

SENQU MUNICIPALITY MUNICIPAL NOTICE

LOCAL AUTHORITY NOTICE NO.....

2017

BY-LAW ON INDIGENT SUPPORT

The Municipal Council of Senqu Local Municipality in the Schedule hereto 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 Act 1996 (Act 108 of 1996) the By-law on Indigent Support.

SCHEDULE

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1 Objectives

The objectives of this By-law is to provide the legal framework within which the Municipality can provide basic services to poorer communities in an affordable manner and to give effect to the Indigent and Free Basic Services Subsidy Policy of the Municipality.

2 Definitions

In this By-law any word or expression to which a meaning has been assigned in the By-law, shall have the meaning so assigned to it and, unless the context otherwise indicates –

“child headed household” means a household where both parents are deceased and where all the occupants of the premises are children of the deceased and the main caregiver of the household is 18 years of age or younger;

"Council" means the Council of the Municipality of Senqu 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;

“household” means an owner, occupier, vulnerable person or tenant of a premises who reside on the premises with his or her children;

"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 –

- (a) a child headed household;
- (b) an unemployed person;
- (c) a pensioner; or
- (d) a person or persons of a household –
 - (i) whose total income is the equivalent or less than the threshold amount approved by the Council annually in its Free Basic Service and Indigent Support Policy;
 - (ii) who does not own any fixed property other than the property for which the application is made; and
 - (iii) who does not hold any fixed deposits or investments;

"indigent debtor" means the head of an indigent household

“indigent household” means a household where all the individuals residing on the premises are indigent and which household is responsible for the payment of municipal services and rates;

“Indigent and Free Basic Services Subsidy 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;

“form” means a form approved by the Municipality for the purposes of this By-law;

“fee” means any fee, charge or deposit determined for purposes of this By-law, by the Municipality in terms of the Senqu Municipality: Tariff By-law, 2017;

“Municipality” means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-Law by virtue of a power vested in the Municipality and delegated to such employee;

"municipal manager" means the municipal manager of the Senqu Municipality or his or her nominee acting in terms of power delegated to him or her by the municipal manager with the concurrence of the Council;

“owner” in relation to immovable property, means –

- (a) the person in whom is vested the legal title thereto provided that –
 - (i) the lessee of immovable property which is leased for a period of not less than fifty years, whether the lease is registered or not, shall be deemed to be the owner thereof; and
 - (ii) the occupier of immovable property occupied in terms of a servitude or right analogous thereto shall be deemed the owner thereof;
- (b) if the owner is deceased, insolvent, 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;

- (c) 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 property; or

if the municipality is unable to determine who such person is, then the person who is entitled to the beneficial use of the property;

“**vulnerable person**” means a person occupying land with the written consent of the owner, but to which that person does not have title, lease or security of tenure.

3 Indigent and Free Basic Services Subsidy Policy

(1) The Council shall adopt an Indigent and Free Basic Services Subsidy Policy, which shall embody and provide procedures and guidelines for the subsidisation of basic services and tariff charges to indigent households in its municipal area.

(2) The object of the Indigent and Free Basic Services Subsidy Policy referred to in subsection (1) shall be to ensure:

- (a) The provision of basic services to the community in a sustainable manner within the financial and administrative capacity of the Municipality; and
- (b) the provision of procedures and guidelines for the subsidisation of basic service charges to indigent households.

4 Guiding principles

(1) The following guiding principles shall be contained in the Indigent and Free Basic Services Subsidy Policy referred to in section 3:

- (a) Relief will be provided by the Municipality to registered residential consumers of services who are declared indigent by the Municipality;
- (b) the Municipality shall, wherever possible, ensure that any relief provided in terms of this bylaw and its policy 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 by-laws, policies and resolutions of the Council and legislation, 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 and Free Basic Services Subsidy Policy will apply during each financial year of Municipality;
- (i) financial support to the indigent will be dependent upon the availability of funds to enable the Municipality to provide such support;
- (j) the Council shall, annually, review and amend the qualification criteria for indigent support provided by it if and when necessary;
- (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;
- (l) indigent households must formally apply on the applicable application form for indigent support and will qualify for such support according to criteria and principles determined by the Council;
- (m) the household income must be correctly reflected on the application form requesting indigent support;
- (n) the applicant who signs the prescribed application form shall be regarded 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 it shall be assessed in terms of the policy;
- (p) all approved indigent debtors should be registered on a municipal database system;
- (q) the onus will be on the approved indigent debtor to inform the Municipality of any change in his status or personal household circumstances;
- (r) all indigent households should be re-evaluated after a period of six months or such period as the Municipality may determine to assess the provision of continued basic services and indigent support to them;
- (s) an approved community communications programme, embodying the principles of transparency and fairness, must be implemented in respect of the indigent support policy; and
- (u) skills training and other education related programmes should be supported 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 free basic services and indigent support shall be determined in the Indigent and Free Basic Services Subsidy Policy adopted and reviewed annually by the Council.

6 Provision of indigent support subsidies

(1) Indigent support subsidies shall be provided by the Municipality to an indigent household who qualifies therefore in terms of the qualification criteria contemplated in section 5;

(2) An indigent debtor shall apply to the Municipality for an indigent support subsidy on applicable form.

(3) The application referred to in subsection (2) must be accompanied by the necessary supporting documentation determined by the Municipality in its Indigent and Free Basic Services Subsidy Policy.

(4) 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.

(5) A registered indigent shall be charged the determined subsidised tariff or charge for a service.

(6) The indigent debtor will receive a monthly account, which will reflect the amount due and payable.

(7) The subsidised amount must be reflected against the indigent subsidy vote.

(8) An indigent support subsidy is only provided for a period of one year and the indigent shall submit an application annually on the date as determined by Municipality.

(9) Indigent support shall be terminated by the Municipality under the following circumstances:

- (a) upon the death of the account holder;
- (b) at the end of the 12 month cycle;
- (c) upon the sale of the property;
- (d) when the total income of the indigent household is more than the threshold amount referred to in the definition of “indigent” in section 1 of this By-law;
- (e) if the applicant is found to have furnished false information about his or her personal circumstances or indigent status or that of other individuals residing in the indigent household.

(10) In addition to the penalty contemplated in section 15, if the applicant is found to have furnished false information about his or her personal circumstances or indigent status or that of other individuals residing in the indigent household -

- (a) all arrears which may have been written off by the Municipality, shall become payable immediately;
- (b) the credit control collection measure will be applicable; and
- (c) the applicant will be disqualified to apply for indigent support for a period of two years.

7 Balance on service charges, tariffs and fees

The Municipality shall implement a procedure to assess and recover any arrear debt due by an indigent, after deduction of the indigent support subsidy, from him or her in accordance with the Senqu Municipality: Credit Control and Debt Collection By-law, 2017.

8 Indigent status

The Municipality shall not amend, alter, withdraw, or suspend in terms of this By-law and its policy the indigent households status without first having forwarded notification thereof to the said indigent household.

9 Special tariff for services

The Municipality may determine special tariffs for indigent households, subject to the availability of funds and compliance with criteria for municipal services and amenities.

10 Responsibilities of municipal manager

It is the responsibility of the municipal manager to ensure that:

- (a) a register of all debtors receiving indigent support subsidies from the Municipality in terms of this By-law is created, maintained and updated;
- (b) the indigent status of debtors are reflected in the accounting records of the Municipality;
- (c) indigent debtors are advised and kept informed of the approval, amendment, suspension or withdrawal of an application for indigent support in terms of this By-law and the conditions under which such support will be granted, including the renewal of indigent support applications;
- (d) any instances of misuse of the Indigent and Free Basic Services Subsidy Policy are reported to the Municipality for attention in terms of this By-law;

- (e) the progress or otherwise of the implementation of the Indigent and Free Basic Services Subsidy Support Programme is reported on at such intervals as may be required by the Council.

11 Budgeting for indigent support

(1) The Council must annually budget for the total indigent subsidy to be granted to indigent debtors in terms of this By-law.

(2) The amount referred to in subsection (1) must, upon approval of the budget of the Council, be reflected against a separate vote in the name of indigent subsidy.

