

MASILONYANA LOCAL MUNICIPALITY



INDIGENT POLICY

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INDIGENT POLICY

1. DEFINITIONS

1.1 For the purpose of this document the following definitions will apply:

1.2 For the purpose of this Policy any word or expressions to which a meaning has been assigned in the Act shall bear the same meaning in this Policy and unless the context indicates otherwise:

1.2.2 **Act:** means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as amended from time to time,

1.2.3 **Apparatus:** includes a building, structure, pipe, pump, wire, cable, meter, machine or any fitting,

1.2.4 **billing:** means proper formal notification on an account to persons liable for payment of amounts levied for assessment rates and other taxes by die municipality and the charges of the fees for municipal services and indicating the net accumulated balance of the account,

1.2.5 **council:** the municipal council of the municipality of Masilonyana Local Municipality,

1.2.6 **credit control and debt collection:** means the functions relating to the collection of all money that is due and payable to the municipality,

1.2.7 **customer:** means any occupier of any premises to which the municipality has agreed to supply or is actually supplying services, or if there is no occupier, then the owner of the premises,

1.2.8 **customer management:** means focusing on the client's needs in a responsive and reciprocal relationship between persons liable for these payments and the municipality, and when applicable, a service provider, thereby limiting the need for enforcement,

1.2.9 **defaulter:** means a person owing the municipality money in respect of taxes and/or municipal service charges not paid on the due date for payment,

1.2.10 **engineer:** means a person in charge of the civil or electrical departments of the municipality,

1.2.11 **interest:** constitutes a levy equal in legal priority to service levies and is equivalent to the prime banking rate applicable from time to time.

1.2.12 **municipal account:** shall include levies or charges in respect of the following:

Services and taxes: electricity and water consumption refuse removal, sewerage services, rates and taxes, interest, and miscellaneous and sundry charges.

1.2.13 **municipal manager:** means the person appointed by the Municipal Council as the Municipal Manager of the municipality in terms of section 82 of the Local Government Structures Act, 1998 (Act 117 of 1998) and includes any person acting in such position, and to whom the municipal manager has delegated a power, function or duty in respect of such delegated power, function or duty,

1.2.14 **municipal services:** all services including water, sanitation, electricity, refuse, rates and taxes reflected on the municipal account for which payment is required by the municipality,

1.2.15 **Chief Financial Officer (CFO):** means a person appointed by the Council to manage the Council's financial administration,

1.2.16 **Occupier:** means any person who occupies any premises or part thereof, without regard to the title under which he or she occupies,

1.2.17 **owner:** means

- ❖ the person in whom the legal title to the premises is vested,
- ❖ in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative,

- ❖ in any case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of such premises or a building thereon,
- ❖ in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof,
- ❖ in relation to a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act 1986, (Act 95 of 1986), and without restricting the above the developer or the body corporate in respect of the common property, or
 - a section as defined in such Act, the person in whose name such section is registered under sectional title deed and includes the lawfully appointed agent of such a person,
- ❖ any legal person including but not limited to a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), Trust inter vivos, Trust mortis causa, a Closed Corporation registered in terms of the Closed Corporations Act, 1984 (Act 69 of 1984), a Voluntary Association.
- ❖ any Department of State.
- ❖ any Council or Board established in terms of any legislation applicable to the Republic of South Africa
- ❖ any Embassy or other foreign entity.

1.2.18 **policy document:** means the approved indigent policy of the Municipal Council, as will be amended from time to time.

1.2.19 **premises:** includes any piece of land, the external surface boundaries of which are delineated on

- ❖ a general plan or diagram registered in terms of the Land Survey Act, 9 of 1927) or in terms of the Deeds Registry Act, 47 of 1937, or
- ❖ a sectional plan registered in terms of the Sectional Titles Act, 95 of 1986, which is situated within the area of jurisdiction of the Council.

2. INTRODUCTION

2.1 In terms of section 74 of the Local Government Municipal Systems Act 2000, a municipal council (hereinafter referred to as the Council) must adopt and implement a tariff policy. In terms of section 74(i) of the Act in adopting a tariff policy, the Council should at least take into consideration the extent of subsidization of tariffs for poor households.

2.2 Arising from the above, the council needs to approve an indigent support policy. The indigent support policy must provide procedures and guidelines for the subsidization of basic services and tariff charges to its indigent households.

2.3 This policy aims to address the key issues and challenges of indigents, the strategic aim is to create an enabling environment in which the objectives of revenue generation can be realised, given that many of the residents can simply not afford the cost of full provision of services.

2.4 Local government in South Africa has undergone an unprecedented change. This includes socio-economic issues in the wake of socio-political reform. The Municipal Systems Act, the Municipal Structures Act, the Municipal Finance Management Act (MFMA), and other legislation created a new dispensation for local government in South Africa.

