

# MATJHABENGMUNICIPALITY



## INDIGENT POLICY

(Revised May 2014)

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## **1. AIM AND OBJECTIVE.**

- 1.1 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.
- 1.2 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.
- 1.3 Establish a fair and equitable common Indigent Policy throughout the Matjhabeng Municipality.
- 1.4 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.
- 1.5 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.

## **2. SCOPE OF APPLICATION**

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

## **3. LEGAL FRAMEWORK**

The provision of socio-economic rights, which are third generation human rights by Matjhabeng 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:

3.1 Everyone has the right to have access to:-

- (a) Sufficient food and water, and
- (b) Social security, and if they are unable to support themselves and their dependents, appropriate social assistance.

3.2 The state must take reasonable legislative steps and other measures within its available resources, to achieve the progressive realization of these rights.

## **4. DEFINITIONS**

For the purpose of this document the following definitions will apply unless the context indicates otherwise:

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

4.2 apparatus: includes a building, structure, pipe, pump, wire, cable, meter, machine or any fitting,

- 4.3 applicant: means any occupier of a premises applying to be registered as an indigent,
- 4.4 council: the municipal council of the municipality of Matjhabeng Municipality,
- 4.5 credit control and debt collection: means the functions relating to the collection of all money that is due and payable to the municipality,
- 4.6 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,
- 4.7 interest: constitutes a levy equal in legal priority to service levies and is equivalent to the prime banking rate applicable from time to time,
- ~~4.8~~ municipal account: shall include levies or charges in respect of municipal services, interest, and miscellaneous and sundry charges,
- 4.9 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,
- 4.10 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,
- 4.11 Chief Financial Officer (CFO): means a person appointed by the Council to manage the Council's financial administration,
- 4.12 occupier: means any person who occupies any premises or part thereof, without regard to the title under which he or she occupies,
- 4.13 orphan:- A child whose parents are dead, who has been deprived of parental care, has not been adopted and lacks support, supervision and care.
- 4.14 owner: means and includes:
- 4.14.1 the person in whom the legal title to the premises is vested,
- 4.14.2 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,
- 4.14.3 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,
- 4.14.4 in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof,
- 4.14.5 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 which also includes the lawfully appointed agent of such a person,
- 4.14.6 any legal person including but not limited to a company registered in terms of the Companies Act, 2008 (Act 71 of 2008), 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.

- 4.14.7 any Department of State,
  - 4.14.8 any Council or Board established in terms of any legislation applicable to the Republic of South Africa,
  - 4.14.9 any Embassy or other foreign entity.
- 4.15 pensioner is a person who collects a pension because of a retirement from the workforce. (previous document lacks definition)
- 4.16 policy / policy document: means this indigent policy of the Municipal Council as approved and as amended from time to time.
- 4.17 premises includes any immovable property or piece of land, the external surface boundaries of which are delineated on
- 4.17.1 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
  - 4.17.2 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.
- 4.18 tenant: One that pays rent to use or occupy land, a building, or other property owned by another.

## **5 RESPONSIBILITIES AND DELEGATED AUTHORITY**

- 5.1 The Municipality must create, evaluate, review and adapt the Indigent policy and related by-laws.
- 5.2 The Council must oversee and monitor the implementation and enforcement of the municipality's policies in this regard.
- 5.3 The Municipal Manager, as accounting officer, must implement and enforce this policy and any relevant by-laws.
- 5.4 The Municipal Manager must establish and control the administration necessary to fulfill this policy, and report efficiently and regularly to the Council in this regard.
- 5.5 The Municipal Manager may delegate authority in this regard to the Chief Financial Officer

## **6 PROCEDURES AND PROGRAM**

### **6.1 Source of Funding**

- 6.1.1 The source of funding for the indigence subsidy is the Equitable Share contribution to the municipality made by the government from the national exchequer.
- 6.1.2 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.
- 6.1.3 The subsidy allocation must be contained in the tariff schedule and must be reviewed annually with the annual budget and tariffs.

## 6.2 Qualifying criteria

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

- 6.2.1 the usage of the premises must predominantly be for private residential,
- 6.2.2 the applicant must be legally entitled to occupy and use the premises
- 6.2.3 the total household income must not exceed the combined pensions of 2 state pensioners as determined by the state in the National Budget. The under mentioned grants received will be excluded from determining household income:
  - i. Foster Child Grant,
  - ii. Child Support Grant, and
  - iii. Care Dependency Grant.
- 6.2.4 the applicant must not be the registered owner of more than one property.
- 6.2.5 Insert: an applicant must not have illegally connected or reconnected to municipal services, tampered with any meters, the reticulation network or any other supply equipment and apparatus or committed any unauthorised service associated with the supply of municipal services, as well as theft and damage to Council property,
- 6.2.6 the municipal value of the premises may not exceed an amount as shall be determined by Council from time to time.

