

**JB MARKS LOCAL
MUNICIPALITY**



INDIGENT POLICY 2021/2022

PREAMBLE

- (1) **WHEREAS** the provision of free basic municipal services by a Municipality is part of the broader social agenda and anti-poverty strategy of the South African Government, the JB Marks Local Municipality (hereafter “the Municipality”), must give priority to the basic needs of the community, promote the social and economic development of the community and ensure that all residents and communities in the Municipality have access to at least the minimum level of basic municipal services in terms of section 152(1)(b) and 153(b) of the Constitution of the Republic of South Africa, 108 of 1996 (hereafter the Constitution);
- (2) **AND WHEREAS** laity, as the third sphere of government, therefore has a constitutional duty to assist the National and Provincial spheres of government in the realisation of the above mentioned rights;
- (3) **AND WHEREAS** the key purpose of this Indigent Policy is to ensure that households with with no or a lower income level are not denied basic municipal service, and to ensure the sustainability of the rendering of these municipal services to indigent consumers, within the financial and capacity restraints of the Municipality;
- (4) **AND WHEREAS** the Indigent Policy must be maintained for so long as the Municipality is able to, without compromising the financial stability and functioning of the Municipality;
- (5) **AND WHEREAS** it is of importance to set appropriate and sustainable threshold levels and subsidies of tariffs for indigent consumers;
- (6) **AND WHEREAS** the Municipality requires qualifying indigent consumers to register as such and to agree to the terms, conditions and restrictions of the Municipality by completing the Municipality’s application documentation;

NOW THEREFORE the Council adopts the following Indigent policy

RESPONSIBLE AUTHORITY

- (1) The responsibility authority for the adoption and implementation of this policy is the Municipality, and where applicable the Council of the Municipality.
- (2) In terms of the provisions of section 62 of the MFMA, the Municipal Manager of the Municipality, is responsible for managing the financial administration of the Municipality and must for this purpose, take all reasonable steps to ensure *inter alia* that the Municipality has and implements:
 - (a) Policy referred to in section 74 of the Systems Act Section 74(2)(c) of the Systems Act provides that the Tariff Policy must reflect *inter alia* that indigent household must have access to at least basic municipal services through:

- (i) tariffs that cover only operating and maintenance cost;
 - (ii) special tariffs or lifeline tariffs for low levels of use or consumption of services or for basic levels of service; or
 - (iii) any other direct or indirect method of subsidisation of tariffs for indigent households.
- (b) A credit Control and Debt Collection Policy referred to in section 96(b) of the Systems Act. Section 97(1)(c) of the Systems Act provides that a Credit Control and Debt Collection Policy must provide for the provision for debtors who are Registered Indigents that is consistent with its rates and tariff policies and any national policy on indigents.
- (3) Financial Officer will ensure that this policy is integrated with the Municipality's financial planning and processes, as well as the taking into account of the effect of this policy in the annual budget of the Municipality.

POLICY PRINCIPLES

The Municipality undertakes to promote the following principles regarding this policy:

- (a) the Municipality will ensure that the funding portion designated for free basic municipal services, allocated as part of the equitable share received annually from National Government and other budgetary provisions, is utilised for the benefit of Registered Indigents only and not to subsidise rates and service charges of those who can afford to pay same;
- (b) the Municipality will link this policy with the Municipality's Integrated Development Plan (IDP), Local Economic Development (LED) initiatives and poverty alleviation programmes;
- (c) the Municipality will promote an integrated approach to free basic municipal service delivery;
- (d) The Municipality will engage the local community in the development and implementation of this policy;
- (e) the Municipality will ensure that any relief and/or support provided in terms of this policy is constitutional, practical, fair, equitable, justifiable and does not amount to unfair discrimination;
- (f) the Municipality will provide indigent support within the available limits of their financial capacity in order not to jeopardise the financial stability of the Municipality or the sustainability of the provision of municipal services to all the customers of the Municipality and the community as a whole;
- (g) Municipality will review and amend the qualification criteria for indigent support on a regular basis and when necessary;
- (h) the payment of basic municipal services should be affordable to the Registered Indigent; and
- (i) the community communications programme, embodying the principles of transparency and fairness, must be implemented in respect of the indigent support programme.

LEGISLATIVE FRAMEWORK

His policy is designed and must be implemented within the framework of *inter alia* the following legislation:

- (a) The Constitution;
- (b) The Systems Act;
- (c) The MFMA;
- (d) The Promotion of Administrative Justice Act, Act 3 of 2000;
- (e) The Promotion of Access to Information Act, Act of 2000;
- (f) The MPRA;

- (g) The Water Service Act, Act 108 of 1997 and Regulations thereto;
- (h) Act, Act 59 of 2008 and the Regulations thereto.

