

PROVINCIAL NOTICE

[NO. 193 OF 2011]

**NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000:  
PUBLICATION: STANDARD INDIGENT SUPPORT BY-LAW**

I, M.G Qabathe, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State Province, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association: Free State, do hereby in terms of section 14(2)(a)(i) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), make standard by-laws as set out in the Schedule

**SCHEDULE**

**INDIGENT SUPPORT BY-LAW**

**PREAMBLE**

**WHEREAS** National Government has a constitutional duty to provide an equitable share of nationally raised revenue to municipalities.

**AND WHEREAS** the aforesaid equitable share enables municipalities to provide basic services to poorer communities in an affordable manner and improve administrative capacity to ensure democratic governance at the local level.

**AND WHEREAS** Section 74 of the Local Government: Municipal Systems Act 2000, ( Act No. 32 of 2000) requires a Municipal Council to adopt and implement a Tariff Policy which must, inter alia, take into consideration the extent of subsidisation of tariffs for poor households.

The Council hereby makes the following by-law -

**DEFINITIONS**

1. In the interpretation of these by-laws, the singular includes the plural and vice versa and the following words and expressions have the meanings respectively assigned to them hereunder, unless such meanings are repugnant to or inconsistent with the context in which they occur:-

**"Council"** means the Council of the Municipality of ..... and includes any duly authorised political structure or office bearer as defined in the Local Government: Municipal Finance Management Act No. 56 of 2003 and/or any duly authorised official of the Council;

**"Household Income"** means all sources of income being formal and/ or informal of nature including, but not restricted to, salaries, revenue generated, pensions, fixed deposits, investments, state subsidies and or grants, private financial support or contributions from outside the indigent household;

**"Indigent"** means an indigent household whose total household income is as determined by Council annually during the budget process.

**"Indigent debtor"** means the head of an indigent household, inclusive of destitute indigents and indigents, being old age pensioners, the unemployed and households with a total monthly income as determined in the Indigent Support Policy -

- (a) who applies for the provision of services from the municipality; and
- (b) who makes application for indigent support in terms of these by-laws; and
- (c) who is regarded as the representative of all members of his or her household

**"Indigent Households"** include all individual residing at the residential premises of the indigent debtor, inclusive of destitute indigent and indigents, by whom and for which application is made, which premises has access to municipal services;

**"Indigent and Free Basic Services Subsidy Policy"** means the policy for the provision of indigent subsidies to qualifying indigent debtors in terms of the Council's policy relating to the following -

- (a) Free basic electricity;
- (b) Free basic water;
- (c) Subsidised sewerage rates and refuse;
- (d) Assisted arrear debt recovery programme as determined by Council annually during the budget process, in line with National norm and guidelines;

**Municipality** means the Local Municipality established in terms of Section 12 of the Municipal Structures Act No. 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**"Municipal Manager"** means the Municipal Manager of the Municipality or his or her delegatee acting in terms of power delegated to him or her by the said Municipal Manager with the concurrence of the Council;

**"Poverty"** is if a household earns gross income lower than a set amount that household and its members are deemed to be living in poverty.

## INDIGENT SUPPORT POLICY

2. (1) The Council must adopt an Indigent and Free Basic Services Subsidy Policy, which must embody and provide procedures and guidelines for the subsidisation of basic services and tariff charges to indigent households in its municipal area.
- (2) The object of the Indigent and Free Basic Services Subsidy Policy referred to in Section 2 must be to ensure -
  - (a) The provision of basic services to the community in a sustainable manner within the financial and administrative capacity of the Council; and
  - (b) The provision of procedures and guidelines for the subsidisation of basic service charges to indigent households.