## 6.3 Other circumstances

Other applications for indigent status can be considered if the following facts are applicable and proven:

- 6.3.1 If the applicant got entitlement of the premises on or before 1 January 2010 and:
  - 6.3.1.1 can provide council of proof thereof and does not have enough funds to transfer the premises to his/her name, and
  - 6.3.1.2 the occupant meets all other applicable qualifying requirements set out in the policy.
- 6.3.2 If the applicant purchased / obtained the premises from the Council and:
  - 6.3.2.1 the municipality has not transferred the premises to the purchaser, and
  - 6.3.2.2 the occupier meets all other applicable qualifying requirements set out in the policy.
- 6.3.3 If the applicant is a tenant and
  - 6.3.3.1 have a legal written contract with the registered owner and the owner has informed the council of such tenancy within 14 days of occupation,
  - 6.3.3.1 the monthly rental amount does not equal or exceed the average monthly municipal account applicable on the premises, and
  - 6.3.3.2 the tenant meets all other applicable qualifying requirements set out in the policy,
  - 6.3.3.3 if the tenant is not an occupant of the municipal rental stock.

- 6.3.4 If the applicant is a pensioner and
- 6.3.4.1 are not the registered owner of the property, and
  - 6.3.4.2 meets all other applicable qualifying requirements set out in the policy.
- 6.3.5 If the applicant is an orphan he can be registered as an indigent if:
- 6.3.5.1 he has inherited the premises,
  - 6.3.5.2 his deceased parent's estate is unable to pay the arrear municipal accounts,
  - 6.3.5.3 the municipality wrote off the arrears on such premises,
  - 6.3.5.4 the premises is to be registered in the name of such orphan with the assistance of the municipality, and
  - 6.3.5.5 the orphan meets all other applicable qualifying requirements set out in the policy.

#### **6.4 Conditions**

- 6.4.3 The Municipal Manager may instruct that prepaid meters are installed in those properties qualifying for indigent relief on electricity and water so that the consumption is within the prescribed limit.
- 6.4.4 The Municipal Manager may instruct that water restrictions be inserted in properties qualifying for indigent relief so that consumption is within the required level.

#### **6.5 Application**

- 6.5.3 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 program according to prescribed criteria and principles laid down in this policy.
- 6.5.4 The application form must contain, inter alia, the following important information:
- i. details of the account holder;
  - ii. certified copy of applicants identification documents;
  - iii. number and names of dependents;
  - iv. applicants latest municipal account and Electricity Meter Number;
  - v. salary advice slip, a pension card, unemployment insurance fund card documentary evidence of the applicant's income, such as a letter from an employer and three months bank statements;
  - vi. if the applicant is unemployed, an affidavit declaring that he is unemployed and stating any income that he may have despite being unemployed together with a letter from the Department of Labour confirming his status;
  - vii. the names and identity numbers of all occupants and or tenants over the age of 18 years who are resident at the premises,
  - viii. The ward councilor or PR councilor's recommendation,
  - ix. The Municipal Manager or designated person's approval of the application.

## 7 CONTROL SYSTEMS FOR INDIGENTS

- 7.1 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.
- 7.2 An application will be submitted to Municipal offices in different units or to ward councilors and must immediately be captured on the financial system database.
- 7.3 A list of indigents per ward shall be generated on request of the Councilor or any Council Official.
- 7.4 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.
- 7.5 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

## 8 AUDIT PROCESS

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

- 8.1 All indigent registrations must be audited at least once a year by Council Finance department.
- 8.2 Should the audit establish that the person filed a false application this must be communicated to the Councilor who will be required to confirm the facts within 14 days.
- 8.3 If the Councilor confirms that a false application was filed the customer will be removed from the indigent register and the parked arrears will be reinstated onto the customer's account.
- 8.4 If the Councilor confirms that the indigent application was correct then the customer will remain on the indigent register.
- 8.5 Should the Councilor 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.
- 8.6 An applicant who submitted a false indigent application must be charged a penalty charge as determined by Council and his/her criminal offence of perjury reported to the South African Police Services.
- 8.7 In the event of the death of an indigent customer the occupier will be allowed to open an account if:
  - i. Proof of the death of the indigent is provided.
  - ii. The name and contact details of the Executor of the estate or Master's representative finalizing the deceased's estate is provided.
  - iii. The occupier opening the new account completed the required disconnection form for the deceased.
  - iv. The occupier completed the required connection form for service provision and if applicable register as an indigent consumer.
  - v. The new occupier of the premises paid the prescribed applicable consumer deposit and connection fees.
  - vi. The process of transferring the property to the heirs or legal successors is finalized.



