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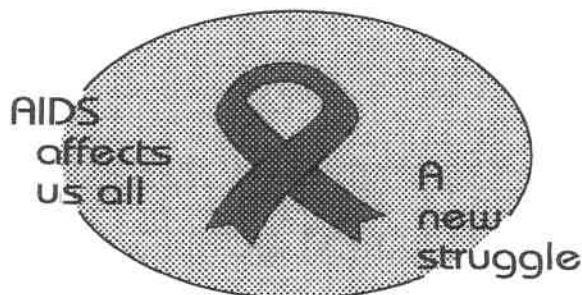
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BISHO/KING WILLIAM'S TOWN

23 September 2024
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LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS

LOCAL AUTHORITY NOTICE 1205 OF 2024

**KING SABATA DALINDYEBO LOCAL MUNICIPALITY
INDIGENT BY-LAWS**



INDIGENT BY - LAW

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1. By-Law Title

Indigent By-Law.

2. Relevant Legislation applicable to this By-Law

The By-Law is designed and implemented within the framework of the following legislation:

- 2.1. The Constitution of the Republic of South Africa, 1996, Act 108 of 1996, in particular sections 152,153 and 195.
- 2.2. Municipal Systems Act No. 32 of 2000, in particular sections 4, 5 and 6.
- 2.3. The Municipal Finance Management Act 2003 (Act 56 of 2003).
- 2.4. The Promotion of Administrative Justice Act 2000 (Act 3 of 2000).
- 2.5. The Promotion of Access to Information Act, 2000 (Act 2 of 2000).
- 2.6. The Municipal Property Rates Act, 2004 (Act 6 of 2004).
- 2.7. Conditions of National Equitable Share Grant ("S" Grant) earmarked for service delivery to the poor.

It is consistent with the terms of the KING SABATA DALINDYEBO LOCAL MUNICIPALITY CreditControl and Debt Collection Policy.

3. Definitions

- 3.1 **Basic energy service:** The provision of sufficient energy as determined by Council, to allow for lighting, access to media (TV, radio) and cooking. This may include electricity and other forms of energy such as paraffin.
- 3.2 **Basic refuse removal service:** The disposal of refuse on a property where housing densities permit this or the removal of refuse from each property located within the municipality and disposal of this waste in an adequate landfill site, either option undertaken in such a way that the health of the community is maintained and no diseases are propagated, or pests allowed to breed due to refuse which is not properly removed and disposed of.
- 3.3 **Child headed household:** a household where both parents are deceased and where all occupants of the property are children of the deceased and are all under the legal age to contract for service and are considered as minors in law by the state. Child headed households are automatically considered indigent unless proven otherwise.
- 3.4 **Household:** a registered owner or tenant with children who reside at the same premises.

- 3.5 **Indigent:** lacking the necessities of life such as sufficient water, basic sanitation, refuse removal, environmental health, basic energy, health care, housing, food and clothing.
- 3.6 **Indigent subsidy/poverty package:** the subsidy allows for free basic services in the form of electricity or other power options, rubbish removal and property rates, as prescribed by Council from time to time.
- 3.7 **Indigent Management System:** an electronic management system applied by the KING SABATA DALINDYEBO LOCAL MUNICIPALITY for the management of the register of indigent households.
- 3.8 **Indigent Register:** the database which must be updated on a monthly basis, designed to include all the data contained within completed indigent application forms. The Register contains the following key information:
- (i) Indigent customer details
 - (ii) Socio-economic details
 - (iii) Skills details
- In addition, the indigent register must be able to provide reports relating to, but not limited to the following:
- (i) Indigent application exceptions
 - (ii) Skills reporting required for LED/exit strategy
 - (iii) Socio-economic reporting
- 3.9 **Municipality:** the municipality of KSD, established in terms of Section 12 of the Municipal Structures Act, 117 of 1998.
- 3.10 **Occupier:** person who controls and resides on or controls and otherwise uses immovable property, provided that –
- (i) The spouse of the owner of immovable property, which is used by such spouse or owner as a dwelling at any time, shall be deemed to be the occupier thereof.
 - (ii) Where both spouses reside on immovable property and one of them is an occupier thereof, the other shall also be deemed an occupier.
- 3.11 **Owner:** in relation to immovable property means –
- (i) the person in whom is vested the legal title thereto, provided that –
 - (ii) the lessee of immovable property which is leased for a period of not less than ten years, whether the lease is registered or not, shall be deemed to be the owner thereof;
 - (iii) the occupier of immovable property occupied in terms of a servitude or right analogous thereto shall be deemed the owner thereof;
 - (iv) if the owner is deceased, insolvent or has assigned his or her estate for the benefit of his or her creditors, has been placed under curatorship by order