POLICY STRATEGIES AND GUIDELINES

There are several strategies and guidelines relating to free basic services which compliment this policy and which must be recognised and taken into account in the implementation of this policy, including:

- (a) Policy on Free Basic Services, National Policy on Free Basic Water, National Policy on Free Basic Electricity, National Policy for the provision of Basic Refuse Removal Services to indigent Households.

- (b) Water Strategy and Guidelines prepared by the DWAF.

- (c) Free Basic Sanitation Strategy and Guidelines also prepared by DWAF.

- (d) tariffs for municipal solid waste services prepared by the Department of Environmental Affairs and Tourism.

- (e) Electricity Basic Support Tariff (Free Basic Electricity) Policy, 1 April 2003, prepared by the Department of Minerals and Energy.

- (f) National Policy on Free Basic Alternative Energy, 2007.

- (g) the Property Rates Act, which provides for zero-rating of low value properties up to a value of R15 000, thereby ensuring that households on these properties gain access to a package of public services for free.

1. DEFINITIONS

In this policy any word or expression to which a meaning has been assigned in the Local Government: Municipal Systems Act, has that meaning, unless the context, indicates otherwise-

- 1.1 **Arrangement** - means a written agreement entered into between the Municipality and the debtor where specific repayment parameters are agreed to. Such arrangement does not constitute a credit facility envisaged in terms of section 8(3) of the National Credit Act but is deemed to be Incidental Credit as envisaged in terms of section 4(6)(b) read with section 5(2) and (3) of the National Credit Act.
- 1.2 **Arrears** - means those rates and service charges that have not been paid by the due date and for which no arrangement has been made.
- 1.3 **Account** - means an account rendered specifying charges for services provided by the municipality, or any authorized and contracted service provider, and which account may or may not include assessment rates levies;
- 1.4 **Authorized Representative** - means a person or instance legally appointed by the Municipality to act or to fulfil a duty on its behalf.
- 1.5 **Billing date** - means the date upon which the monthly statement is generated and debited to the customer's account.
- 1.6 **Business premises** - means premises utilized for purposes other than residential and excludes the following:
 - (a) hospitals, clinics and institutions for mentally ill persons, which are not operated for gain;
 - (b) museums, art galleries, libraries and botanical gardens which are registered in the names of private persons and are open to the public, whether admission fees are charged or not;
 - (c) sports grounds used for the purpose of amateur sports and any social activities, which are connected with such sports;
 - (d) any property registered in the name of an institution or organization, which, in the opinion of the Municipality, performs charitable work;
 - (e) any property utilized for bona fide church or religious purposes.
- 1.7 **Chief Financial Officer** - means the person appointed as the Chief Financial Officer of the Municipality, or his or her nominee.
- 1.8 **Credit Control** - means all the functions relating to the collection of monies owed by ratepayers and the users of municipal services.
- 1.9 **Council** - means the Municipal Council of JB Marks Local Municipality or any duly authorized Committee, political office bearer.
- 1.10 **Customer**- means any occupier of any premises to which the Municipality has agreed to supply or is actually supplying services, or if there is no occupier, then the owner of the premises and includes any debtor of the Municipality.
- 1.11 **day/days** - means calendar days, inclusive of Saturdays, Sundays and public holidays.

- 1.12 Debt Collection Agent – means a debt collector or attorney appointed by the municipality to collect rates and service charges.
- 1.13 **Debt Collection** - means the activity to collect monies owed by a debtor.
- 1.14 **Debt Impairment Allowance** - means the irrecoverable amount calculated on the billing debtor balance as at 30 June of a financial year by which the debtor balance must be reduced in the Annual Financial Statements.
- 1.15. **Defaulter** - means any person owing the Municipality arrear monies in respect of taxes and/or service charges in relation to –
- (a) rates due in respect of any immovable property, means the thirtieth (30) day of September of the financial year for which such rate is made, or any other date determined by the Council by notice in the Provincial Gazette, and
 - (b) in respect of service charges due in respect of any immovable property, means the date for payment indicated on the account.
 - (c) should such day fall on a Saturday, Sunday or public holiday the due date shall be the next working day. "Immovable property" includes –
 - (i) an undivided share in immovable property, and
 - (ii) any right in immovable property.
- 1.16 **Implementing Authority** - means the City Manager or his or her nominee, acting in terms of section 100 of the Local Government: Municipal Systems Act No. 32 of 2000.
- 1.17 **Indigent debtor** means:
- (a) the head of an indigent household:
 - (i) who applied for and has been declared indigent in terms of the Municipality's Indigent Support Policy for the provision of services from the municipality; and
 - (ii) who makes application for indigent support in terms of the Municipality's Indigent Support Policy on behalf of all members of his or her household?
 - (b) orphaned minor children duly represented by their legal and/or defacto guardians.
- 1.18 **Indigent Support Programme** - means a structured programme for the provision of indigent support subsidies to qualifying indigent debtors in terms of the Municipality's Indigent Support Policy. "Indigent Support Policy" means the Indigent Support Policy adopted by the Council of the Municipality.
- 1.19 **Interest** - means a charge levied on all arrear monies with the same legal priority as service fees and calculated at a rate determined by the Municipality, from time to time;
- 1.20 **Month** – means a calendar month.
- 1.21 **Monthly average consumption** - means the monthly average consumption in respect of that property calculated on the basis of consumption over the preceding of succeeding twelve (12) months.