## GUIDING PRINCIPLES

3. (1) The following guiding principles must be contained in the Indigent and Free Basic Services Subsidy Policy referred to in Section 2 -
  - (a) Relief will be provided by the Council to registered residential consumers of services who are declared indigent by the Council.
  - (b) The Council must, wherever possible, ensure that any relief provided in terms of this bylaw and its policy is constitutional, practical, fair, equitable and justifiable in order to avoid the alienation of any group of households.
  - (c) Differentiation between residential consumers must, in accordance with the Bylaws, Policies and resolutions of the Council and legislation, be permitted.
  - (d) Differentiation must also be permitted in respect of the level of service provided to or to be provided to indigent households.
  - (e) The application of the indigent support subsidy for minimum service levels should not result in the creation of a massive bureaucratic administration that would not be cost effective to implement.
  - (f) A differentiation must be made between those households who cannot afford to pay for basic services and those households who refuse to pay for such services.
  - (g) The payment for services rendered should be affordable for the indigent.
  - (h) The Indigent and Free Basic Services Subsidy Policy will apply during each financial year of Council.
  - (i) Financial support to the indigent will be dependent upon the availability of funds to enable the Council to provide such support.
  - (j) The Council must, annually, review and amend the qualification criteria for indigent support provided by it if and when necessary.
  - (k) The collective or joint gross income of members of indigent households will always be taken into account to determine the level of financial support to be granted to indigent households.
  - (l) Indigent households must formally apply on the prescribed application form for indigent support and will qualify for such support according to prescribed criteria or principles to be laid down by the Council.
  - (m) The household income must be correctly reflected on the application form requesting indigent support.
  - (n) The applicant who signs the prescribed application form is regarded as the indigent debtor and the representative of the indigent household.
  - (o) After the application form for indigent support has been completed by an indigent debtor it must be assessed in terms of the policy.
  - (p) All approved indigent debtors should be registered on a municipal database system.
  - (q) The onus will be on the approved indigent debtor to inform the Council of any change in his or her status or personal household circumstances.

- (r) All indigent households should be re-evaluated after a period of six months or such period as the Council may determine to assess the provision of continued basic services and indigent support to them.
- (s) Disciplinary measures decided by the Council, should be imposed on indigent debtors who misuse the indigent support policy of the Council and/or provide incorrect information to the Municipality.
- (t) An approved community communications programme, embodying the principles of transparency and fairness, must be implemented in respect of the indigent support policy.
- (u) Skills Training and other education related programmes should be supported to develop the indigent to become self - sufficient and thereby reduce the rate of indigence.

#### **QUALIFICATION, ACCEPTANCE AND REGISTRATION CRITERIA**

4. The qualification, acceptance and registration criteria for indigent support and the services qualifying for such support must be determined by Indigent and Free Basic Services Subsidy Policy as reviewed annually during the budget process.

#### **PROVISION OF INDIGENT SUPPORT SUBSIDIES**

5. Indigent Support Subsidies will be provided by the Council on the following basis -
  - (a) Relief will only be provided to those indigent households who apply and qualify therefore.
  - (b) The relief must be significant so as to relieve the recipient of an indigent subsidy from the financial hardship of paying fully for services received from the Municipality for a specific period.
  - (c) All registered indigents will be charged the determined subsidised tariff or charge for a service.
  - (d) The indigent will receive a monthly account, which will reflect the amount due and payable.
  - (e) The subsidised amount will be reflected against the indigent subsidy vote.
  - (f) Subject to annual resubmission by the applicant of the application to Council on the date as determined by Council.

#### **BALANCE ON SERVICE CHARGES, TARIFFS AND FEES**

6. Council must implement a procedure to assess and recover any arrear debt due by an indigent, after deduction of the indigent support subsidy, from him or her in accordance with the Credit Control Policy of the Council.

#### **INDIGENT STATUS**

7. The Council must not amend, alter, withdraw, or suspend in terms of these bylaws and its policy the indigent households status without first having forwarded notification thereof to the said indigent household.

#### **SPECIAL TARIFF FOR SERVICES**

8. The Council may determine special tariffs for indigent households, subject to the availability of funds and compliance with prescribed criteria for municipal services and amenities

#### **RESPONSIBILITIES OF MUNICIPAL MANAGER**

9. It is the responsibility of the Municipal Manager -
  - (a) To create, maintain and update a register of all debtors receiving indigent support subsidies from the Council in terms of these by-laws;
  - (b) To reflect the indigent status of debtors in the accounting records of the Municipality;
  - (c) To advise and keep indigent debtors informed of the approval, amendment, suspension or withdrawal of an application for indigent support in terms of these bylaws and the conditions under which such support will be granted, including the renewal of indigent support applications;
  - (d) To report any instances of misuse of the Council's Indigent and Free Basic Services Subsidy Policy to the Council;
  - (e) To report at regular intervals as may be required by Council on the progress or otherwise of the implementation of the Council's Indigent and Free Basic Services Subsidy Support Programme.