of court or is a company being wound up or under judicial management, then the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be, shall be deemed to be owner thereof;

(v) if the owner is absent from the Republic or if his or her address is unknown to the municipality, then any person who as agent or otherwise receives or is entitled to receive the rent in respect of such a property; or

(vi) if the municipality is unable to determine who such person is, then the person who is entitled to the beneficial use of such property.

3.12 Premises: includes any piece of land, the external surface boundaries of which are delineated on –

(i) a general plan or diagram registered in terms of the Land Survey Act 1997 [Act No.8 of 1997] or in terms of the Deeds Registries Act [Act No. 47 of 1937];

(ii) a sectional plan registered in terms of the Sectional Titles Act, 1986 [Act No.95 of 1986], and situated within the boundaries of the municipality.

3.13 Rates: means any tax, duty or levy imposed on property by the Council.

4. Main Purpose

- 4.1. The Constitution of the Republic of South Africa No. 108 of 1996, read in conjunction with the Municipal Systems Act No. 32 of 2000 plus other government regulations, and Batho Pele principles, requires developmental local government to ensure the following provision of services in a sustainable manner that are affordable to all:
 - 4.1.1. Access to at least a minimum level of basic municipal services within a safe and healthy environment, including electricity, water, sanitation and refuse removal.
 - 4.1.2. ensuring that “needy or indigent households” have access to these basic services plus
 - 4.1.3. Giving priority to these basic needs of the municipal residents.
- 4.2. In addition, the municipality firmly believes that in order to solve indigence, beneficiaries should be entitled to a broader package of services linked to employment, health and housing opportunities brought about by other initiatives, such as the Municipality’s poverty alleviation programmes and local economic development initiatives.
- 4.3. The Growth and Development Summit (2007) Socio-Economic Profile stated that 45% of the population of KING SABATA DALINDYEBO LOCAL MUNICIPALITY was unemployed in 2005. Another survey of the Eastern Cape in 2006 stated that around 53% of households lived on an income of less than R1,500 per month.
- 4.4. How to deal with these growing inequalities is a major By-Law issue for the Municipality. Until now, the provision of free basic services to the indigent has been subsumed in the larger Credit Control and Debt Collection Policy. As a developmental municipality, KING SABATA DALINDYEBO LOCAL MUNICIPALITY is committed to ensuring supporting measures that assist and empower communities. The municipality views the provision of free basic services as only one aspect of its overall poverty alleviation and economic development programmes.
- 4.5. Therefore, poverty is a wider and more complex issue than the collection and disbursement of revenue. While the overall goal will be to move indigent households to a position where they will be able to make a financial contribution to the Municipality’s revenue collection, the reality is that this goal is some way off. This policy, and in particular the detailed procedures, attempt to address the complexities of living in poverty in KING SABATA DALINDYEBO LOCAL MUNICIPALITY.

5. Scope of the By - Law

- 5.1. The scope of this By-Law extends to all indigent households within KING SABATA DALINDYEBO LOCAL MUNICIPALITY rather than individuals, whether registered as indigent with KING SABATA DALINDYEBO LOCAL MUNICIPALITY or not.
- 5.2. Strenuous efforts are made to ensure that all who qualifies as indigent are recognized and receive all services, grants and rebates that they are entitled to. definition of an indigent household in KING SABATA DALINDYEBO LOCAL MUNICIPALITY is as determined from time to time by the Council.