2.5 Increased revenue forms the base for effective service delivery, infrastructure development, and economic growth. It also contributes to poverty alleviation, the eradication of unemployment, and the redistribution of resources including economic empowerment.

2.6 In line with the objective of creating a vibrant and growing Municipality, the indigent policy is also aligned to the principles of Batho-Pele.

2.7 Service delivery is one of Government's eight priorities as set out in the White Paper on the Transformation of the Public Service. To this effect, government has launched an initiative in South Africa under the banner of **Batho-Pele (meaning 'People First' in Sesotho)** – aimed at improving the delivery of public services.

2.8 Batho-Pele further aims to ensure that attitudes, systems and procedures are capable of delivering enhanced public services.

2.9 Batho-Pele is also about ensuring that the resources available are used to the best possible extent, eliminating wasteful and expensive procedures and reducing unnecessary expenditure on inefficient processes and systems.

3. AIMS AND OBJECTIVES.

The objective of the indigent support policy is to ensure the following:

3.1 The provision of basic services to the community in a sustainable manner, within the financial and administrative capacity of the council and to provide procedures and guidelines for the subsidization of basic service(s) charges to its indigent households, using the council's budgetary provisions received from central government in accordance with prescribed policy guidelines.

3.2 The council also recognises that many of the residents can simply not afford the cost of full provision and for this reason the council will endeavour to ensure affordability through setting tariffs in terms of the council's tariff policy, which will balance the economic viability of continued service delivery and determining appropriate service levels.

- 3.3 This policy aims to address the key issues and challenges of indigents. The strategic aim is to create an enabling environment in which the objectives of revenue generation can be realized, given that many of the residents can simply not afford the cost of full provision of services.
- 3.4 Provide procedures and guidelines for the subsidization of basic service(s) charges to indigent households, using the council's budgetary provisions received from central government in accordance with prescribed policy guidelines.
- 3.5 Establish a fair and equitable common Indigent Policy throughout the Masilonyana Local Municipality
- 3.6 Facilitate implementation of effective program to assure free services to those that cannot afford it, while eliminating the booking of these services as outstanding debtors.
- 3.7 Provide a framework to assist the Municipality in identifying those who qualify for the limited basic services and assuring that the limits are placed as needed.

4. PURPOSE OF THE INDIGENT POLICY

- 4.1 The purpose of the policy is to consider the socio-economic and other conditions presently prevalent in South Africa, such as the level of unemployment and poverty. The policy aims to address this through the application of principles for services rendered to members of society who can not afford to pay.
- 4.2 The council accepts that it is responsible for the rendering of services in terms of Schedules 4 and 5 of the Constitution as well as other services which may be delegated by national and provincial government. The council endeavours to render a basic level of service necessary to ensure an acceptable and reasonable quality of life and which takes into consideration health and environmental concerns. None of the residents should fall below the minimum level of services.

5. SCOPE OF APPLICATION

5.1 This policy document shall apply to the administration of all indigent determinations and offerings as determined by the Masilonyana Local Municipality.

6. LEGAL FRAMEWORK

6.1 The provision of socio-economic rights, which are third generation human rights by Masilonyana Local Municipality is in line with the provisions of the South African Constitution, Act 108 of 1996, in particular, section 27 (1) (b) & (c) which reads thus:

1. Everyone has the right to have access to:-
 - (b) Sufficient food and water, and
 - (c) Social security, and if they are unable to support themselves and their dependants, appropriate social assistance.
2. The state must take reasonable legislative steps and other measures within its available resources, to achieve the progressive realization of these rights.

7. RESPONSIBILITIES/ACCOUNTABILITY AND DELEGATED AUTHORITY

7.1 Section 62 of the Municipal Finance Management Act, 2003 states that the accounting officer of a municipality is responsible for managing the financial administration of the municipality. This officer must, for this purpose, take all

reasonable steps to ensure that the municipality has and implements an indigent policy.

- 7.2 Should an accounting officer and his/her designate experience undue interference or influence by a municipality or councillor that prohibits the execution of his/her responsibilities with regard to this policy, he/she should report this to the relevant MEC.
- 7.3 In terms of section 173 of the MFMA, the accounting officer is guilty of an offence if that accounting officer contravenes or fails to comply with credit control and debt collection provisions in terms of the MFMA.
- 7.4 A person is liable on conviction of an offence in terms of section 173 to imprisonment for a period not exceeding five years, or to an appropriate fine determined in terms of applicable legislation.
- 7.5 The council has the overall responsibility for laying down the indigent support policy.
- 7.6 The Municipality must create, evaluate, review and adapt the Indigent policy and related by-laws.
- 7.7 The Council must oversee and monitor the implementation and enforcement of the municipality's policies in this regard.

