



LOCAL GOVERNMENT NOTICE

CREDIT CONTROL AND DEBT COLLECTION BY-LAW

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act 108 of 1996], the Credit Control By-law.

Purpose of By-law

The purpose of the by-law is to give effect to the municipality's credit control and debt collection policy and the implementation and enforcement thereof.

CHAPTER 1

DEFINITIONS AND ADOPTION OF POLICY

1. Definitions - In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates -

'arrangement' means an agreement entered into between the municipality and a debtor in terms of which payment terms for the settlement of an outstanding debt are agreed upon and expressly stipulated;

'billing date' means the date upon which a monthly statement is generated and debited to a customer's account;

'business premises' means premises utilised 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 connected with such sports ;
- (d) any property registered in the name of an institution or organisation which, in the reasonable opinion of the municipality, performs charitable work ;
- (e) any property utilised for bona fide church or religious purposes;

'chief financial officer' means the official accountable and responsible to the municipal manager for the implementation, administration and enforcement of the municipality's credit control and debt collection policy;

'credit control' means all the functions relating to the collection of monies owed by ratepayers and the consumers of municipal services;

'customer' means the 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;

'day' means a calendar day, inclusive of Saturdays, Sundays and public holidays;

'defaulter' means any person who owes the municipality arrear monies in respect of rates or service charges;

'due date', with regard to -

- (a) rates due in respect of any immovable property, means the first day of July of the financial year for which such rate is applicable; and

- (b) service charges due in respect of any immovable property, means the seventh day of the month succeeding the month during which municipal services were supplied,

provided that a date falling on a Saturday, Sunday or public holiday shall result in the due date being determined as the next working day;

'immovable property' includes –

- (a) an undivided share in immovable property; and
- (b) any right in immovable property;

'indigent debtor' means the head of an indigent household -

- (a) who applies to the municipality for the provision of services;
- (b) who makes application for indigent support in terms of this by-law; and
- (c) who shall be regarded as the representative of all members of his or her household;

'indigent support policy' means the indigent support policy approved and adopted by the municipal council of the municipality;

'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;

'month' means a calendar month;

'monthly average consumption' means the monthly consumption in respect of any property calculated on the basis of average consumption over the preceding six months;

'municipal account' means an account recording the transactions associated with the rates and service charges applicable to a customer;

'municipal pay point' means any municipal office in the area of jurisdiction of the municipality or any such other place as the chief financial officer may from time to time designate for the payment of municipal accounts;

'municipal services' means services provided either by the municipality, or by an external agent in terms of a service delivery agreement, and shall include the provision of water, electricity, sewage, refuse and fire protection services;

'municipality' means the Municipality of Ngqushwa, established in terms of section 12 of the Local Government : Municipal Structures Act, 1998 [Act No. 117 of 1998] and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, councillor, agent or employee;

'occupier' means the person who controls and resides on, or controls and otherwise uses, immovable property, provided that -

- (a) 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 ;
- (b) where both spouses reside on immovable property and one of them is an occupier thereof, the other shall also be deemed an occupier;

'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
- (d) if the municipality is unable to determine who such person is, then the person who is entitled to the beneficial use of such property;

'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, 1997 [Act No. 8 of 1997] or in terms of the Deeds Registries Act, 1937 [Act No. 47 of 1937];

(b) a sectional plan registered in terms of the Sectional Titles Act, 1986 [Act No. 95 of 1986], and

situated within the jurisdiction of the municipality;

'person' means a natural or juristic person, including any department of state, statutory bodies or foreign embassies;

'prescribed' means prescribed in terms of this by-law;

'rates' means any tax, duty or levy imposed on property by the municipality;

'ratepayer', in relation to the municipality, means a person who is liable to the municipality for the payment of rates on property in the municipality;

'registered owner' means the person, natural or juristic, in whose name a property is registered in terms of the Deeds Registries Act, 1937;

'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 includes any penalties, interest or surcharges levied or imposed in terms of this by-law;

'service delivery agreement' means an agreement between the municipality and an institution or persons, contemplated in terms of section 76(b) of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000];

'tariff' means a schedule of taxes, duties, levies or fees which may be imposed by the municipality, for municipal services provided, either by itself, or another institution or person, in terms of a service delivery agreement;

'tariff policy' means the tariff policy approved and adopted by the municipal council of the municipality;

2 Credit control and debt collection policy

The municipality shall adopt, implement and enforce a policy on credit control and debt collection, to be termed the credit control and debt collection policy and which shall provide for -

- (a) credit control procedures and mechanisms;
- (b) debt collection procedures and mechanisms;
- (c) provision for indigent debtors, which provision is consistent with its rates and tariff policies and any national policy on indigents;
- (d) realistic targets, consistent with –
 - (i) generally recognised accounting practises and collection ratios; and
 - (ii) the estimates of income set in the budget, less an acceptable provision for bad debts;
- (e).....interest on arrears
- (e) extensions of time for payment of accounts,
- (g).....termination of services or the restriction of the provision of services when payments are in arrears;
- (h) matters relating to unauthorised consumption of services, theft and damages
- (i).....provision of new services;

- (j) entering into an agreement between a debtor's employer and the municipality for the deduction of amounts from a debtor's salary or wage;
- (k) sales in execution of any property; and
- (l) any other matter that may be prescribed by regulation in terms of section 104 of the Local Government: Municipal Systems Act, 2000.

