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Indigent Support By-law, 2017

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South Africa

Indigent Support By-law, 2017

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The Municipal Manager of Mbizana Local Municipality hereby publishes in terms of Section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with Section 162 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) the Indigent Support By-Law which shall come into operation on the date of publication hereof.

AND 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 administrative capacity to ensure democratic governance at the local level.

AND WHEREAS Section 74 of the Local Government: Municipal Systems Act 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 publishes the following by-laws:

1. Definitions

For the purposes of these by-laws:

"**Council**" means the Council of the Municipality of Mbizana and includes any duly authorised political structure or office bearer as defined in the Local Government: Municipal Finance Management Act 56 of 2003 and/or any duly authorised official of the Council;

"**Gender**" any reference to the one gender shall include reference to the other

"**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/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 shall be regarded as the representative of all members of his/her household

"**Indigent Households**" shall 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 Support 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 electrify

(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 Municipality of Mbizana, a local municipality established in terms of Section 12 of the Local Government: Municipal Structures Act 1998;

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

2. Indigent Support Policy

The Council shall adopt an Indigent Support By-Law which shall embody an indigent support programme providing procedures and guidelines for the subsidisation of basic services and tariff charges to indigent households in its municipal area.

3.

The object of the Indigent Support Policy will 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.

4. Guiding Principles

The following guiding principles shall be contained in the Indigent Support By-Law referred to in Section (1):

(a) Relief will be provided by the Council to registered residential consumers of services who are declared indigent by the Council but subject to the condition that such consumers make a financial contribution towards the cost of the services provided by the Council to them on the basis determined by the Council.

(b) The Council shall, wherever possible, ensure that any relief provided to indigent consumers is constitutional, practical, fair, equitable and justifiable in order to avoid the alienation of any group of households.

(c) Differentiation between residential consumers shall, in accordance with the Tariff Policy of the Council, be permitted.

(d) Differentiation shall 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 shall 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 support subsidy programme will apply during a predetermined period or financial year.

(i) Financial support to the indigent will be dependant upon the availability of funds to enable the Council to provide such support.

(j) The Council may, from time to time, review and amend the qualification criteria for indigent support provided by it.

(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 gross income.

(l) Indigent households must formally apply on the prescribed application form for indigent support and will qualify for such support according to prescribed criteria/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 debtor who signs the prescribed application form shall be regarded, for accounting purposes, 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, an effective and efficient evaluation system should be used in order to obtain the result of such application within a reasonable time as determined by the Council.

(p) All approved indigent debtors should be registered on a database linked to the main debtors system of the Municipality.

(q) The onus will be on the approved indigent debtor to inform the Council of any change in his/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 programme 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 programme.

(u) Skills Training and other education related programmes must be introduced to develop the indigent to become self - sufficient and thereby reduce the rate of indigence.

5. Qualification, Acceptance and Registration Criteria

The qualification, acceptance and registration criteria for indigent support and the services qualifying for such support shall be determined by resolution of the Council from time to time provided that, until the Council determines otherwise, registered residential consumers of services delivered by the Council shall qualify for indigent support, subject to the following conditions:

(a) the combined or joint gross income of all occupants/residents/dependants over the age of 18 years in a single household receiving services from the Council not exceeding R2 200 per month;

(b) the Council being satisfied that the single household referred to in sub-section (a) cannot, due to its indigent status, afford to pay for the services provided to it by the Council;

(c) the single household referred to in sub-section (a) being registered in the municipal data base of households receiving indigent support from the Council;

(d) any occupant/resident/dependant of the household referred to in sub-section (a) not owning any property in addition to the property in respect of which indigent support is provided in terms of Council's indigent support programme;

(e) any occupant, resident or dependent in the household referred to in sub-section (a) not receiving any significant monetary benefit or regular monetary payment from any source whatsoever.

(f) The extent of the monthly indigent support granted to the Council to indigent households in its municipal area will be determined by resolution of the Council regard being had to its budgetary provisions and/or the amount received by it from Central Government divided by the number of recipients and a maximum of an average monthly service account in respect of the following services, fees or charges:

(i) Water;

(ii) Refuse collection;

(iii) Electricity;

(iv) Sewerage; and

(v) Housing Rentals

(vi) Assessment Rates on a residential property.

(g) The Council will, on a six-monthly basis, assess the level of support to indigent households in its municipal area depending on the number of applicants qualifying for indigent support and its general financial position.

(h) The level of indigent support granted by the Council shall not exceed the monthly billings to the accounts of indigent debtors.

6. Distribution of Indigent Support Subsidies

Indigent Support Subsidies will be distributed by the Council on the following basis:

(a) Relief will only be distributed to those indigent households who apply and qualify therefor.

(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 indigent households will be charged the determined economical tariff or charge for a service.

(d) The recipient's monthly account will be credited with the amount of the indigent subsidy as determined by the Council on a monthly basis.

(e) Indigent relief will initially be applied for a period of 6 months as determined by the Council.

(f) Indigent households may apply for continuation of the indigent relief granted by the Council depending on their circumstances.