7.8 The Municipal Manager (MM), as accounting officer, must implement and enforce this policy and any relevant by-laws.

7.9 The Municipal Manager must establish and control the administration necessary to fulfill this policy, and report efficiently and regularly to the Mayor in this regard.

7.10 The Municipal Manager may delegate authority in this regard to the Chief Finance Officer (CFO).

8. PROCEDURES AND PROGRAMME.

8.1 Source of Funding

8.1.1. The source of funding for the indigence subsidy is the Equitable Share contribution to the municipality made by the government from the national exchequer.

8.1.2. In exceptional circumstances this can be supplemented from other revenues. Council will determine the subsidy amount or percentage, per service category, per household, on a year-to-year basis, taking into account the Equitable Share allocation.

8.1.3. The subsidy allocation must be contained in the tariff schedule and must be reviewed annually with the annual budget and tariffs.

8.2. Qualifying criteria

In order to qualify for the registration as an indigent, an applicant must satisfy the following criteria:

- (a) the usage of the property must predominantly be for private residential,
- (b) the applicant must be the registered owner of the property,
- © the total household income must not exceed the joined pensions of the 2 state pensioners as determined by the state in the National Budget. The under mentioned grants received will be excluded from determining household income:
 - Foster Child Grant,
 - Child Support Grant, and
 - Care Dependency Grant.
- (d) the applicant must not be the registered owner of more than one property; and
- (e) Council or the delegated person may determine the criteria as mentioned in sub-items (a) and (b).
- (f) The total household income must be R1,100-00 to qualify for indigent grant.

8.3. Conditions

- (a) The Municipal Manager may grant authority that prepaid meters are installed in those properties qualifying for indigent relief on electricity so that the consumption is within the prescribed Limit.
- (b) The Municipal Manager may grant authority that water restrictions be inserted in properties qualifying for indigent relief so that consumption is within the required level.
- (c) That the improved municipal value of the property on which they resides shall not exceed R150 000, 00.

8.4 Application

8.4.1. Consumers that are deemed to be indigent by the Municipality shall formally apply on the prescribed form for the relief and will qualify for the indigent support programme according to prescribed criteria and principles laid down by the Municipality.

8.4.2 **The application form is to contain, inter alia , the following important information:**

6.4.2.1. Details of the account holder;

6.4.2.2 Proof of residence;

6.4.2.3 Identification documents;

6.4.2.4 Number and names of dependants;

6.4.2.5 Electricity Meter Number;

6.4.2.6 Copy of latest Bank statement (where applicable);

6.4.2.7 A letter from the employer;

8.5 Application Procedures

8.5.1. If the applicant is employed, a copy of the latest pay slip must be produced or any other proof of income.

8.5.2. The applicant must provide a copy of his/her identity document.

8.5.3. The completed Indigent application form must be handed in at the Masilonyana Local Municipality's offices.

8.5.4. A sworn affidavit to confirm the correctness of the information on the form.

6.5.5. The municipal manager or the designated person may approve the application.

9. CONTROL SYSTEMS FOR INDIGENTS

9.1 All applicants shall be required to sign and submit a sworn affidavit to the effect that all information supplied is true and all income from formal or informal sources are declared.

9.2 An application will be submitted to Municipal offices in different units or to Ward Councillors capturing on the financial system database.

9.3 A list of indigents per ward shall be generated on request.

9.4 The performance measure will be to identify the number of indigent households and to measure the percentage of these households to whom the municipality offers help. Council will also create a forum wherein these targets are assessed, Council's performance evaluated and remedial steps taken.

9.5 The credit control and the debt collection policy shall be applicable to a customer who is Indigent and who is in arrears with their municipal bill.

9.6 Council reserves the right to deny the sale of electricity or water coupons to indigent customers who are in arrears with their rates or other municipal charges.

10. AUDIT PROCESS

10.1 The process of auditing the indigent applications will be as follows:

10.1.1 All indigent registrations will be audited.

10.1.2 Should the audit establish that the person filed a false application this will be communicated to the Councillor who will be required to confirm the facts within 14 days.

10.1.3 If the Councillor confirms that a false application was filed the customer will be removed from the indigent register, the parked arrears will be reinstated onto the customer's account.

10.1.4. If the Councillor confirms that the indigent application was correct then the customer will remain on the indigent register.

10.1.5. Should the Councillor not confirm the status of the indigent application within the stipulated 14 days it will be assumed that the application was false and the customer will be removed from the indigent register.