CHAPTER 2

PROVISION OF MUNICIPAL SERVICES

3 Application for provision of municipal services

- (1) All applications for the provision of municipal services in respect of any immovable property shall be made by the registered owner of the aforesaid property in writing and in the prescribed form.
- (2) The owner of a property in respect of which application for the provision of municipal services has been made shall enter into a written agreement with the municipality.
- (3) The municipality may, upon the written request of the owner of a property, enter into a written agreement with the occupier of the immovable property in respect of which application for the provision of municipal services has been made.
- (4) Meters for the recording of the quantity of water or electricity supplied may be installed by the municipality, at its own expense, at such point of the plumbing or electricity system as it

may determine and such meters together with all the fittings connected therewith shall remain the property of the municipality and shall at all times be under its sole control.

- (5) The owner of a property in respect of which application has been made for the provision of municipal services shall, at least 5 (five) days prior to taking occupation of the aforesaid property, notify the chief financial officer thereof in writing and in the prescribed form.
- (6) The chief financial officer shall cause a reading of the meters installed at such premises to be taken on the day preceding the date of occupation of such premises.
- (7) The chief financial officer may, from time to time, require all owners or occupiers of immovable properties in respect of which municipal services are being supplied, to enter into written agreements with the municipality.
- (8) An applicant for the provision of municipal services in respect of immovable property shall be required by the chief financial officer to pay a deposit equivalent to 1 ½ (one and a half) times the monthly average consumption of that property before the provision of any municipal services.
- (9) The chief financial officer may, in his or her sole discretion, upon written notice to the owner of an immovable property and after the conclusion of a written agreement, either increase or decrease the deposit payable.
- (10) If the chief financial officer intends increasing the minimum deposit payable by the owner, then he or she shall, in the aforesaid notice, state full reasons for the increase and allow the owner an opportunity to make written representations in this

regard.

- (11) An aggrieved owner may, within a period of 10 (ten) days of having been notified of an increase in the minimum deposit payable, lodge an appeal against the decision of the chief financial officer to the municipal manager.
- (12) The municipal manager shall, within a period of 5 (five) days after receipt of the appeal notice, pronounce upon the matter and no further appeal shall lie against the decision of the municipal manager.
- (13) The chief financial officer may, in his or her sole discretion and in respect of premises utilised for business purposes, accept a guarantee in lieu of a deposit.
- (14) Owners of business premises shall be required to pay an amount equivalent to 250% (two hundred and fifty percent) of the average monthly consumption, provided that the aforesaid amount shall be not less than R500.00.
- (15) An owner of business premises, in respect of which a deposit in excess of R100 000.00 is payable, has the option to -
 - (a) pay 250% (two hundred and fifty percent) of the monthly average consumption charges for municipal services; or
 - (b) the equivalent of 1 ½ (one and a half) months' estimated monthly average consumption charges in cash and the balance in the form of an irrevocable bank guarantee acceptable to the chief financial officer, provided that the owner shall agree in writing to pay the monthly account not later than 14 (fourteen) days after the billing date.

4 Power to limit or discontinue supply of service

- (1) Subject to section 16, the municipality may limit, discontinue or disconnect the supply of electricity, water or any other service rendered to any premises whenever a customer, in respect of a particular service;
 - (a) fails to make a full payment on the due date, or fails to make an acceptable arrangement for the repayment of any amount for such particular service;
 - (b) fails to comply with a condition of supply imposed
By _____ the _____ municipality;
 - (c) obstructs the efficient supply of water, electricity or any other municipal service to another customer;
 - (d) supplies such municipal service to a any person who is not entitled thereto or permits such a service to continue;
 - (e) tampers with any municipal supply meter or bypasses any metering equipment in order to obtain an un-metered service;
 - (f) causes a situation which, in the reasonable opinion of the municipality, is dangerous or a contravention of relevant legislation;
 - (g) is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 [Act No. 24 of 1936] or any other applicable law; or

- (h) if an administration order is granted in terms of section 74 of the Magistrates Court Act, 1944 [Act No. 32 of 1944] in respect of such a user.
- (2) The right of the municipality to restrict water to any premises or consumer shall be subject to the provisions of section 4 of the Water Services Act, 1997 [Act No. 108 of 1997].
- (3) The right to restrict, disconnect or terminate a service shall be in respect of any service rendered by the municipality and shall prevail notwithstanding the fact that payment has been made in respect of any specific service and notwithstanding the fact that the person who entered into an agreement for the supply of services with the municipality and the owner are different entities or persons, as the case may be.