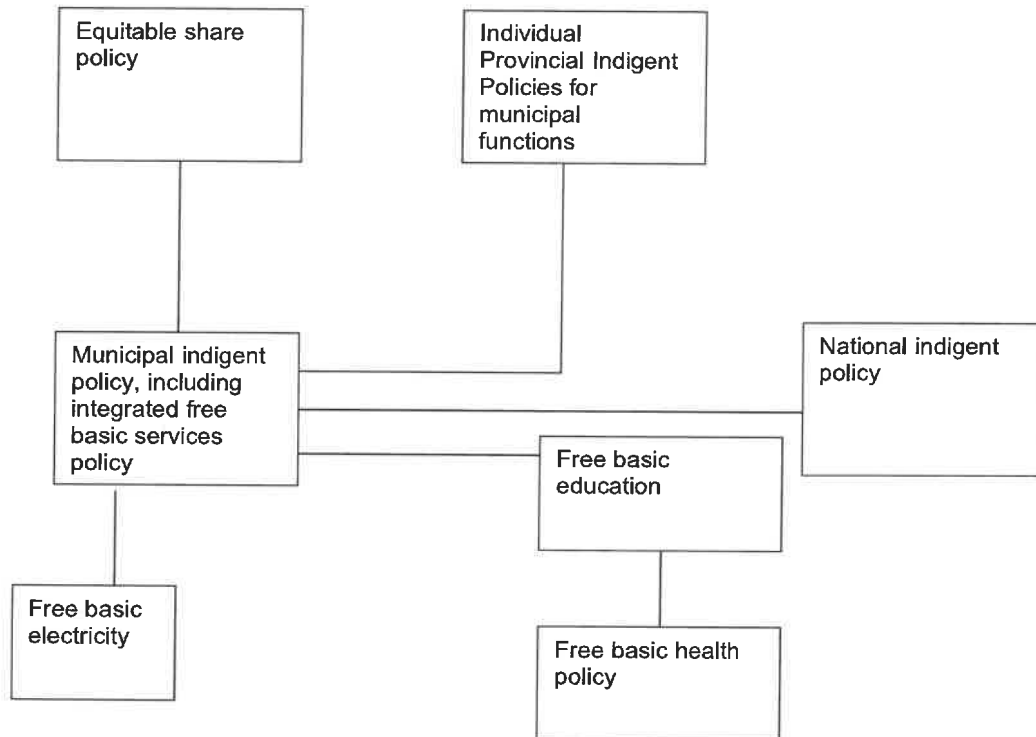
The relationship between key policies of the 3 tier governments is shown below:-

Relationships of Government Policies

Local Government

Provincial

National



6. Strategic Objective

- 6.1. The objective of this By-Law is an attempt to close the gap between those who are indigent and other citizens of KING SABATA DALINDYEBO LOCAL MUNICIPALITY, through the targeted assistance with free allocations of electricity, water and other services, together with broader based access to housing, community services, employment initiatives and basic health care. This objective should ensure that all citizens of KING SABATA DALINDYEBO LOCAL MUNICIPALITY are able to participate in the community, and are not barred through their indigent status.
- 6.2. The long term objective is to move those who are indigent away from the need for free basic services and other support measures into a more positive developmental role as ratepaying citizens of the community.

7. Guidelines relating to free basic services which complement this policy

It is also recognized that there are several existing sector-specific strategies and guidelines relating to free basic services which complement this policy, including:

- 7.1. The Property Rates Act, which provides for zero-rating of low value properties, thereby ensuring that households on these properties gain access to a package of public services free.

