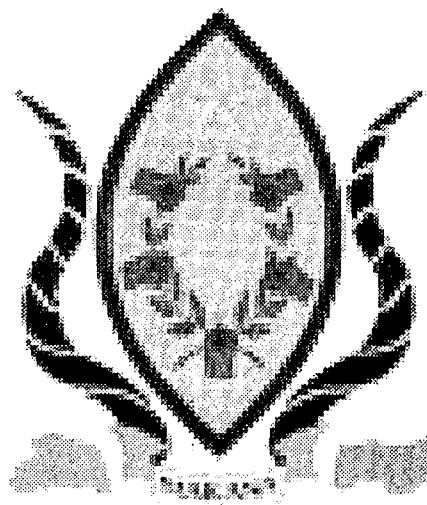

LOCAL AUTHORITY NOTICES

LOCAL AUTHORITY NOTICE 67



ASSISTANCE TO THE POOR / INDIGENT BY-LAW

FOR

MAKANA MUNICIPALITY

NB: Adopted by Council – 10 June 2008

PREAMBLE

In an attempt to ensure that the indigent communities residing within the Makana Municipal area of jurisdiction, the Makana Municipality hereby approves Assistance to the Poor / Indigent By-Law, in order that all communities can have access to basic services that are provided by the municipality, as required by the Constitution of the Republic of South Africa (Act 108 of 1996) read in conjunction with the Municipal Systems Act No. 32 of 2000 and other government regulations.

DEFINITION OF KEY WORDS

In this policy the following words shall have the meanings assigned as follows: -

1. **“Act”** means the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003),
2. **“Accounting Officer”** refers to the Municipal Manager of the municipality,
3. **“By-law”** refers to the legislation passed by the council of a municipality binding in the municipality on the persons to whom it applies,
4. **“Chief Financial Officer”** refers to the head of the Budget and Treasury Business Unit,
5. **“Equitable Share”** an allocation made by the National Government during a financial year, in its fiscal allocation, gazetted through the Division of Revenue Act (DORA) in order to assist municipalities to fund various expenses including expenses such as indigent subsidy costs,
6. **“Finance Department”** refers to the municipal department dealing with the financial affairs of the municipality,
7. **“Finance and Service Delivery Committee”** refers to the committee of council dealing with the financial affairs of the municipality,
8. **“Indigent Households”** These are households or ratepayers that fall within the qualifying criteria of being declared a poor household and qualify for financial assistance through the Assistance to the Poor / Indigent Policy,
9. **“Policy”** refers to the Assistance to the Poor or Indigent Policy of the Makana Municipality.

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1. LEGAL COMPLIANCE

The Constitution of the Republic of South Africa Act No.108 of 1996, read in conjunction with the Municipal Systems Act No. 32 of 2000 and other government regulations, requires developmental Local Government to ensure the following is obtained by all residents within the municipality's area of jurisdiction, in order to achieve the aim of providing a "better life by all South Africans": -

- (i) An access to at least the minimum level of basic municipal services, such as water/sanitation/electricity/primary health care/basic housing and security within a safe and healthy environment.
- (ii) Ensure that the "needy or indigent households" have access to the basic services as anticipated in point (i) above, and
- (iii) Give priority to the basic needs of the local community, as well as promoting the development of the local community.

In an attempt to assist all municipalities in the Republic of South Africa to achieve the above, the National Government, through its fiscal policy makes available grant funding, in the form of Equitable Share, on an annual basis and is gazetted in annual Division of Revenue Act (DORA) so that **deserving or approved indigent households** within a municipal area of jurisdiction can get access to the basic services that are provided by the municipality free of charge.

2. SCOPE OF THE BY-LAW

This By-Law applies to the Makana Municipality's area of jurisdiction, and is only applicable to the deserving communities or deserving ratepayers of Makana Municipal area, as determined by the due processes followed by the municipality in confirming their qualification criteria, in terms of the municipality's Assistance to the Poor / Indigent Policy. The deserving ratepayers must be registered as South African citizens, having provided proofs to that effect.

3. BACKGROUND – RIGHT TO BASIC SERVICES

Municipalities in the Republic of South Africa have been constitutionally charged with the responsibility of providing access to basic services to all residents, residing in their area of jurisdiction.

The Constitution of South Africa requires municipalities to: -

- Make provision for access by all persons residing within their area of jurisdiction to clean water, sanitation, transport facilities, electricity, primary health services, education, housing and security within a safe and healthy environment,
- Be competent to levy and recover such property rates, levies, fees, taxes and tariffs as may be necessary to exercise their powers and perform their functions,
- Be entitled to an equitable allocation of funds,
- Provide such services in a sustainable, financially and physically practicable manner.

The basic services mentioned in the Constitution inter-alia include the following services: -

- Access to a minimum safe water and sanitation supply (as defined by the White Paper on Water and Sanitation, 1994),
- Solid Waste Removal,
- Access to Household Energy,

- Mobility (Locally and to areas of economic opportunity in the form access to and availability of safe roads and public transport),
- Protection from flooding (through adequate drainage and stormwater management),
- Facilitation of community activities (access to libraries, community halls and recreation facilities).