CHAPTER 3 INDIGENT DEBTORS

5 Indigent support policy

- (1) The municipality shall adopt, implement and enforce an indigent support policy which shall embody an indigent support programme providing procedures and guidelines for the subsidisation of services charges to indigent households in its jurisdiction.
- (2) The object of the indigent support policy will be to ensure –
 - (a) the provision of municipal 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 service charges to indigent households.

6 Qualification criteria

(3) Qualification criteria for indigent support and the municipal services qualifying for such support shall be determined by resolution of the municipality from time to time, provided that, until the municipality determines otherwise, registered residential consumers shall qualify for indigent support, subject to the following conditions -

- (a) the combined or joint gross income of all occupants or dependants over the age of 18 (eighteen) years in a single household which receives services from the municipality does not exceed R1100 per month;
- (b) the municipality must be satisfied that the single household referred to in sub-section (a) cannot, due to its indigent status, afford to pay for the services provided to it by the municipality;
- (c) the single household referred to in sub-section (a) must be registered on the municipal data base of households receiving indigent support from the municipality;
- (d) any occupant or resident of the single household referred to in sub-section (a) does not own any property in addition to the property in respect of which indigent support is provided in terms of the municipality's indigent support programme;
- (e) any occupant or dependent in the single household referred to in sub-section (a) does not receive any

significant monetary benefit or regular monetary payment from any source whatsoever.

(2) The extent of the monthly indigent support granted by the municipality to indigent households in its jurisdiction will be determined by resolution of the municipality, regard being had to its budgetary provisions, any applicable amount received by it from national government, the number of recipients and monthly average consumption, service charges and rates, as the case may be, in respect of the following services –

- (a) water;
- (b) electricity;
- (c) sewage;
- (d) refuse collection
- (e) housing rentals, if applicable; and
- (f) assessment rates on residential property.

(3) The municipality will, on a six-monthly basis, assess the level of support to indigent households in its jurisdiction, depending on the number of applicants qualifying for indigent support and its general financial position.

(4) The level of indigent support granted by the municipality shall not exceed the monthly billings to the accounts of indigent debtors.

7 Distribution of indigent support subsidies

Indigent support subsidies will be distributed by the municipality on the following basis -

- (a) relief will only be distributed to those indigent households who apply and qualify therefor;
- (b) the relief must be significant so as to relieve the recipient from the financial hardship of paying in full for services received from the municipality during a specific period;
- (c) all registered indigent households will be charged the service charge determined in accordance with any tariff approved and adopted by the municipality;
- (d) the recipient's monthly account will be credited with the amount of the indigent subsidy as determined by the municipality on a monthly basis; and
- (e) indigent relief will continue for a period determined by the municipality in terms of its indigent support policy

8 Application for indigent support

(1) An application for indigent support in terms of this by-law must be made on the prescribed form which must contain at least the following information, to be certified as correct by the applicant -

- (a) details of the applicant's municipal service account or accounts;
- (b) proof of income;

- (c) proof of residence;
 - (d) identity number of applicant; and
 - (e) number, names and identity numbers, where applicable, of dependants in the applicant's household.
- (2) At all times, an indigent debtor shall be responsible for any re-application necessary and for the submission of proof regarding a change in circumstances that affects the information provided in terms of sub-section (1).

9 Indigent support committee

The municipality may appoint a committee to be known as the indigent support committee for the purpose of administering its indigent support programme and such committee shall -

- (a) scrutinise, with the aid of ward councillors, all applications received for indigent support in terms of the municipality's indigent support programme;
- (b) recommend to the municipality that applications received in terms of sub-section (a) either be approved or rejected;
- (c) monitor, in conjunction with ward councillors, ward committees and other persons or organisations it may appoint, the implementation of the indigent support programme, subject to the policy directions of the municipality and in consultation with the municipal manager;
- (d) recommend to the municipality any amendments, additions or altered procedures in respect of the application of the municipality's indigent support programme;

- (e) undertake such inspections and issue such instructions as it may deem necessary in order to verify the information provided by any indigent debtor;
- (f) perform such other duties as the municipality may direct, provided that the municipality may delegate any of its responsibilities in terms of this by-law and its indigent support programme to the committee either wholly or in part and subject to such conditions as it may determine.

10 Balance owing by indigent debtor

Any balance owing by an indigent debtor, after deduction of the indigent support subsidy, shall be recovered from him or her in accordance with the credit control and debt collection policy of the municipality.

11 Withdrawal of indigent status

The indigent status of a debtor shall not be withdrawn, suspended or altered in terms of this by-law unless such debtor has been given an opportunity to be heard and to make representations on the contemplated action against him or her.