8. By-Law Objectives

- 8.1. In support of the above principles, the first objective of this By-Law will be to ensure that the indigent get **physical access** to services. This means that the necessary capital infrastructure, and refuse removal systems are in place. Similarly, if the services required are not properly **operating or maintained**, the indigent do not have access either and continue to live without the necessities of life. In order for these services to be provided, an arrangement of subsidies needs to be put in place and that these subsidies are properly **targeted** in such a way that the indigent benefit and that those who are not indigent pay.
- 8.2. The provision of a range of basic services (the "basket of services" approach) in the community in a sustainable manner within the financial and administrative capacity of the Council.
- 8.3. The financial sustainability of free basic services through the determination of appropriate tariffs that contribute to such sustainability through cross- subsidisation.
- 8.4. Establishment of a framework for the identification and management of indigent households including a socio-economic analysis where necessary and an exit strategy.

- 8.5. The provision of procedures and guidelines for the subsidisation of basic charges and the provision of free basic energy to indigent households and
- 8.6. Cooperative governance with other spheres of government.
- 8.7. Detailed procedures will be decided from time to time and do not form part of this document. However, the framework for procedures includes:
 - 8.7.1. A registration process where municipality actively canvass residents for information on their qualification for the indigent subsidy, as opposed to residents making their own enquiries as to their status. This includes communication campaigns and more general reminders about the right to claim, as well as specific information around the claims procedure.
 - 8.7.2. The granting of a subsidy only to those who have correctly registered, with procedures around the detection of fraud and changes in circumstance e.g income levels rising above the threshold for subsidy.
 - 8.7.3. The active participation of Ward Councillors in the identification of indigent households and the explanation of the scheme to residents in their Ward.
 - 8.7.4. A review and audit procedure where those in receipt of the indigent subsidy are checked from time to time on their continuing qualification for subsidies, and where the procedures themselves are reviewed for continuing efficiency, relevance and effective targeting of the indigent in the Municipality.
 - 8.7.5. An exit strategy around the continuing need for support from the municipality.

9. Key Principles

The municipality promotes the following principles:

- 9.1. To ensure that the Equitable Share received annually will be utilized for the benefit of the poor only and not to subsidise rates and services charges of those who can afford to pay.
- 9.2. To link this By-Law with the Integrated Development Plan, local economic development initiatives and poverty alleviation programmes and other relevant Council policies.
- 9.3. To promote an integrated approach to free basic service delivery and othersocial services provided by the municipality.
- 9.4. To engage the community in the development and implementation of this policy.

The guiding principles used for targeting the indigent are:

- 9.5. Equity: the subsidy promotes both horizontal equity (people are treated equally across the municipality in the way tariffs influence their access to services) and vertically (groups with greater ability to pay should pay more).
- 9.6. Efficiency: incentives are provided for efficient production and allocation of services.
- 9.7. Environmental sustainability: tariffs and subsidies promote the delivery of services in an environmentally sustainable manner.
- 9.8. Financial viability: subsidies must be affordable.

9.9. Promotion of local economic development: tariffs and subsidies should work to enhance the impact on local economic development.

9.10. Implementability: the policies chosen are straightforward to implement.

10. Targeting and Qualification Criteria

10.1. There are several ways in which the indigent can be targeted for the indigent subsidy and the wider social services provided by a municipality, including service levels, service consumption, property value, household income and geographic (zonal) targeting. KING SABATA DALINDYEBO LOCAL MUNICIPALITY has targeted its indigent households through the socio-economic information and performance indicators contained in the IDP, local economic development initiatives and its other poverty relief programmes.

The Municipality has, within its financial and institutional capacity, chosen to use the following qualification criteria:

10.1.1. **Primary Qualification: - Property value:** Any property with a value which is less than or equal to the value of a new RDP house will be considered to be occupied by indigent resident/s. This value will be determined by Council from time to time.

10.1.2. **Secondary Qualification: - Gross Income less tax and pension:** A single household where the combined income of the household (gross household income) does not exceed the poverty threshold value, as determined by Council from time to time or the value of two state social grants per month. Child grants will not be considered when determining household income. Rural applicants will be considered according to this criterion.

10.2 Property ownership:

10.2.1 Living in a property owned by a member of the household, with the homeowner residing at that property.

10.2.2 Any occupant or resident of the single household may not own any property in addition to the property in respect of which indigent support is provided.