10.1.6. A customer who submitted a false indigent application may be charged a penalty charge as determined by Council.

10.1.7. In the event of the death of an indigent customer the following procedures will apply:

10.1.8. Proof of the death of a customer must be provided.

10.1.9. The occupier of the property must be allowed to open an account.

10.1.10. The occupier opening the new account must complete the required disconnection form for the deceased.

10.1.11. After completing the required disconnection form for the deceased the occupier must complete the required connection form for service provision and if applicable register as an indigent consumer.

10.1.12. The new occupier of the property must pay the prescribed applicable consumer deposit and connection fees.

10.1.13. The process of transferring the property to the new owner must be proceeded with.

10.1.14. When a non-indigent customer becomes indigent the debt of the customer, excluding the current year's charges must be parked. Interest on arrear charges will not be applicable to indigent customer accounts.

11. INDIGENT BENEFIT

The Council shall from time to time determine the overall subsidy for indigent debtors. This amount includes rates, water, sewerage availability, refuse removal and VAT.

11.1 Property Rates

All properties that have an improved municipal valuation of less than R150 000, 00 will be exempted from paying any property rates.

11.2 Water

11.2.1 Indigent household is entitled to 6 kl of water per month free.

11.2.2. Water consumption in excess of the 6 kl free allocation will be charged for according to the current applicable water tariff.

11.2.3 The benefit of the 6 kl “free” water will be based on the tariff of the consumption level above the “free” 6 kl.

11.2.4. Any indigent household which uses more than 20kl per month for any two months will, after due written warning, be subjected to the conditions as stated above.

11.2.5. Notwithstanding anything else in this Policy, if the resident uses more than the free allocation and does not pay for the additional water by the due date, his service may be disconnected or conditions stated above will automatically be applicable.

11.2.6. The Municipality will to install meters which will restrict the flow to 6kl per month, but its failure to do so does not allow for violations of the 6 kl per month limit under this Policy.

11.2.7 All water leakages shall be repaired by and at the cost of Masilonyana Local Municipality provided such leakages are reported within 24 hrs of detection.

11.2.8. In the event of underground leakage Masilonyana Local Municipality shall have cause to investigate and monitor excessive consumption.

11.3 Electricity

The indigent debtor is entitled to receive 50 kw of free electricity per month and will immediately be transferred to a pre-paid energy dispenser.

11.4 Sewerage

The indigent debtor is exempted from paying for sewerage.

11.5 Refuse Removal

The indigent debtor is exempted from paying for refuse removal.

12. ARREARS OF INDIGENT DEBTOR

12.1. Upon a debtor requesting to be registered as an indigent, the Municipal Manager or his delegate will request the applicant to complete a screening form to be supplied by the Social and Community Services Development Department.

12.2. The Municipal Manager or assignee will evaluate the form for completeness and assess within the criteria made available by Social and Community Services Development, whether the application can be considered for registration.

12.3. The debtor is then referred to Social and Community Services Development for a detailed assessment with the understanding that the service/s will not be reconnected until registration has

been affected by Social and Community Services Development. If such registration is successful the arrears will then be written off by the council.

12.4. In the event that further non-payment of the current monthly accounts continue, it will lead to credit control measures being taken to minimize consumption of services and hence, the current monthly levies.

13. WRITE-OFF

Council will consider, on an annual basis, the writing off of subsidized existing service arrears at the time of enrolment as an indigent household, but not for tampering charges or connection/reconnection fees or any other fee/instalment in terms of an existing agreement.

14. ORPHANS

People who have lost both parents and who have inherited fixed property and subject to the inability of the estate to pay arrear municipal accounts can register as indigents and the municipality can write off the arrears on such fixed property due to the municipality, only if such property is to be registered in the names of such orphans.

15. ACTION AGAINST MALPRACTICE

15.1 This section states the steps that council will take against people who contravene/violate the policy.

15.2 If it is established that incorrect information was furnished in obtaining relief the following action(s) are to be taken:

15.2.1 Suspend or stop the relief immediately

- 15.2.2. Recover the amount of relief furnished from the recipient by debiting his/her account
- 15.2.3 Apply normal credit control in accordance with the council's credit control policy; and
- 15.2.4 Institute a criminal charge of fraud against the recipient

15.3 Theft and fraud

15.3.1 Any person found to be illegally connected or reconnected to municipal services, tampering with meters, reticulation network or any other supply equipment or committing any unauthorised service associated with the supply of municipal services, as well as theft and damage to Council property, will be liable for penalties as determined from time to time.

15.3.2 Council will immediately terminate the subsidy and the supply of services to a customer should such conduct as outlined above be detected.

15.3.3 The total bill owing, including penalties, assessment of unauthorised consumption and discontinuation and reconnection fees, and increased deposits as determined by council if applicable, becomes due and payable before any reconnection can be sanctioned.

15.3.4 The debt collection process as outlined Credit control and Debt Collection policy shall become applicable immediately.