12 Responsibilities of municipal manager

It shall be the responsibility of the municipal manager to –

- (a) create, maintain and update a register of all debtors receiving indigent support subsidies from the municipality in terms of this by-law;

- (b) reflect the indigent status of debtors in the accounting records of the municipality;
- (c) advise and keep indigent debtors 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) report any incidents of misuse of the municipality's indigent support programme to the indigent support committee for attention in terms of this by-law;
- (e) report at regular intervals or as may be required by the indigent support committee on the progress or otherwise of the implementation of the council's indigent support programme.

13 Budgeting for indigent support

- (1) The municipality shall budget annually for the total indigent subsidy to be granted to indigent debtors in terms of this by-law.
- (2) The amount contemplated in terms of sub-section (1) shall be credited to indigent debtors by application of generally accepted accounting principles.

CHAPTER 4 RATES AND SERVICE CHARGES

14 Billing

- (1) The municipality shall provide every customer, with a consolidated account in respect of all rates and service charges owed to the municipality.
 - (2) Accounts will be rendered on a monthly basis in cycles of 30 (thirty) days.
 - (3) Any account rendered by the municipality shall be payable within a period of 30 (thirty) days from the billing date appearing on the account.
 - (4) Any amount which remains due and payable after the aforesaid period of 30 (thirty) days shall attract interest in accordance with the provisions of section 28.
 - (5) A payment shall be deemed to be late unless received on or before the due date at a municipal pay point by 14h00.
- (5) Electronic payments or payments made via agents must
- (a) be received in the municipal bank account by 16h00 on the due date; and
 - (b) clearly indicate the details of the customer on behalf of whom the payment is made.

15 Rates

- (1) The municipality shall adopt, implement and enforce a policy on the levying of rates on rateable property within the jurisdiction of the municipality.
- (2) For the purposes of this by-law the following provisions are applicable to ratepayers –

- (a) annual rates levied on any property as at the first day of July of any year become due and payable by _____ no _____ later than the last day of September in the succeeding year, provided that –
 - (i) a ratepayer may enter into an arrangement with the municipality to effect payment of rates byway of monthly instalments; and
 - (ii)... any such arrangement shall provide that the final instalment must be paid by no later than the last day of June in the said succeeding year;
- (b) rates which are paid on a monthly basis, by arrangement, shall be due by the seventh day of each and every month;
- (c) the chief financial officer shall ensure that a written notice is issued to all ratepayers, detailing the available methods for the settlement of outstanding rates;
- (d) in the event of a ratepayer's failing to pay outstanding rates by the due date, the chief financial officer or any person duly authorised thereto shall issue a letter of demand by registered mail, requiring that the outstanding amount together with any interest which may have accrued be settled within 14 (fourteen) days from the date of the letter;
- (e) If the amount remains outstanding, despite a demand issued in terms of subsection (d), then the chief financial officer or any person authorised thereto shall cause the

institution of legal proceedings so as to recover the outstanding amount;

(f) any disbursement incurred by the municipality in connection with the foregoing procedures shall be debited to the defaulter's account;

(g) subject to sub-section (a) -

(i) the chief financial officer may allow ratepayers, who have been declared indigent in terms of the municipality's indigent support policy, to settle any arrear rates over a period not exceeding 12 (twelve) months, provided that the indigent debtor pays the current rates together with the arrears by the seventh day of each and every month; and

(ii) interest shall accrue on all monthly rates accounts in the event they are not paid by the seventh day of each and every month;

(h) with regard to a ratepayer who has made an arrangement to settle his or her rates account on a monthly basis –

(i) the ratepayer shall maintain payments regularly and in accordance with the arrangement; and

(ii) the ratepayer's failure to adhere to the arrangement or omission to pay monthly instalments for 2 (two) consecutive months shall have the result that -

- (aa) the arrangement shall be terminated with immediate effect; and
 - (bb) the outstanding balance shall immediately become due and payable;
 - (i) a ratepayer who has defaulted on a monthly payment arrangement shall not be allowed to enter into a further arrangement for a period determined by the chief financial officer or any person duly authorised thereto and which period shall not exceed 3 (three) years;
 - (j) any arrangement relating to the payment of rates on a monthly basis shall endure for a period of 1 (one) year and shall terminate on the last day of June of each year;
 - (k) a ratepayer who wishes to apply for a certificate in terms of section 118 of the Local Government : Municipal Systems Act, 2000 shall first ensure that the outstanding rates, services charges and other amounts owed in respect of the property in question for the 2 (two) years preceding the date of application have been fully paid.
- (3) Where a company, closed corporation or a body corporate in terms of the Sectional Titles Act, 1986 is responsible for the payment of any arrear amount to the municipality, the liability of such entity shall be extended to the directors or members thereof jointly and severally as the case may be.
- (4) To the extent that the provisions of this section conflict with any by-law adopted by the municipality in terms of section 6 of the Local Government : Municipal Property Rates Act, 2004 [Act No. 6 of 2004], the provisions of the rates by-law shall prevail.