10.2.3 Property of indigent household may be inspected annually to determine validity of application or indigency.

10.3 **Registration:** The household must be a resident of and have a registered account with the Municipality, except households in informal settlements and in rural areas where no accounts are rendered.

10.4 **South African citizens or recognised refugees:** Members of the household must be South African citizens (with Identity Card) or have recognised refugee status (proof of status needed).

10.5 **Tenants:** A tenant or occupier as described in Council Credit Control By-Law and By-Law can apply for the benefits in respect of the charges he/she is billed for while the landlord remains liable for all ownership related charges such as rates.

10.6 **Deceased estates:** The account of a deceased estate may be subsidised if the surviving spouse or dependants of the deceased who occupy the property apply for assistance. This includes minor children in the case of child-headed households.

11 Service levels

The extent of the monthly indigent support granted to indigent households will be based on budgetary allocations for a particular financial year and the tariffs determined for each financial year. Within the above framework, and striving to create a situation where poor households will be granted access to a full social package, the following assistance and support will be granted:

11.1 Electricity

Each registered indigent household shall receive electricity subsidised to a maximum approved by the Council from time to time. This subsidy may also apply to registered indigent households in rural areas where Eskom is the electricity supplier.

11.2 Refuse removal

Each registered indigent household shall be subsidised for refuse removal as provided for in the annual budget.

11.3 Property rates

Each registered indigent household shall be subsidised for property rates as provided for in the annual budget as approved by Council.

11.4 Rental (Dwellings and Sites)

Subsidy will be granted in respect of all dwellings or sites belonging to the municipality up to maximum amount of subsidy as approved by Council annually.

11.5 Fire levy

Subsidy will be granted in respect of fire levies up to maximum approved by Council.

The total social package will not exceed the amount budgeted for social packages as approved by Council.

11.6 Alternative energy sources

Indigent households in informal settlements where no electricity is available may, on application, be provided with alternative energy sources including, but not limited to: paraffin, provided that procurement of service providers or services shall be subject to the Supply Chain Management By-Law and procedures of the Municipality and that the support given does not exceed the threshold or value of free electricity given to other indigent households.

11.7 Housing assistance

Housing assistance is provided as a means of technical, rather than financial support. The municipality must ensure that sufficient land is identified within the municipality, in appropriate locations, for all the residents in the municipality and that the necessary planning is undertaken to ensure that this land can be properly developed. Further, to ensure that funding available from the province for housing is properly allocated to assist the indigent with access to serviced plots.

11.8 Short term assistance

An indigent person in incidental distress may, on application, be assisted for a period not exceeding six months. Incidental distress will mean a person who is:

- 11.8.1 Temporarily unemployed
- 11.8.2 Hospitalised
- 11.8.3 Vacating their house eg sick, to be cared for by relatives

Such persons qualify for assistance if they are not receiving any assistance from any other source.

11.9 Transfer of properties

In the event of the death of the title holder of a property in an indigent household, the Municipality may enter into agreements with local attorneys, the Legal Aid Board or the provincial Law Society for the transfer of the property into the name of the successor at the lowest possible cost.

12 Indigent Households in Retirement Centres

Indigent consumers living in retirement centres shall be eligible to qualify for assistance and support in terms of this policy, subject to the following rules and procedures:

- 12.1 The onus will be upon the board of trustees/managing agent/chairperson of the retirement centre to apply to the municipality for indigent status to be granted in respect of water consumption on behalf of the owners of those units who meet the criteria and conditions for qualification.
- 12.2 The onus will be upon the unit owner to apply to the municipality for indigent status to be granted in respect of property rates and service charges.
- 12.3 The representative of the retirement centre will submit applications to the Chief Financial Officer. These applications must be accompanied by a certified copy of the Sectional Title Plan of the retirement centre, which indicates the participation quota for each unit as registered in the Deeds Office.
- 12.4 The Indigent Section supervisor must verify all applications and must notify:
 - 12.4.1 The representative of the retirement centre whether an application was successful or not with regard to water consumption and,
 - 12.4.2 The unit owner whether an application was successful or not with regard to property rates and other related charges

12.5 The Chief Financial Officer will credit:

The general rates and refuse charges account of the unit owner with the full amount charged.

