

# **NKETOANA LOCAL MUNICIPALITY**

## **INDIGENT SUPPORT BY-LAW**

APPROVED BY SPECIAL COUNCIL: 30/05/2014  
ITEM: 013/05

## NKETOANA LOCAL MUNICIPALITY

### NOTICE

#### INDIGENT SUPPORT BY-LAW

Notice is hereby given that in terms of Section 13, of the Local government: Municipal Systems Act, Act 32 of 2000, the Nketoana Local Municipality has passed the By-law as set out below.

#### NKETOANA LOCAL MINICIPALITY

Title: Indigent Support By-law

#### Index

1. Definitions
2. Legislation
3. Objective
4. Responsibility/Accountability
5. Procedures and program
6. Control
7. Audit
8. Benefits
9. Malpractice
10. Authority

#### 1. Definitions

For the purpose of this By-law any word or expression to which a meaning has been assigned in the Act shall bear the same meaning in this By-law unless the context indicates otherwise.

In this By-law, unless the context indicates otherwise –

**"account"** means any account rendered for municipal services provided;

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

**"actual consumption"** means the consumption measured of any consumer;

**"apparatus"** includes a building, structure, pipe, pump, wire, cable, meter, machine, mechanism or any fitting.

**"applicable charge"** means the rate, charge, tariff, flat rate or subsidy determined by the Municipality;

**"approved"** means approved by the Municipality;

**"area of supply"** means any area within or partly within the area of jurisdiction of the Municipality for which a municipal service(s) is/are provided;

**"authorized agent"** Any person, persons or instance legally appointed by the Council to act or to fulfil a duty on its behalf

**"authorized official"** means any official of the Municipality who has been authorized by it to administer, implement and enforce the provisions of these By-laws;

**"availability charge"** – means the approved charge on water and electricity based on the availability of the main infrastructure of the Municipality on developed and undeveloped properties.

**"basic water supply"** means the minimum standard of water supply services necessary for the reliable supply (including the availability charge) of water to households to support life and personal hygiene,

prescribed in terms of the Act under regulation 3 of Government Notice R509 of 8 June 2001, as amended from time to time, or any substitution for that regulation;

**"billing"** means proper formal notification on an account to persons liable for payment of accounts levied for assessment rates, taxes, and charges on fees for services, levies, fines, penalties or any other related costs.

**"Council"** means the municipal Council as contemplated in section 157(1) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

**"credit control and debt collection"** – all functions/actions relating to the collection of debt.

**"customer"** or **"user"** – any occupier/owner to whom services is supplied.

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

**"debt"** – monies owing to the Municipality in respect of the rendering of services and includes monies owing in regard to property rates, housing, leases, rentals, and any other outstanding amounts, inclusive of any interest thereon, owing to the Municipality.

**"debtor"** – any person who owes a debt to the Municipality.

**"defaulter"** – any person who defaulted on any payments for money owed to the Municipality.

**"determined"** means determined by the Municipality from time to time;

**"domestic purposes"**, in relation to the supply of water, means water supplied for drinking, ablution and culinary purposes to premises used predominantly for residential purposes;

**"due date"** – the final date on which a payment, as indicated, is due and payable.

**"dwelling unit"** means an interconnected suite of rooms designed for residential purposes and occupation by a single household, regardless of how many persons comprise the household;

**"Enforcement notice"** means any notice issued by a designated officer under these By-laws, which instructs the person to whom it is issued to comply with the terms of the notice, and includes a compliance notice contemplated in section 111;

**"engineer"** – the person in charge of the civil and/or electrical component of Council.

**"estimated consumption"** – an estimated usage of a service based on reasonable criteria such as an average on usage history.

**"government pension grant"** means the basic grant given by the government to pensioners.

**"household"** means the family unit of persons, or individuals, in occupation of a building(s) or part of a building(s), designed for residential occupation by such family unit, or individuals;

**"indigent (households) persons"** mean households (persons) who are at and below the poverty threshold level as determined by the Municipality from time to time.