16 Water, electricity and other municipal services

- (1) Accounts rendered by the municipality in respect of electricity, water and other municipal services shall be paid by the seventh day of each month.
- (2) The chief financial officer or any person duly authorised thereto shall, where an account has not been paid by the due date, issue a written demand by registered post, requiring the debtor to settle the arrears within a period of 14 (fourteen) days from the receipt of the aforesaid written demand.
- (3) If the debtor fails to pay the outstanding account within the period of 14 (fourteen) days, then -
 - (a) the municipality may proceed to implement the measures required to effect the limitation, discontinuation or disconnection of either
the electricity or water supply, as the case may be, and as contemplated in terms of subsection 9; and
 - (b) the chief financial or any person duly authorised thereto shall instruct attorneys to recover the outstanding balance, by way of legal action.
- (4) If any amount has not been paid by the due date for service charges in respect of any property, and provided that the municipality has complied with the requirements of subsection (2), then –
 - (a) Where an amount is owed in respect of electricity supplied, the municipality may limit, discontinue or disconnect the electricity supply to the property, in which event -

- (i) a disconnection shall be effected by disconnecting the pole fuse, and removing the circuit breaker and the bridge piece; or taking such reasonable and lawful steps as may be necessary to result in the disconnection of the supply; and
 - (ii) any disbursements and charges relating to the disconnection or reconnection of the electricity supply shall be debited to the debtor's account;
- (b) where an amount is owed in respect of water supplied, the municipality may limit, discontinue or disconnect the water supply to the property, in which event -
 - (i) a disconnection shall be effected by closing the water supply and removing the meter, plugging the pipe with a brass plug removing the stopcock top and fitting an anti-tamper device; or taking such reasonable and lawful steps as may be necessary to result in the disconnection of the supply; and
 - (ii) any disbursements and charges relating to the disconnection or reconnection of the water supply shall be debited to the debtor's account.
- (5) Where an owner or occupier of a property unlawfully reconnects or attempts to reconnect a supply of electricity or water that has been limited, discontinued or disconnected -
 - (a) the municipality shall disconnect the supply entirely by removing the service connection from the property; and
 - (b) all disbursements, penalties and reconnection

charges, together with any outstanding amounts in respect of rates or services charges, must be paid in full before a reconnection can be effected.

(6) Before disconnecting the water supply to a property, as contemplated in terms of subsection (4), the municipality must ensure that –

(a) a debtor is provided with -

(i) 14 (fourteen) days' notice of the municipality's intention to disconnect the water supply;

(ii) reasonable opportunity to make representations to the municipality as to why the disconnection should not be effected;

(b) any intended disconnection will not conflict with the debtor's right to free basic water services.

(7) The provisions of sub-section (6)(a) shall not apply where –

(a) other customers will be prejudiced;

(b) an emergency situation exists; or

(c) the debtor has interfered with a limited, discontinued or disconnected water supply.

(8) Upon good cause shown, and subject to the provisions of section 30, the chief financial officer or any person duly authorised thereto may enter into an arrangement with the

debtor for the payment of an outstanding account, in which event –

- (a) payment may be made by way of instalments, provided that these shall be effected in terms of debit orders; and
- (b) the electricity or water supply to the property in question shall be continued.

(9) In the case of an indigent debtor -

- (a) where the account of such indigent debtor is outstanding and his or her electricity or water supply has been disconnected, the chief financial officer may enter into an arrangement in terms of which the indigent debtor effects immediate payment of at least 5% (five percent) of the outstanding amount and pays the balance over a period of 24 (twenty four) months; and
- (b) where the indigent person utilises a credit electricity metering system –
 - (i) application may be made for a pre-payment electricity metering system, provided that the required conversion fee is paid; and
 - (ii) any arrears owed in respect of the supply of electricity shall be transferred to the pre-payment electricity account and recovered at a rate determined from time to time by the municipality.

(10) Any debtor who enters into a *bona fide* arrangement with the municipality for the settlement of arrears, and who fails to

honour the terms of such arrangement, shall not be allowed to enter into any further arrangements with the municipality.

- (11) The chief financial officer may, in respect of an owner or occupier of a property where the electricity or water connections have been disconnected at least twice during the preceding period of 12 (twelve) months, give notice in terms of the provisions of this by-law of his or her intention to review the amount of the deposit required from that owner or occupier.
- (12) Nothing contained in this section shall be construed so as to detract from the requirements of Section (4)(3) of the Water Services Act, 1997 and Section 11 of the Electricity Act, 1987, and any regulations promulgated in terms of the aforesaid legislation.

17 Recommendation of services

The chief financial officer shall authorise the reconnection of services or the re-instatement of service delivery, after satisfactory payment, or arrangement, has been made by the debtor.