- 1.22 **Municipal pay point** - means any municipal office in the area of jurisdiction of the municipality designated by the Municipality for such purposes,
- 1.23 **Municipal services** - means services provided either by the municipality, or by an external agent on behalf of the Municipality in terms of a service delivery agreement.
- 1.24 **Municipality** - means the JB Marks Local Municipality.
- 1.25 **Municipal Manager** - means the Municipal Manager of the JB Marks Local Municipality or his or her nominee acting in terms of power delegated to him or her by the said City Manager with the concurrence of the Council.
- 1.26 **Occupier** - means the person who controls and resides on or controls and otherwise uses immovable property, provided that –
- (a) the husband or wife or life companion of the owner of immovable property, which is at any time used, by such owner and husband or wife or life companion as a dwelling, shall be deemed to be the occupier thereof;
 - (b) where a husband and wife or life companion both reside on immovable property and one of them is an occupier thereof; the other shall also be deemed to be an occupier thereof.
- 1.27 **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 thirty years, whether the lease is registered or not, shall be deemed to be the owner thereof;
 - (ii) the occupier of immovable property occupied under a service servitude or right analogous thereto, shall be deemed to be the owner thereof;
 - (b) if the owner is dead or insolvent or has assigned his or her estate for the benefit of his creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, 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 the owner thereof;
 - (c) if the owner is absent from the Republic or if his address is unknown to the Municipality, any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property, or
 - (i) if the Municipality is unable to determine who such person is, the person who is entitled to the beneficial use of such property.
- 1.28 **Premises** - includes any piece of land, the external surface boundaries of which are delineated on: (a) A general plan or diagram registered in terms of the Land Survey Act, (9 of 1927) or in terms of the Deed Registry Act, 47 of 1937; or (b) A sectional plan registered in terms of the Sectional Titles Act, 95 of 1986, which is situated within the area of jurisdiction of the Council. "Prescribed" means prescribed by this policy and where applicable by the Council or the City Manager.

- 1.29 **Prescribed debt** - means debt that becomes extinguished by prescription in terms of the Prescription Act 68 of 1969. "Person" means a natural and juristic person, including any department of state, statutory bodies or foreign embassies. "Rates" means any tax, duty or levy imposed on property by the municipality.
- 1.30 **Reconnection fee** - means the penalty fee imposed on a defaulting debtor appearing on the debt collection action list, and is due and payable irrespective if the services have been suspended or not.
- 1.31 **Registered owner** - means that person, natural or juristic, in whose name the property is registered in terms of the Deeds Registry Act, no. 47 of 1937. "Responsible person" means any person other than the registered owner of an immovable property who is legally responsible for the payment of municipal service charges.
- 1.32 **Service Agreement** - means the application form that is completed by the owner of the property for the provision of Municipal services.
- 1.33 **Service charges** - means the fees levied by the Municipality in terms of its tariff policy for any municipal services rendered in respect of an immovable property and include any penalties, interest or surcharges levied or imposed in terms of this policy.
- 1.34 **Service delivery agreement** - means an agreement between the Municipality and an institution or persons mentioned in section 76(b) of the Local Government: Municipal Systems Act 32 of 2000.
- 1.35 **Sundry debtor accounts** - means accounts raised for miscellaneous charges for services provided by the Municipality or charges that was raised against a person as a result of an action by a person and which was raised in terms of Council's policies, by- laws and decisions.
- 1.36 **Supervisory Authority** - means the Executive Mayor of the Municipality or his or her nominee, acting in terms of Section 99 of the Municipal Systems Act 32 of 2000.
- 1.37 **Tariff** - means any rate, tax, duty and levy or fee, which may be imposed by the municipality for services provided either by itself or in terms of a service delivery agreement.
- 1.38 **Tariff Policy** - means a Tariff Policy adopted by the Council in terms of Section 74 of the Local Government: Municipal Systems Act 32 of 2000.
- 1.39 **User** - means the owner or occupier of a property in respect of which municipal services are being rendered.