**"indigent tariff (charge)"** means tariff as determined by the Council.

**"indigent subsidy"** refers to the allocation from the equitable share grant as determined by the Council.

**"interest"** – a rate of interest, charged on overdue accounts, which is one percent higher than the prime rate, which is obtainable from any commercial bank on request, unless determined otherwise by the Municipality, on capital, based on a full month and part of a month must be deemed to be a full month.

**"law"** means any law, including the common law;

**"Municipality"** means:

- (a) the Nketoana Local Municipality or its successors in- title; or
- (b) The Municipal Manager in respect of the performance of any action or exercise of any right, duty, obligation or function in terms of these by-laws; or
- (c) An authorized agent;

**"Municipal Manager"** means the person appointed by the Municipality as the Municipal Manager of the Municipality in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), and includes any person:

- (a) Acting in such a position; and
- (b) To whom the Municipal Manager has delegated a power, function or duty;

**"municipal service"** means, for purposes of these by-laws, a service provided by the Municipality, and includes a refuse removal service, a water supply service, a sanitation service or an electricity service;

**“occupier”** – any person who occupies any property or part thereof, without regard to the title under which he/she occupies the property

**“official”** – an “official” as defined in Section 1 of the Local Government: Municipal Finance Management Act, No 56 of 2003.

**“owner”** –

- (a) The person in whom from time to time is vested the legal title to premises;
- (b) 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;
- (c) In a case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of such premises with a building thereon;
- (d) In the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- (e) In relation to-
  - (i) 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
  - (ii) A section as defined in such Act, the person in whose name such a section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
- (f) Any legal person including but not limited to-
  - (i) A company registered in terms of the Companies Act, 1973 (Act 61 of 1973), a trust, a closed corporation registered in terms of the Closed Corporations Act, 1984 (Act 69 of 1984) and a voluntary association;
  - (ii) Any department of State;
  - (iii) Any Council of Board established in terms of any legislation applicable to the Republic of South Africa;
  - (iv) Any Embassy or other foreign entity;

**“pensioner”** means all pensioners excluding pensioners receiving the government pension grant.

**"person"** means a natural person, a local government body, a company or close corporation incorporated under any law, a body of persons, whether incorporated or not, a statutory body, an organ of state as defined in section 239 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), and the Minister of Water Affairs and Forestry, or his successor in function as Minister of Water Affairs, a public utility body, a voluntary association or a trust;

**“threshold level”** refers to total household income that does not exceed the amount approved by the Council from time-to-time.

**"prescribed"** means, determined by resolution of the Municipality from time to time;

**"prescribed tariff or charge"** means an approved tariff or charge;

**"public notice"** means notice in the official languages determined by the Municipality and in an appropriate medium that may include one or more of the following:

- (a) The publication of a notice –
  - (i) In a local newspaper or newspapers in the area of the Municipality; or
  - (ii) In a newspaper or newspapers circulating in the area of the Municipality and determined by the Municipality to be a newspaper of record; or
- (b) The broadcasting of a notice by means of radio broadcasts covering the area of the Municipality; or
- (c) The displaying of a notice at appropriate offices and pay points of the Municipality; or
- (d) The official website of the Municipality.
- (e) The communication of the content of a notice to consumers through public meetings and ward committee meetings;

## 2. Legislation

The By-law is developed and implemented within the framework of; inter alia, the following legislation:

- (a) The Constitution of the Republic of South Africa, Act No 108 of 1996
- (b) The Municipal Systems Act, Act No 32 of 2000.
- (c) The Municipal Finance Management Act, Act No 56 of 2003.
- (d) The Promotion of Administrative Justice Act, Act No 3 of 2000.
- (e) The Promotion of Access to Information Act, Act No 2 of 2000.
- (f) The Municipal Property Rates Act, Act No 6 2004.
- (g) Conditions of National Equitable Share Grant (“S” Grant) earmarked for service delivery to the poor.

This By-law is consistent with the terms and conditions of the related By-laws and Policies, Indigent, Credit Control and Debt Collection, Tariff, Write-off and Property Rates of the Nketoana Local Municipality.