18 Metering

- (1) The municipality shall take readings of all meters relating to consumption of municipal services, on a monthly basis, or at such other interval as may be determined.
- (2) The chief financial officer or any person duly authorised thereto may direct that if circumstances prevent the reading of a meter, then the customer be charged an amount equal to the average monthly consumption in respect of that property.

- (4) A customer shall ensure that duly authorised representatives of the municipality are able to gain access to metering equipment on the property in question at all reasonable times.

19 Payment facilities and methods

- (1) Payments on accounts rendered may be effected at any municipal pay point.
- (2) The chief financial officer may, at his or her discretion and from time to time, designate certain payment methods which will be acceptable to the municipality.

20 Enquiries and appeals

- (1) A customer may address any grievance or query regarding rates or service charges, to the chief financial officer in the prescribed manner.
- (2) A customer shall clearly state the basis for his or her dissatisfaction and the desired outcome.
- (3) The lodging of an enquiry in the prescribed form shall not relieve the customer of the responsibility of settling the account, provided that the chief financial officer may, upon receipt of written application, direct that interim payments be made, pending the finalisation of the enquiry.
- (4) The chief financial officer shall respond to such an enquiry in writing, within a period of 14 (fourteen) days from the date of the lodgement of the enquiry.

21 Tenders for business

- (1) The municipality may require any person reacting to a tender published by the municipality or intending to enter into a contract with the municipality for the provision of goods or services to produce a certificate issued by the chief financial officer, stating that the said person maintains regular payments on all his or her accounts.
- (2) Where a person fails to provide such certificate, the municipality may recover any outstanding amounts owed for rates or service charges, by way of deductions from all monies due and owing to such person and arising from a tender awarded to or contract concluded with the said person.
- (3) In the application of this section, the municipality shall interpret the provisions hereof so as to be consistent with the principles and contents of its procurement policy or supply chain management policy, as the case may be.

22 Tariff policy

- (1) The municipality shall adopt, implement and enforce a tariff policy with regard to the levying of taxes, duties, levies or fees for municipal services provided either by itself or another institution or person in terms of a service delivery agreement.
- (2) The tariff policy shall reflect at least the following principles -
 - (a) users must be treated equitably in the application of tariffs;
 - (b) the amount individual users pay for municipal services shall generally be in proportion to their use of that municipal service;

- (c) poor households must have access to at least basic services through -
 - (i) tariffs that cover only operating and maintenance costs;
 - (ii) special tariffs or life line 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 poor households;
- (d) tariffs must reflect the costs reasonably associated with rendering a municipal service, including capital, operating, maintenance, administration and replacement costs and interest charges;
- (e) tariffs must be set at levels that facilitate the financial sustainability of a municipal service, taking into account subsidisation from sources other than the municipal service concerned;
- (f) provision may be made in appropriate circumstances for a surcharge on the tariff for a municipal service;
- (g) provision may be made for the promotion of local economic development through special tariffs for categories of commercial and industrial users;
- (h) the economical, efficient and effective use of resources, the recycling of waste and other appropriate environmental objectives shall be encouraged; and

- (i) the extent of subsidisation of tariffs for poor households and other categories of users must be fully disclosed.

23 Special tariff for designated municipal services, amenities and properties

(1) The municipality may determine special tariffs for application to indigent residents, communities and organisations in respect of the following municipal services, amenities and properties, subject to the availability of funds and compliance with prescribed criteria which shall be determined by resolution of the municipality -

- (a) sports grounds and swimming pools;
- (b) fire protection;
- (c) transport;
- (d) museums;
- (e) markets;
- (f) agricultural properties;
- (g) hiring of halls; and
- (h) cemeteries and crematoria.

24 Promotion and encouragement of integrated development plan

Tariffs adopted by the municipality in terms of the tariff policy referred

to in section 22 shall encourage and promote the objects and programmes contained in the integrated development plan of the municipality.

25 Review of tariff policy

The tariff policy adopted by the municipality in terms of section 22 shall be reviewed by the Municipality by the last day in January of each year.

26 Service agreements

Where a municipal service is provided by an external agent, the municipality shall ensure that any agreement for the provision of such a municipal service shall contain a reference to the right of the municipality to control the setting and adjustment of tariffs to be charged by such external agent for the rendering of the municipal service in question in terms of the tariff policy.

27 Fixing of tariffs by resolution

(1) The municipality –

(a) shall, by special resolution, fix tariffs for municipal services -

(i) in respect of any amenity, facility, entertainment, exhibition, performance or municipal service established or provided by it where no such tariff has been fixed by law;

(ii) for the exercise and performance of any power, duty or function conferred or imposed on it by or under any law where no such tariff has been fixed by or under such law;

- (b) may -
 - (i) in fixing such tariff, differentiate between different classes of persons or property on such grounds as it may deem reasonable;
 - (ii) from time to time amend such tariff; and
 - (iii) recover any taxes, duties, levies or fees so fixed in terms of the tariff.