- 8.8 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.

## **9. INDIGENT BENEFITS**

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

### **9.1 Reservation**

Council reserves the right to decline any application if it appears that consumption of water is likely to exceed the minimum subsidized water consumption (currently 6 kl). Factors that should be taken into account may include:

- 4.1.1 Value of the property
- 4.1.2 Extent of the property
- 4.1.3 Existence of swimming pool
- 4.1.4 Number of toilets and or bathrooms
- 4.1.5 History of usage by applicant

### **9.2 Water**

- 9.2.1 Indigent households are entitled to free minimum subsidised water consumption as determined by Council (currently 6 kilolitres).
- 9.2.2 Water consumption in excess of the free allocation will be charged for according to the current applicable water tariff.
- 9.2.3 The benefit of the "free" water will be based on the tariff of the consumption level above the "free" kilolitres.
- 9.2.4 The Municipality will put measures in place to install meters which will restrict the flow to the minimum subsidized kilolitres per month, but its failure to do so does not allow for violations of the "free" water limit under this Policy.
- 9.2.5 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 must be restricted.
- 9.2.6 All water leakages shall be repaired by and at the cost of Matjhabeng provided such leakages are reported within 24hrs of detection.

### **9.3 Electricity**

The indigent debtor is entitled to receive free minimum subsidized electricity consumption as will be determined by Council (currently 50 kWper month). A pre-paid Electricity Meter must be installed on the premises.

#### **9.4 Sewerage**

The indigent debtor is exempted from paying for sewerage.

#### **9.5 Refuse Removal**

The indigent debtor is exempted from paying for refuse removal.

### **10 ARREAR DEBTOR BECOMING INDIGENT**

- 10.1 Upon an existing debtor requesting to be registered as an indigent, the municipal manager or his delegate will request the applicant to complete a screening form as provided for in this policy and to be supplied by the Social Development Department.
- 10.2 The municipal manager or assignee will evaluate the form for completeness and assess within the criteria set out in this Policy to determine whether the application can be considered for registration.
- 10.3 The debtor is then referred to Social Development for a detailed assessment with the understanding that the service/s will not be reconnected until registration has been affected by the Finance Department. If such registration is successful the arrears will then be parked and the debtor registered as an indigent.
- 10.4 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.

### **11 WRITE-OFFS**

- 11.1 Indigent write-offs should be done on a quarterly basis.
- 11.2 Council will consider, on an annual basis, the writing off of subsidized existing service arrears at the time of enrollment as an indigent household, but not for tampering charges or connection/reconnection fees or any other fee/installment in terms of an existing agreement.
- 11.3 When the status of the indigent improves, the debt accumulated whilst still an indigent must be written off.

### **12 ACTION AGAINST MALPRACTICE**

Steps that council must take against people who contravene/violate the policy:

#### **12.1 False information**

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

- 12.1.1 the service to the premises must be suspended immediately,
- 12.1.2 the account holder must be de-registered as an indigent and the benefits stopped,
- 12.1.3 action must be instituted and if necessary summons issued to recover the amount of relief received by the recipient,
- 12.1.4 other normal credit control measures must be put in place in accordance with council's credit control policy, and

12.1.5 a case of fraud must be reported and opened at the SAPS.

**12.2 Theft and fraud**

- 12.2.1 Any person found to have illegally connected or reconnected to municipal services, tampered with meters, the reticulation network or any other supply equipment and apparatus or committed any unauthorised service associated with the supply of municipal services, as well as theft and damage to Council property, will be disqualified as indigent, deregistered as such and be liable for penalties as determined from time to time.
- 12.2.2 Council will immediately terminate the subsidy and the supply of services to an indigent should such conduct as outlined above be detected.
- 12.2.3 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.
- 12.2.4 Council's penalties and applicable By-laws will be effected.
- 12.2.5 The debt collection process as outlined Credit control and Debt Collection policy shall become applicable immediately.