## 3. Scope and Objective

The Constitution of the Republic of South Africa (No 108 of 1996) read in conjunction with the Municipal Systems Act (Act No 32 of 2000), other related regulations, the Batho Pele principles and the Nketoana Local Government policies and by-laws forms the basis for the administration of the indigent determinations and offerings towards the local communities.

The objective of the By-law is to ensure that:

- (1) The provision of free basic services is in accordance with national guidelines in relation to poor households
- (2) Acknowledgement by the Municipality that the cost of basic services are not affordable for all residents and the need to ensure that a cost effective environment is created for those households to ensure access to basic services.
- (3) Proper procedures and guidelines for the provision of free basic services to certain households within the Municipality are in place.
- (4) Guidelines and procedures are in place to identify those households that must be subsidized on the basic services.
- (5) Control measures and reporting standards are aligned with applicable legislation.

## 4. Responsibility/Accountability

- (1) Municipal Manager is in accordance with Section 62 of the Municipal Finance Management Act of a municipality is responsible for managing the financial administration of the municipality. This Municipal Manager must, for this purpose, take all reasonable steps to ensure that the municipality has and implements an indigent policy/by-law.
- (2) Should the Municipal Manager his/her designate experience undue interference or influence by a councilor that prohibits the execution of his/her responsibilities with regard to this By-law, he/she should report this to the Member of Executive Council for Local Government and Housing.
- (3) The council has the overall responsibility for laying down the indigent support policy/by-law.
- (4) The By-law must be read together with relevant policies and by-laws.
- (5) The Council oversees and monitors the implementation and enforcement of this By-law.
- (6) The Municipal Manager must implement and enforce this By-law, Policy and any relevant by-laws and policies.
- (7) The Municipal Manager must establish and control the administration necessary to fulfill this By-law, and report efficiently and regularly to the Mayor in this regard.

- (8) The Municipal Manager may delegate authority for control and administration of this By-law to the Chief Finance Officer.

## 5. Procedures and program

- (1) The source of funding will be the Equitable Share allocation to the Municipality as allocated and determined via the annual Budget and the Tariff By-law, -Policy and –List
- (2) Qualification –
  - (a) The usage of the property must be predominantly residential
  - (b) The total household income must be below the annual Municipality approved limit. The following income will be excluded as household income –
    - (i) Government Forster Child Grant
    - (ii) Government Pension grant
    - (iii) Donations (Not exceeding the approved monthly income limit)
    - (iv) Government Child Support Grant
    - (v) Government Care Dependency Grant
    - (vi) Government Disability Grant
  - (c) In the case of a registered owner, indigent support will only be granted on one property.
  - (d) In the case of an occupier –
    - (i) a grant will only be approved if the property carries no other outstanding debt such as property rates.
    - (ii) With the written approval of the owner or authorized agent.
- (3) The Municipal Manager may instruct that pre-paid metering systems be installed and in cases where the actual usage exceeds the subsidized usage and it is not paid by the due date, that restrictions may be implemented to limit such usage to the approved subsidized usages.
- (4) A new application for indigent support on an existing indigent account will not be considered if there is any outstanding debt. In order to be re-considered the arrears will have to be brought up to date or acceptable arrangements in accordance with the Credit Control and Debt Collection By-law/policy has been made.
- (5) Application for indigent support must:
  - (a) Be done on the approved Municipality application form.
  - (b) Be accompanied with the following documentation –
    - (i) Latest service account
    - (ii) Proof of residence
    - (iii) ID Document (Original)
    - (iv) Number and names of dependents (Original ID documents where applicable)
    - (v) Water and electricity numbers (Including Eskom meter numbers where applicable)
    - (vi) Latest pay slip or bank statement as proof of income (Original – where applicable)
    - (vii) SAPS affidavit that no income is received (Original)
- (6) Only fully completed and signed application forms will be accepted and considered at any of the Nketoana municipal offices.
- (7) The applications will be submitted to the Municipal Manager or the designated person for approval.
- (8)

## 6. Control

The following control measures are included in the process to ensure control:

- (1) Application forms include a sworn affidavit of the correctness of information supplied
- (2) Only original documentation must be supplied as prescribed by the application form. Copies will be made by officials.