4. INDIGENT BY-LAW PRINCIPLES

In order to ensure that poor households are not denied their constitutional right of access to basic services, the municipality is required to implement an Assistance to the Poor / Indigent Policy, which must be in line with its Indigent By-Law, and makes adequate financial provision to ensure the provision of efficient and sustainable basic services to all residents within its area of jurisdiction.

The Indigent Policy should complement and be an integral part of the municipality's tariff policy that is developed and implemented in a transparent manner to ensure the sustainability of local public services to all of its citizens at an affordable cost. The Indigent Policy is intended to provide poor households ongoing access to a minimum and nationally specified level of service. However, the subsidies contained in the policy should not compromise the quality or efficiency of service delivery (**i.e. providing inferior service to Indigent communities**).

This implies that the Indigent Policy of Council should be: -

- Targeting primarily at poor consumers in a manner that maximises the benefit of the subsidy to the intended beneficiaries,
- Transparent in its application, in that it should be visible to all and easily understood,
- Set at a sustainable level to ensure the viability of services,
- Linked to a clear revenue stream, in order to ensure sustainability.

In order to institute an appropriate subsidy framework, it is necessary to determine who should benefit from the operating subsidies, what benefits they should receive, how they should receive the subsidies and how the revenue required to provide the subsidies should be raised.

The onus for applying or declaring an indigent status rests with the consumer, who cannot afford to pay for the full municipal tariff for services received. Such deserving consumer will have to apply by completing a prescribed application form, and submit it together with the necessary supporting documentation to the Chief Financial Officer of the municipality.

The supporting documents that must accompany the application form are - **(NB: Also consult the Indigent Policy in this regard):** -

- Certified copy of the applicant's Identity Document,
- Proof of ownership of property being supplied with municipal services,
- Proof of income (e.g. signed letter from employer, salary advice / payslip, pension card, stamped UIF card or any acceptable proof of income)
- Sworn affidavit from authorised government institution confirming the accuracy of the documents and information submitted.

The following **must** at all times be noted regarding the access or qualification to Indigent Support / Assistance to the Poor Scheme: -

- (i) Indigent Subsidy will not apply to households owning more than one property,
- (ii) Indigent Subsidy applies to households not to individuals,

- (iii) Indigent Subsidy applies to the cost of services rendered only, and is based or determined as per the Assistance to the Poor Policy / Indigent Policy,
- (iv) The Chief Financial Officer will place an advertisement on the local media and other suitable communication channels inviting indigent households to apply, through an application form, on an annual basis,
- (v) Households with properties operated as business sites shall not be allowed access to free basic services, nor will those with other additional income from other sources, either than sources as contemplated in terms of paragraph 4 of the Assistance to the Poor / Indigent Policy, such as (i) Child Foster Care Grant, (ii) Care Dependency Grant, and (iii) Child Support Grant,
- (vi) Incomplete application forms or application forms with incomplete attachments will not be considered or will be rejected,
- (vii) Where the aggregate income (excluding such income as mentioned in point (v) above) of the members of the household exceeds the applicable subsidised levels, such household will not be entitled to subsidy,
- (viii) It is the responsibility of the respective household to inform the Chief Financial Officer when his / her indigent status has changed (e.g. is employed with monthly household income exceeding the income levels stipulated in the Indigent Policy, such as "less than two state pension"), as failure to do so will result to penalties or charges as per the Indigent Policy,
- (ix) The indigent status or qualifying levels are based on the conditions determined in the Assistance to the Poor / Indigent Policy,
- (x) The granting of the indigent subsidy is the sole prerogative of the Municipal Council and its decision is final,
- (xi) An indigent register will be made available at public places, such as Public Libraries, Municipal Halls, Municipal Cash Centres, etc. The purpose of the indigent register is to give members of the public and ward councilors access to it, and for them to verify accuracy of the names listed in the register.

The granting of the subsidy to a qualifying consumer shall be for the remaining period of the current financial year ending 30 June of each year. Should the consumer be eligible for continuation of the subsidy, the onus is on the consumer to re-apply during the period of the month of March (1st to 31st March), each year.

The letter issued by the Chief Financial Officer to the qualifying consumer confirming the subsidy for which the consumer qualified, must clearly state the period for which it is valid and by which date the consumer must re-apply.

5. DETERMINATION OF POOR HOUSEHOLDS

In order to determine the number of households in the municipal area who would qualify for indigent support, the Chief Financial Officer shall, on an annual basis to coincide with the annual budgeting process, but not later than the 1st February of each year, invite applications from the indigent households, request information that will enable the municipality to make adequate financial provision in its budget to subsidise the indigent households, in terms of the municipality's Indigent Policy / Assistance to the Poor Policy.

All consumers applying for an indigent subsidy must have completed and returned the application forms within the stipulated time period.

NB: It is pivotal that all Councillors, through their Ward and Street Committee structures, play an active role in explaining the Indigent Policy / *By-Law* and also encourage deserving or qualifying households to come forward and disclose their status through application.

The municipality shall undertake a research in order to assess the indigent levels within its jurisdiction. The granting of indigent subsidy shall be the sole responsibility / prerogative of the Council and whose decision shall be final.