12.6 The representative of the retirement centre in respect of which monthly water credits are allowed under indigent support must ensure that such credits are offset against the monthly levies of the relevant individual units; such representative also being required once every six months, or at such intervals as may be determined by the municipality, to provide proof to the Chief Financial Officer that the monthly levies of poor households which qualify for assistance have been adjusted by the amounts credited to the account of the retirement centre.

13 Process Management

13.1 Processing Time

Applications will be processed within 30 days from the date of receipt.

13.2 Validity period

The validity period for assistance will be for a maximum period of 36 months except for those in receipt of social grants.

13.3 Death of registered applicant

In the event that the approved applicant passes away, the heirs of the property must re-apply for indigent support provided that the stipulated criteria are met.

13.4 Publication of register of indigent households

Names of indigent beneficiaries must be open for public perusal and comment. Such publication will occur annually. Written objections from the public must be referred to the Indigent Support Supervisor who will be responsible for investigating the validity of the complaint and for taking appropriate action.

13.5 Excess consumption of services

If the level of consumption of the indigent household exceeds the total package of free basic services as approved by the Municipality, from month to month or exceeds the monthly charges raised on the indigents account; the household will be obliged to pay for the excess consumption on a monthly basis. Such accounts will be subject to the Municipality's credit control and debt collection measures.

13.6 Termination of indigent support

Indigent support will be terminated under the following circumstances:

- 13.6.1 Death of the account holder unless the surviving dependants are minor children.
- 13.6.2 End of the 36 month cycle, except for those in receipt of social grants.
- 13.6.3 Upon change of ownership of the property in respect of which support is granted.
- 13.6.4 When circumstances in the indigent household have improved to the point of exceeding the gross income threshold as prescribed by Council.
- 13.6.5 If the applicant is found to have lied about his/her personal circumstances or has furnished false information regarding indigent status, in which case the following will apply:
 - 13.6.5.1 All arrears will become payable immediately
 - 13.6.5.2 Stringent credit control measures will apply and
 - 13.6.5.3 The applicant will not be eligible to apply for indigent support for a period of two years.

13.7 Audit and Review

- 13.7.1 The Municipality may conduct regular audits of the indigent register with regard to:
 - 13.7.1.1 the information furnished by applicants,
 - 13.7.1.2 possible changes in status,
 - 13.7.1.3 service consumption and debt collection measures applied and
 - 13.7.1.4 reviewing the current status of applicants.
- 13.7.2 The frequency of such audits will be 3 years depending on the institutional capacity of the Municipality to do so.
- 13.7.3 Periodic inspections should be undertaken, during the 3 years with a complete audit scheduled after 3 years.

13.8 Exit programme

- 13.8.1 Members of households registered as indigent must be prepared to participate in exit programmes coordinated by the Municipality in collaboration with other government departments and the private sector.
- 13.8.2 As part of its poverty reduction programme, the Municipality undertakes to provide for the participation and accommodation of indigent persons in its local economic development initiatives and in the implementation of integrated development programmes where possible.
- 13.8.3 KING SABATA DALINDYEBO LOCAL MUNICIPALITY will promote the exit from indigency by:
 - 13.8.3.1 Identifying indigents for inclusion in public works projects

- 13.8.3.2 Initiating local job creation projects such as cleansing operations, small infrastructure projects etc.
- 13.8.3.3 Facilitation of opportunities to enter the informal trade market
- 13.8.3.4 Facilitation of food security projects and
- 13.8.3.5 Liaison with national and provincial Departments to include indigent persons in their public works programmes.