- (3) Applications will be verified by the respective ward councilor.
- (4) The Municipal Manager or his designated person will approve the application.
- (5) Approved application forms will be submitted to the indigent official for
  - (a) confirmation of supplied information
  - (b) capturing on the financial system.
- (6) Indigent lists will be generated and reported on
- (7) Performance achievements will be measured against performance targets with applicable actions where relevant.
- (8) The Credit Control and Debt Collection actions will be implemented against any arrear indigent accounts.
- (9) The Municipality may refuse the sale of electricity to any arrear indigent households.

## 7. Audit

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

- (1) All indigent registrations will be audited by the indigent clerk.
- (2) Should the audit establish that the person filed a false application this will be communicated to the Councilor who will be required to confirm the facts with 14 days.
- (3) If the Councilor confirms in writing that a false application was filed the customer will be removed from the indigent register, the arrears written off will be reinstated onto the customer's account.
- (4) If the Councilor confirms that the indigent application was correct then the customer will remain on the indigent register.
- (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.
- (6) A customer who submitted a false indigent application may be charged a penalty charge as determined by Council or in the case where the customer did receive an indigent subsidy in the previous financial year and the account carries any outstanding debt the new application will not be approved until such outstanding amount has been paid in full.
- (7) In the event of the death of an indigent customer the following procedures will apply:
- (8) Proof of the death of a customer must be provided.
- (9) The occupier (as per written authorization by the administrator of the estate) of the property must be allowed to open an account.
- (10) The occupier opening the new account must complete the required disconnection form for the deceased.
- (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.
- (12) The new occupier of the property must pay the prescribed applicable consumer deposit and connection fees.
- (13) The process of transferring the property to the new owner must be proceeded with.
- (14) When a non-indigent customer becomes indigent the debt of the customer, excluding the current year's charges must be written off. Interest on arrear charges will be applicable to indigent customer accounts.

## 8. Benefits

Successful indigent households will qualify for the benefits as listed below. Registered welfare organizations will receive the same benefits as stated below whilst the pensioners will only qualify for the subsidized water and electricity usages as indicated below.

- (1) Property Rates. All property rates on a registered owner qualifying for indigent support will be subsidized.
- (2) Water:
  - (a) Water availability charge. The water availability charge will be subsidized in full.
  - (b) Water consumption. The water consumption subsidy will be limited to the usage as approved by the Municipality from time-to-time.
- (3) Electricity:
  - (a) Electricity availability charge. The electricity availability charge will be subsidized in full.
  - (b) Electricity consumption. The electricity consumption subsidy will be limited to the usage as approved by the Municipality from time-to-time.
- (4) Sewerage. The minimum charge for residential services will be subsidized in full.
- (5) Refuse. The minimum charge for residential services will be subsidized in full.
- (6) Arrears.
  - (a) The arrears of a new indigent will be written off in full with the first time application should it be approved.
  - (b) The application of a current indigent household will not be considered if there are any arrears on the site.
- (7) Children 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.

#### **9. Malpractice**

In a case where malpractice is discovered by any successful indigent applicant, the following may be instituted:

- (1) Incorrect or false information supplied on the application form –
  - (a) Suspend/stop the relieve with immediate effect,
  - (b) Recover all relieve given by debiting all charges against the account from date of relieve,
  - (c) Apply standard credit control and debt collection processes against the recipient, and may
  - (d) Institute criminal charges of fraud against the recipient.
- (2) Theft and fraud –
  - (a) Any person found to be illegally connected or reconnected to municipal services, tampering with meters, reticulation network or any other supply equipment 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.
  - (b) Council will immediately terminate the subsidy and the supply of services to a customer should conduct as outlined above be detected.
  - (c) The total bill owing, including penalties, assessment of unauthorized 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.
  - (d) The debt collection process as outlined by the Credit Control and Debt Collection by-law/policy shall become applicable immediately.



**10. Authority**

Formulation Policy

:Chief Financial Officer

Authorization Policy

:Council

Ownership and Maintenance Manager

:Assistant Manager: Credit Control