6. BASIS OF PAYMENT OF SUBSIDY

The subsidy will only be given to a consumer if he/she has completed the necessary application form, provided that all the necessary documents are completed, and submitted his/her application forms on or before due dates to the office of the Chief Financial Officer. The amount of the subsidy granted will be reflected on the consumer's monthly account issued by the Chief Financial Officer, and the conditions of the subsidy granted will be stated in the letter forwarded to the consumer regarding his/her successful application for subsidy, issued by the Chief Financial Officer.

The household limits or the extent of the grant awarded per household will be determined as per the Assistance to the Poor / Indigent Policy of Council.

7. PENALTIES RESULTING FROM A FALSE CLAIM OF AN INDIGENT STATUS

In an instance where the false claim has been made by the subsidy recipient in order for him/her to qualify for an indigent subsidy, the municipal council reserves the right to reverse all charges that were subsidised to his/her consolidated billing account, and add back interest and other charges incurred by the municipality as a result of such false claim. Such consumer may also be blacklisted for all future indigent subsidy qualifications.

8. NON-COMPLIANCE OF AN INDIGENT REGISTERED CONSUMER

Before a consumer is handed over to Council's attorneys, the Chief Financial Officer must first establish whether or not the consumer qualifies for indigent subsidy. Legal action must be suspended in cases where consumers who, whilst legitimately qualifying for an indigent subsidy, have been handed over to Council's attorneys, due to their arrear status.

Where a consumer who has been granted a subsidy in terms of the municipality's indigent policy fails to meet his/her payment portions (e.g. in case of 75% subsidy instead of 100% subsidy) for services received by due date for payment, he/she will be dealt with in terms of the municipality's Credit Control and Debt Collection Policy, and there-after will be required to re-apply for subsidy.

9. INDIGENT CONSUMER IN AREARS AT TIME OF GRANTING OF SUBSIDY

In the event that a consumer who qualifies for a subsidy is in arrears with his/her payments of the municipal account on the effective date of his/her subsidy, the Chief Financial Officer will evaluate such applicant's financial position and will decide whether to assist such applicant, retrospectively.

10. IMPLEMENTATION PROCEDURES FOR INDIGENT HOUSEHOLDS

The timetable as indicated on paragraph 10 of the Assistance to the Poor / Indigent Policy will be used as a guide for the above, in order for the Chief Financial Officer to evaluate the merits of each case, and his recommendations must be subject to the endorsement by the relevant portfolio committee (i.e. Finance and Service Delivery Committee), and lastly, by the Municipal Council. In order to fast track this process and curtail red-tapes, the Municipal Council will delegate the powers to approve an indigent list to the Chief Financial Officer, provided that adequate budget provision to cover the subsidy has been made in the budget.

11. OTHER CONDITIONS APPLICABLE TO THIS BY-LAW

- The onus is on the indigent subsidy recipient to notify the municipality through the Office of the Chief Financial Officer as soon as his/her status changes, resulting to him/her no longer eligible for the indigent subsidy through his/her improved financial position. **Failure to do so will result to the municipality applying all stringent conditions that are available at its disposal.**
- Any type of business conducted in the premises of the subsidy recipient / qualifying household will disqualify the applicant from receiving the Indigent Subsidy.
- Services that are allowed for Indigent Grant are Water, Electricity, Sanitation and Refuse Removal Services, and Rates (based on the limits stipulated in the Assistance to the Poor or Indigent Policy),
- Subsidies will be applied in a manner determined by Council, based on monthly household income, as determined by Council from time-to-time, and
- Consumers who benefit from the water and electricity in terms of Council's tariff policy (i.e. first ten (10kl) of water and first fifty (50Klw) kilowatts free respectively) shall not be entitled to any further subsidy on water and electricity usage in excess of the stipulated monthly free usage.

12. HOW WILL THIS BY-LAW BE SUCCESSFULLY COMMUNICATED?

The success of this By-Law will depend on various key stakeholders that exist within the Makana Municipal area of jurisdiction, including the following: -

- Political Leadership (e.g. Executive Mayor, Councillors and Ward Committee Members),
- Administrative Leadership (e.g. Municipal Manager and Directors of various Directorates or Business Units),
- All Employees of Council have the responsibility of being the mouthpiece of the municipality or their employer, in as far as informing the members of the public about their benefits resulting from this policy,

Lastly, this *By-Law* must be communicated to the communities residing at Makana Municipal area of jurisdiction through community newspapers, notices in the notice boards, municipal websites, door-to-door campaigns, Imbizo/Gatherings, municipal accounts, booklets, and any other means of communication deemed to be effective.

13. REVIEWAL OF THE ASSISTANCE TO THE POOR / INDIGENT BY-LAW

This *By-Law* will be reviewed at least once a year, and such reviewal must firstly be submitted to the Finance and Service Delivery Committee by the Chief Financial Officer, as well as the Mayoral Committee, and be finally endorsed by the Municipal Council before it can be implemented. This By-Law supersedes any other one adopted by Council previously, including any other resolutions taken.