- (2) The municipality shall, after fixing or amending any tariff in terms of sub-section (1) for any municipal service -
 - (a) advertise the fixing or amendment of such tariff;
 - (b) in the advertisement contemplated in terms of sub-section (a), specify the date on or circumstances in which such fixing or amendment shall take effect.

- (3) If the municipality has fixed or amended any tariff in terms of sub-section (1) in any case not contemplated by sub-section (2) then the municipality shall, by publication in the press, give notice of the fixing or amendment of such tariff and of the date on or circumstances in which such fixing or amendment shall take effect and such fixing or amendment shall take effect on the date so fixed or in the circumstances so specified.

CHAPTER 6

OUTSTANDING ACCOUNTS

- (1) All outstanding accounts for rates or services charges that are not paid by the due date shall attract interest at a rate equivalent to the prevailing prime rate plus 1%.
- (2) All outstanding accounts in respect of sundry debtors that have not been settled within 30 (thirty) days of the billing date shall attract interest at a rate equivalent to the prevailing prime rate plus 1%.
- (3) No interest shall be payable on any outstanding accounts in respect of which an arrangement has been entered into by the municipality and a defaulter or sundry debtor for the payment by way of instalments, provided that the said arrangement is honoured.
- (4) For the purposes of this section, interest shall be calculated for each month in respect of which an account remains unpaid and a part of a month shall be deemed to be a complete month.

29 Extension of time for payment of outstanding accounts

- (1) Any person who, for any reason whatsoever, is unable to settle an account in respect of service charges by the due date may apply in writing and on the prescribed form to the chief financial officer for an extension of time to be granted for the payment of the said account, provided that there are no other outstanding accounts in respect of the property in question.
- (2) The chief financial officer or any person duly authorised thereto may entirely within his or her own discretion allow such an extension of time for any period not exceeding 1 (one) month.

- (3) No extension of time shall be allowed in respect of any outstanding rates.
- (4) If the owner or occupier of a property has failed to honour an arrangement concluded, as contemplated in terms of subsections (1) and (2), then the total amount due, together with any interest which may have accrued, shall become due and payable with immediate effect.
- (5) An application for an extension of time in respect of outstanding service charges must be lodged with the chief financial officer or any person duly authorised thereto at least 10 (ten) days before the said account becomes due and payable.

30 Arrangements to pay by way of installments

- (1) A defaulter or sundry debtor may enter into an arrangement with the municipality to repay any outstanding and due amount to the municipality under the following conditions or as otherwise determined by the credit control and debt collection policy of the municipality -
 - (a) the outstanding balance, any interest thereon and any additional costs shall be paid in regular and consecutive monthly installments;
 - (b) the arrangement shall be recorded as a written agreement and shall be signed on behalf of the municipality by a duly authorised official;
 - (c) in the event of any dispute arising as to the amount owing by an owner or occupier in respect of municipal services, such owner or occupier shall, notwithstanding such dispute, proceed to make regular minimum payments

based on the calculation of the average municipal account for the 3 (three) months prior to the occurrence of the dispute, taking into account inflation as well as annual amendments of tariffs by the municipality.

31 Agreements with employers

- (1) The chief financial officer may enter into a written agreement with any employer within the municipality's area of jurisdiction to deduct outstanding rates and service charges or to settle regular monthly accounts through deductions from salaries or wages of its employees.
- (2) The municipality may, from time to time, provide special rebates, incentives or benefits to the employer or employees in the event of such an agreement, subject to the provisions of the Local Government : Municipal Property Rates Act, 2004.

32 Customer assistance programmes

(1) An owner or occupier will be entitled to a water leak rebate, provided that –

(a) notification is given to the municipality immediately upon detection of the leak and prior to its repair;

(b) within 10 (ten) days of the repair of the leak, the owner or occupier in question submits either a certificate from a registered plumber or a sworn affidavit from any other person who repaired the leak, stating that –

(i) the leak was repaired upon a stipulated date;

(ii) the leak was not discernible from the surface; and

(iii) the leak occurred on a pipe listed on the schedule of approved pipes and fittings prescribed by the city engineer.

(2) A leak must be must be repaired within 48 (forty-eight) hours after detection and the repair costs shall be for the account of the user, provided that the chief financial officer may determine that the municipality shall bear the said repair costs where the user is indigent or in other appropriate circumstances.

(3) Properties which are used exclusively for residential purposes may qualify for a rates rebate, subject to application of the principle contemplated in terms of section 16(4) with regard to the provisions of the rates by-law.

33 Reconnection of services

The chief financial officer shall authorize the reconnection of services or the reinstatement of service delivery after satisfactory payment or arrangement for payment has been made by a defaulter, in accordance with the municipality's credit control and debt collection policy.