- (f) To publish a copy of these by-laws, policy and any amendments thereto on the official website of the Municipality.

#### **BUDGETING FOR INDIGENT SUPPORT**

- 10. (1) The Council must annually budget for the total indigent subsidy to be granted to indigent debtors in terms of these by-laws. Such amount must, upon approval of the budget of the Council, be reflected against a separate vote in the name of indigent subsidy.
- (2) The total value of indigent subsidies for all subsidised services must be reflected against such indigent subsidy vote on a monthly basis.

#### **REVIEW AND AMENDMENT OF INDIGENT SUPPORT POLICY**

- 11. (1) The Council has the discretionary power to amend any clause, stipulation or tariff embodied in its Indigent and Free Basic Services Subsidy Policy in the interests of all the parties concerned at the annual budgetary review of Council policies in conjunction with the consideration of the annual budget of the Council.
- (2) Indigent and Free Basic Services Subsidy Policy adopted in terms of these bylaws must be regarded as a budget-related policy and must be reviewed on an annual basis by the Council during the annual budget review. Any amendment thereto must be considered and adopted in conjunction with the adoption of the annual budget of the Council.

#### **OFFENCES**

- 12. Any indigent household who -
  - (a) Obstructs or hinders the Council in the exercise of its powers or performance of functions or duties under these by-laws;
  - (b) Uses or interferes with Council equipment or consumption of services supplied;
  - (c) Tampers or breaks any seal on any meter installed, or with the water restrictor system installed or on any equipment belonging to the Council, or for any reason as determined by the Chief Financial Officer causes interference with the service provision and the service used;
  - (d) Furnishes misleading information knowing it to be false or misleading;
  - (e) Contravenes or fails to comply with a provision of these by-laws;Is guilty of an offence and is liable upon conviction to a fine not exceeding R1000 or to imprisonment for a period not exceeding three months or both such a fine and imprisonment and, in addition, may be charged for usage, as estimated by the Chief Financial Officer based on average usage during the previous six months or as may be determined by resolution of the Council from time to time.

#### **NOTICES AND DOCUMENTS**

- 13. (1) A notice or document issued by the Council in terms of these by-law is deemed to be duly issued if signed by an employee duly authorized by the Council.
- (2) If a notice is to be served on a person in terms of these by-laws, such service must be effected by -
  - (i) Delivering the notice to him or her personally;
  - (ii) By delivering the notice at his or her residence or to a person apparently not less than sixteen years of age and apparently residing or employed there;
  - (iii) If he or she has nominated an address for legal purposes, by delivering the notice to such an address; or
  - (iv) By registered or certified post addressed to his or her last known address; or
  - (v) If service cannot be effected in terms of the aforesaid subsections by affixing it to the principal door of entry to the premises, or displaying it on a conspicuous place on the land.

#### **AUTHENTICATION OF DOCUMENTS**

- 14. (1) Every order, notice or other document requiring authentication by the Council is sufficiently authenticated, if signed by the Municipal Manager or by a duly authorized employee of the Council;
- (2) Delivery of a copy of the document must be deemed to be delivery of the original.

#### **RESPONSIBILITY OF COMPLIANCE WITH THESE BY-LAWS**

15. The indigent debtor is responsible for ensuring compliance with these by-laws in respect of all or any matters relating to the indigent support granted. The indigent debtor is responsible for compliance with these by-laws and policy in respect of matter relating to the use of any water, electricity, sanitation installation and other services provided by Council.

#### **AVAILABILITY OF BY-LAWS**

16. (1) A copy of these by-laws must be included in the municipalities Municipal Code as required in terms of section 15 of the Municipal Systems Act, 2000 ( Act No. 32 of 2000) and shall be displayed on the official website of the municipality.  
(2) A copy of these by-laws must be available for inspection at the municipal offices at all reasonable times.  
(3) A copy of the by-laws may be obtained against payment of a prescribed fee from the Council.

#### **APPEALS AGAINST DECISIONS OF THE COUNCIL**

17. An indigent household application, which has been declined may appeal against such decision which appeal procedure must be laid down within the policy.

#### **CONFLICT OF BY-LAWS**

18. If there is any conflict between these by-laws and the Credit Control and Debt Collection by-law will prevail if applicable.

#### **SHORT TITLE AND COMMENCEMENT**

19. This By - Law is called the Indigent Support By-Laws, 2011.