14 Monitoring and reporting

14.1 The Chief Financial Officer shall report monthly to the KING SABATA DALINDYEBO LOCAL MUNICIPALITY in a suitable format to enable the City Manager to report to Council and other interested parties. Such report shall reflect on:

- 14.1.1 Number of indigent households who applied and were approved
- 14.1.2 Time taken to process and finalise applications
- 14.1.3 Site visits undertaken
- 14.1.4 Amount of subsidy allocated per service category
- 14.1.5 Amount of debt accumulating and debt recovery information, ideally divided into wards, domestic, state, institutional and other such divisions
- 14.1.6 Performance of all areas against targets set in the municipality's performance management system
- 14.1.7 Changes in the registered status of indigents

15 Appeals

Any aggrieved person who was not successful in the application to be regarded as an indigent, may lodge an appeal to the KING SABATA DALINDYEBO LOCAL MUNICIPALITY within a period of 14 days from the date on which the aforesaid decision was communicated to the applicant.

16 Capacity building

16.1 The municipality must ensure that all officials and councilors are appropriately capacitated in Free Basic Services in terms of the following key areas:

- 16.1.1 Database management
- 16.1.2 Demand and Revenue Management
- 16.1.3 By-Law implementation

ANNEXURE "A"**Assistance Procedures applicable to this policy****1. Communication**

The municipality will develop a communications strategy in terms of which communities will be informed and educated in order to have a clear understanding of this policy, its implementation and limitations. Regular information dissemination regarding this By-Law through ward committees, community based organisations and face to face contact by means of imbizos will be undertaken.

Council will also embark on programs or campaigns to inform or identify households that are indigent, in order to register them on the Municipality's database, so that they can access the benefits and support in terms of this policy.

2. Application/Registration

A person applying for assistance must complete a formal indigent support application form approved by the Municipality and must meet the qualification criteria as stipulated in paragraph 9 of this policy.

The following procedure must be followed to register all indigents on the Municipality's database, namely:

- 2.1 Applicant collects prescribed application forms from the nearest Finance Department enquiry counter.
- 2.2 An official will explain to the applicant how to complete the form and also check if the applicant is already registered as an account holder or has a prepayment electricity meter.
- 2.3 Applicant submits the necessary documentation, namely:
 - o Completed application forms, signed by Ward Councillor
 - o South Africa Identification Document
 - o Proof of income
 - o Proof of residence
 - o Proof of ownership of property
 - o Marriage certificate if married, and copy of spouse's Identity Document
 - o Death certificate if deceased account holder
 - o Affidavit if unemployed
- 2.4 The application form is recorded and applicant issued with a card or acknowledgement of receipt of application form.
- 2.5 Official checks that application is recommended and signed by relevant Ward Councillor.

- 2.6 Application form and attached documents are scrutinised for correctness of details.
- 2.7 Incorrect or incomplete forms are returned to the applicant for rectification/completion.
- 2.8 The application is approved and signed by the Head of the Indigent Section OR if refused, is also submitted to the Head for consideration. The final decision is communicated in writing to the applicant.
- 2.9 Inspectors are sent to the household to verify the status of applicant.
- 2.10 Where the property is occupied by minor children, the account is to be left in the name of the estate.

3. **Approved applications**

All applications that meet the prescribed qualification criteria are then processed on the financial system.

A copy of the approved application is sent to the Prepaid Electricity Vending section for the applicant to be flagged as Indigent in the prepayment system. This ensures that the applicant gets his/her monthly free issue and is charged the indigent tariff.

The total monthly subsidy applicable on service charges will be reflected on the monthly statement of account after approval.

4. **Provision of false information**

If it is ascertained *before* the Indigent Subsidy has been granted that the applicant has provided false information on the application form, or does not stay on the property, the application will be referred to the Head of the Indigent Section to be declined and a letter written to the applicant to inform him/her of the outcome.

If it is established *after* the Indigent Subsidy has been granted that the household has submitted fraudulent information, then the subsidy will be immediately cancelled retrospectively from the date of implementation and the relevant Ward Councillor informed. A penalty fee will be charged to the account of the house owner.