21. INDIGENTS RELIEF/SUPPORT

Indigents should be identified as old aged pensioners, the unemployed and the households whose total gross monthly income do not exceed the total of two (2) State old aged pensions. The amount is annually determined by the National Treasury in conjunction with the Department of Social Services it will be the responsibility of the Implementing Authority to receive, evaluate and approve the registration of indigents.

The applicant for indigent status as well as any other member of the household may not own any other fixed property other than the one in which they reside in. This also includes any fixed deposits and investments that are registered in the name of the applicant.

(b) **Poverty**

Poverty is defined with reference to a poverty line, i.e. if a household earns a gross income lower than a set amount, that household and its members are deemed to be living in poverty. The poverty line varies according to the size of the household and its age composition.

This will entail the provision of -

- (a) 6 kℓ water free of charge per month;
- (b) Interest free arrangements;
- (c) The granting of indigent status to those who qualify for indigent grants; (d)
The free installation of a prepaid meter to approved indigents;
- (e) 80 kWh per month free electricity (or determined by Government from time to time);
- (f) Grant on refuse, sewerages and basic water as determine by Council
- (g) Rebate on property rates as determine in Property Rates policy and tariffs

22. SOCIAL DEVELOPMENT OBJECTIVES

In relation to Section B of the White Paper on Local Government and the Integrated Development Plan, the objectives are to -

- (i) meet the basic needs of the poor;
- (ii) alleviate poverty in conjunction with other social development programmes; (iii) enhance job-creation;
- (iv) provide support services in terms of facilitating small business; and
- (v) empower the marginalized and disadvantaged groups like pensioners, single parents, people with disabilities, and the unemployed.

23. CRITERIA IN ORDER TO QUALIFY FOR AN INDIGENT GRANT

An indigent grant, which will be provided to qualifying persons for indigent status, is available only to the following households:

- (i) Households earning a joint gross income, which is less than the value of two (2) State old age pensions (old age pensions - proof of pay- slips/pension cards).
- (ii) Only permanent residents of JB Marks Local Municipality with a valid South African identity document.
- (iii) The completion of the Governmental Grant Form as issued by the National Department of Provincial Government (Attached).

24. **PROCEDURE (HOW TO ASSIST)**

- (i) Identification in terms of the relevant application form.
- (ii) Review and assessment by the Screening and Monitoring Committee:
 - (a) Interviews based on the questionnaire adopted from GALA (Annexure A). (b) Selection based on the criteria for approval.

25. **IMPLEMENTING AUTHORITY**

The Indigent Officials with Authority consider and approve applications.
The Monitoring and Screening Committee can for time to time do spot checks on the approve indigents

The Monitoring and Screening Committee should be constituted by the following persons, namely:

- (a) The Accounting Officer - Chairperson
- (b) The CFO – Finance
- (c) Two (2) officials from the Directorate Finance.

All approved indigent households must re-apply every twelve (12) months for indigent status.

26. **SUBSIDISATION OF INDIGENTS**

The Indigent Grant will be implemented in terms of the conditions as listed below.

That classified indigent consumers be held responsible for any consumption or liability to the JB Marks Local Municipality in excess of the subsidised amount.

In the event the approved indigent damages or tampers with his/her prepaid meter then normal credit control procedure will be applicable.

27. **OTHER CONDITIONS**

Upon the approval by the Accountant Revenue to register a consumer as an Indigent, a prepaid meter must be installed as sib as possible prior to his/her registration on the system. The cost of the installation and the service connection including the prepaid meter will be borne by the JB Marks Local Municipality.

The indigence programme constitutes part of the Credit Control Policy/By-law.

In the event of non-payment, services will be discontinued so as to encourage the indigents to come forward.

Persons who abuse the system must be punished and a penalty of at least R1 000 may be imposed if incorrect information is furnished by the applicant to the relevant Ward Councillor or any appointed Political Office-bearer of JB Marks Local Municipality.

All approved indigent households must reapply after twelve (12) months for indigent status.

In the time period that is taken to grant its approval to an application, that applicant/consumer will continue to be listed on the DISCONNECTION LIST during the said period.

All approved applications for IGG status that are received by the Revenue Division on/or before the 15th of each month, will receive the grant in the same month.

28. **DEBT COLLECTION OF ARREAR ACCOUNTS**

- 28.1 Debt collection is the execution of functions that are necessary to collect unpaid income of the municipality, that are owed by its consumers who are declared as debtors in terms of accounting science.
- 28.2 Accounts mean the municipal account for services rendered, housing and for assessment rates levied by the municipality.
- 28.3 Due date means the date indicated on an account statement by which time payment of the amount on the statement is required.
- 28.4 Indigent means a debtor whose whole household has been assessed and approved in terms of the Indulgency Policy and who is registered as being indigent.

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