CHAPTER 7 GENERAL PROVISIONS

34 Appropriation of payments and acceptance of lesser amounts

(1) The chief financial officer may appropriate monies received in respect of any municipal services in a manner he or she deems fit and in accordance with the credit control and debt collection policy of the municipality.

- (2) Where the exact amount due and payable to the municipality has not been paid in full, any lesser amount tendered to and accepted by any municipal employee shall not be deemed to be in final settlement of such an amount unless permitted by the credit control and debt collection policy of the municipality.
- (3) The provisions in sub-section (1) shall apply notwithstanding that a lesser payment was tendered or accepted in full settlement.

35 Power of entry and inspection

- (1) For any purpose related to the implementation or enforcement of this by-law and at all reasonable times or in an emergency, a duly authorised representative of the municipality may enter premises, request information and carry out such inspection or examination as he or she may deem necessary -
 - (a) with regard to the installation or repair of any meter or service connection or reticulation; or
 - (b) so as to restrict, stop or disconnect the provision of any service.
- (2) If the municipality considers it necessary that work be performed to enable an employee to perform a function referred to in sub-section (1) properly and effectively, then it may –
 - (a) by written notice require the owner or occupier of the premises at his or her own expense to do specific work within a specified period; or
 - (b) if, in its reasonable opinion, the situation is a matter of urgency, then the municipality may do such work or

cause it to be done at the expense of the owner and without written notice.

- (3) If the work referred to in sub-section 5(2)(b) above is carried out for the sole purpose of establishing whether a contravention of this by-law has been committed and no such contravention has taken place, then the municipality shall bear the expense connected therewith together with the expense of restoring the premises to its former condition.

36 Delegated authority

The chief financial officer shall be responsible to the municipal manager for the implementation, administration and enforcement of the credit control and debt collection policy, contemplated in terms of this by-law, within the financial and other capacity constraints of the municipality.

37 Notices

- (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 authorized by the municipality.
- (2) If a notice is to be served on a person in terms of this by-law, then such service shall be effected by -
 - (i) delivering the notice to him or her personally or to his or her duly authorized agent;
 - (ii) delivering the notice at his or her residence or place of employment to a person apparently not less than 16 (sixteen) years of age and apparently residing or employed there;

- (iii) if he or she has nominated an address for legal purposes, delivering the notice to such an address;
- (iv) registered or certified post, addressed to his or her last known address;
- (v) in the case of a body corporate, delivering it to the registered office or the business premises of such a body corporate; or
- (vi) if service cannot be effected in terms of the foregoing sub-sections, by affixing it to the principal door of entry to the premises or displaying it in a conspicuous place on the property to which it relates.

38 Authentication of Documents

- (1) Every order, notice or other document requiring authentication by the municipality shall be deemed sufficiently authenticated if signed by the municipal manager or by a duly authorized employee of the municipality;
- (2) Delivery of a copy of the document shall be deemed to be delivery of the original.

39 *Prima Facie* Evidence

A certificate endorsed by the municipal manager reflecting the amount due and payable to the municipality shall, upon mere production thereof, be accepted by any court of law as *prima facie* evidence of the indebtedness reflected therein.

40 Offences and penalties

- (1) Any person who-
- (a) fails to give the access required by a municipal employee or other duly authorised person in terms of this by-law;
 - (b) obstructs or hinders a municipal employee or other duly authorised person in the exercise of his or her powers or performance of functions or duties in terms of this by-law;
 - (c) unlawfully uses or interferes with municipal equipment or the consumption of services supplied to any other user;
 - (d) tampers with or breaks any seal on a meter or on any equipment belonging to the municipality or causes a meter not to register properly the service used;
 - (e) fails or refuses to give a municipal employee or other duly authorised person such information as he or she may reasonably require for the purpose of exercising or performing his or her powers or functions in terms of this by-law or gives a municipal employee or duly authorised person false or misleading information, knowing it to be false or misleading; or
 - (f) contravenes or fails to comply with a provision of this by-law,

shall be guilty of an offence.

- (2) Upon conviction, an offender shall be liable for a fine not exceeding R10 000.00 or to imprisonment for a period not exceeding 6 (six) months or both such a fine and imprisonment and may be charged for consumption, as determined by the

chief financial officer and based on monthly average consumption or as determined by resolution of the municipality from time to time.

41 Application of by-law

This by-law shall be binding on all persons who own or occupy property within the jurisdiction of the municipality.

42 Regulations

The municipality may make regulations regarding –

- (a) any matter required or permitted to be prescribed in terms of this by-law; and
- (b) generally, all matters which in the reasonable opinion of the municipality are necessary or expedient to be prescribed in order to achieve the objects of this by-law.

43 Repeal of by-laws

Any by-laws relating to credit control and debt collection adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

44 Short title

This by-law is called the Credit Control By-law, 2004 and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

