by *Finance Act*. So that the *sub-clause* reads; f) The County Government will continuously review the **Finance Act** to make it conducive to invest in rental housing without compromising the interests of the tenants and those of the landlords. The upper limit of housing rent falling within the jurisdiction of Finance Act of ksh.2, 500 per month will be revised upwards to cover all current low cost housing by considering the current cost of construction and price of land -*Justification-* The County Government has no mandate to review the Rent Restriction Act for it is under the National Government. The County Finance Act can be revised under the rent, rates and charges schedules.
3. Clause 3.9 on **Social housing/affirmative Action**. Paragraph 2 be amended by deleting the following phrase; *this is in regard with the Governors manifesto of reaching out to the poorest in society by targeting two people in every ward*. So as the entire paragraph to read; *it aims at construction of affordable houses for the poor in the Community. The criteria to be used to reach the needy people will be through community/public participation* -*Justification* .To avoid personalizing the project to an individual Governor and also subsequent Governors to have confidence in supporting it.
4. Enactment of the County Housing Act to be fast-tracked by the relevant department of Housing within six months after the adoption of this report.

## **CONCLUSION**

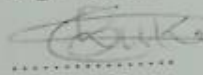
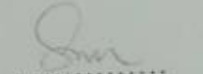

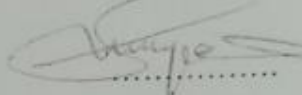
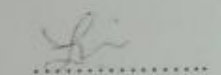


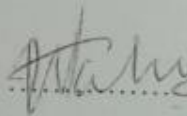
Mr. Speaker Sir, the approval of this report on the Bungoma County Housing Policy by this Honorable House will serve to provide the much needed legislative framework for the county Executive and more specifically the Department of Housing and Sanitation to guide the implementation of House related projects in the County Government of Bungoma.

Mr. Speaker Sir, it's therefore my pleasant duty and privilege to present to the House this report for deliberation and subsequent adoption.

Signed.....date.....

**(Hon. Elvis Abuka, MCA), Milima Ward**

**Chairperson Sectoral Committee on Housing and Sanitation**

ADOPTION SCHEDULE		Designation	Signatures
Name			
1. Hon. Elvis	Abuka	Chairperson	
2. Hon. Hillary	Kiptallam	Vice Chairperson	
3. Hon. Violet	Makhanu	Member	
4. Hon. Sospeter	Nyongesa	Member	
5. Hon. Godfrey	Mukhwana	Member	.....
6. Hon. Sitati	Makhandia	Member	.....
7. Hon. Eunice	Kirui	Member	
8. Hon. Joram	Wanjala	Member	
9. Hon. Everton	Nganga	Member	.....
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11. Hon. Jack	Kawa	Member	.....
12. Hon. Metrine	Nangalama	Member	
13. Hon. Humprey	Sifuna	Member	
14. Hon. Charles	Nangulu	Member	.....
15. Hon. David	Barasa	Member	