(3) The total value of indigent subsidies for all subsidised services must be reflected against such indigent subsidy vote on a monthly basis.

12 Review and amendment of indigent support policy

(1) The Council has the discretionary power to amend any clause, stipulation or tariff embodied in its Indigent and Free Basic Services Subsidy Policy in the interests of all the parties concerned at the annual budgetary review of Council policies in conjunction with the consideration of the annual budget of the Council.

(2) Indigent and Free Basic Services Subsidy Policy adopted in terms of this By-law shall be regarded as a budget-related policy and be reviewed on an annual basis by the Council during the annual budget review.

(3) Any amendment to the Indigent and Free Basic Services Subsidy Policy shall be considered and adopted in conjunction with the adoption of the annual budget of the Council.

13 Offences

(1) Any indigent who-

- (a) obstructs or hinders the Municipality in the exercise of its powers or performance of functions or duties under this By-law;
- (b) uses or interferes with Municipality equipment or consumption of services supplied;
- (c) tampers or breaks any seal on any meter installed, or with the water restrictor system installed or on any equipment belonging to the Municipality, or for any reason causes interference with the service provision and the service used;
- (d) furnishes misleading information knowing it to be false or misleading.
- (e) contravenes or fails to comply with a provision of this By-law,

shall be guilty of an offence and be liable upon conviction to a fine or to imprisonment or both such a fine and imprisonment

(2) In addition to the penalty referred to in section (1), an indigent may be charged for usage, as estimated by the Municipality based on average usage during the previous six months or as may be determined by resolution of the Council.

14 Notices and documents

(1) A notice or document issued by the Municipality in terms of this By-law shall be deemed to be duly issued if signed by an employee duly authorised by the Municipality.

(2) If a notice is to be served on a person in terms of this By-law, such service shall be effected by -

- (a) delivering the notice to him or her personally
- (b) by delivering the notice at his or her residence or to a person apparently not less than sixteen years of age and apparently residing or employed there;
- (c) if he or she has nominated an address for legal purposes, by delivering the notice to such an address;
- (d) by registered or certified post addressed to his or her last known address;

(3) If service cannot be effected in terms of subsection (2) by affixing it to the principal door of entry to the premises, or displaying it on a conspicuous place on the land

15 Authentication of documents

(1) Every order, notice or other document requiring authentication by the Municipality shall be sufficiently authenticated, if signed by the municipal manager or by a duly authorised employee of the Municipality;

(2) Delivery of a copy of the document shall be deemed to be delivery of the original.

16 Responsibility of compliance with this By-law

(1) The indigent debtor is responsible for ensuring compliance with this By-law in respect of all or any matters relating to the indigent support granted.

(2) The indigent debtor is responsible for compliance with this By-law and policy in respect of matters relating to the use of any water, electricity, sanitation installation and other services provided by the Municipality.

17 Availability of By-law

(1) A copy of this By-law shall be included in the municipalities Municipal Code as required in terms of section 15 of the Municipal Systems Act, No 32 of 2000 and shall be displayed on the official website of the Municipality

(2) A copy of this By-law shall be available for inspection at the municipal offices at all reasonable times.

(3) A copy of this By-law may be obtained against payment of a fee from the Municipality.

18 Appeals against decisions of the Municipality

(1) If an application for free basic services and indigent support is declined by the Municipality, the applicant may appeal to the Municipality against such decision.

(2) The appeal must be in writing and lodged with the municipal manager within 14 days after receipt of the decision to decline the application.

(3) The appeal must set out the reason for the appeal and any other documentary proof in support of the appeal.

(4) The appeal authority shall consist of three officials from the municipal department responsible for financial services designated by the municipal manager.

(5) The appeal authority must decide the appeal within 21 days after the lodgement of the appeal.

(6) The decision of the appeal authority is final and the appellant shall be notified of the decision in writing.

19 Conflict of by-laws

If there is any conflict between this By-law and any other by-law of the Municipality, this By-law shall prevail.

20 Repeal of by-laws

The Indigent Support By-Law published in the *Provincial Gazette* by Notice Number 206 of 2005 is hereby repealed

21 Short title and commencement

This By-law shall be known as the Senqu Municipality: Indigent Support By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.