7. Applications for Indigent Support

Applications for indigent support in terms of these by-laws must be made on the prescribed form which will, inter alia, contain the under-mentioned information which must be certified as being correct by the indigent debtor:

(a) Details of the indigent debtor's service account or accounts;

(b) Proof of income;

(c) Proof of residence;

(d) Identity number of indigent debtor; and

(e) Number, names and identity numbers, where applicable, of dependants in an indigent household.

The onus at all times to re-apply for continued relief or submit proof of change in circumstances rests on the indigent debtor.

8. Indigent Support Committee

The Council shall appoint a Committee to be known as the Indigent Support Committee for the purpose of administering its indigent support programme and such Committee shall:

(a) scrutinise with the aid of Ward Councillors, all applications received for indigent support in terms of the Council's indigent support programme;

(b) recommend to the Council that applications received in terms of sub-section (a) either be approved or disapproved;

(c) monitor, in conjunction with Ward Councillors, Ward Committees and other persons or organisations it may appoint, the implementation of indigent support programme, subject to the policy directions of the Council and in consultation with the Municipal Manager;

(d) take suitable action against debtors in terms of Section 15 of these by-laws;

(e) recommend to the Council amendments, additions or altered procedures in respect of the application of the Council's indigent support programme;

(f) undertake such inspections and issue such instructions as it may deem necessary in order to verify the information provided by any indigent debtor;

(g) perform such other duties as the Council may direct-

provided that the Council may delegate any of its responsibilities in terms of these by-laws and it's indigent support programme to the Committee either wholly or in part and subject to such conditions as it may determine.

9. Balance on service charges, tariffs and fees

Any balance owing by an indigent debtor, after deduction of the indigent support subsidy, shall be recovered from him/her in accordance with the Credit Control Policy of the Council.

10. Advertising of Indigent Subsidies

For the purposes of transparency, the following key information on the Council's indigent support programme should, where possible, and on a monthly basis, be displayed on the notice board at the cashier's offices of the Council:

(a) Names of indigent debtors receiving indigent relief for a prescribed period;

(b) Stand numbers where services are rendered to recipient indigent debtors;

(c) Total household income of recipient indigent debtors; and

(d) Number of dependants residing on the property of the recipient indigent debtor.

11. Queries with regard to Indigent Subsidies

Any resident of the municipality may, in writing, addressed to the Municipal Manager, query the qualification of a recipient indigent debtor within 14 days from the date of publication of the notice referred to in Section 13 of these by-laws.

12.

The Municipal Manager may refer queries referred to in Section 14 to the Committee for Indigent Support which may take the following action:

(a) Request the indigent debtor against whom a query has been raised to provide full proof of his/her banking account and income details as well as pension registration;

(b) Undertake an inspection at the indigent debtor's place of residence to determine his/her social conditions;

(c) Request a social welfare worker's report on the indigent debtor's household; and

(d) Recommend to the Council that the indigent status of the debtor be withdrawn.

(e) Such action as it may deem appropriate in the circumstances including a recommendation to the Council -

(i) that the indigent status of the debtor be suspended for a defined period and subject to such conditions as it may determine;

(ii) that irregular or excess payments of indigent subsidies be recovered from the indigent debtor by way of debiting such indigent debtor's services account or accounts with such payments;

(iii) that normal credit control measures be applied to the indigent debtor in accordance with the Council's Credit Control Policy; and

(iv) that criminal charges of theft or fraud be instituted against the indigent debtor.

13.

The Municipal Manager must, in writing, advise a complainant who lodges a query against an indigent debtor in terms of Section 14 of these by-laws of the result of such query.

14. Withdrawal of Indigent Status

The indigent status of a debtor shall not be withdrawn, suspended or altered in terms of these by-laws until and unless such debtor has been given an opportunity to be heard and make representations on the contemplated against him or her.

15. Special Tariff for services, amenities and properties

The Council may determine special tariffs for the use by indigent residents, communities and organisations of the following services, amenities and properties, subject to the availability of funds and compliance with prescribed criteria which shall be determined by resolution of the Council:

(a) Sports Grounds, Pools;

(b) Fire Protection;

(c) Transport;

(d) Museums;

(e) Markets;

(f) Agricultural Properties;

(g) Hiring of Halls;

(h) Cemeteries and Crematoria.

16. Mayor's Relief Fund

The Council shall annually make provision on its budget for an allocation of funds to be administered by the Mayor for the grant of special ad-hoc amounts to indigent households or residents of the municipality for the purchase of essential foodstuffs and household items subject to such conditions as the Council may determine.

17. Responsibilities of Municipal Manager

It shall be 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 by-laws 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 Support Programme to the Indigent Support Committee for attention in terms of these by-laws;

(e) To report at regular intervals as may be required by the Indigent Support Committee on the progress or otherwise of the implementation of the Council's Indigent Support Programme.

18. Budgeting for Indigent Support

The Council shall annually budget for the total indigent subsidy to be granted to indigent debtors in terms of these by-laws and such amount shall, upon approval of the budget of the Council, be deposited in a special banking account in the name of the Council and from which total monthly indigent subsidies will be withdrawn for crediting to the monthly services account or accounts of approved indigent debtors.

19. Amendment of Indigent Support Policy

The Council has the discretionary power to amend any clause, stipulation or tariff embodied in its Indigent Support Policy in the interest of all the parties concerned.