

## PROVINCIAL NOTICE 41 OF 2016

## UBUHLEBEZWE MUNICIPALITY



# CREDIT CONTROL AND DEBT COLLECTION BYLAWS

<b>1<sup>ST</sup> DRAFT DATE</b>	30 <sup>th</sup> June 2014
<b>ADOPTION BY COUNCIL</b>	4 <sup>th</sup> December 2014
<b>PROMULGATION DATE</b>	9 <sup>th</sup> February 2016

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The Ubuhlebezwe Municipal Council, acting under the authority of section 11, read in conjunction with section 98 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes Credit Control and Debt Collection Bylaws.

## CREDIT CONTROL AND DEBT COLLECTION BYLAWS CHAPTER 1

### 1. Definitions

For the purpose of these bylaws, any word or expression to which a meaning has been assigned in the Act shall bear the same meaning in these bylaws and unless the context indicates otherwise -

“**account**” means any account rendered for municipal services provided;

“**Act**” means the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000), as amended from time to time;

“**actual consumption**” means the measured consumption of any consumer;

“**applicable charges**” means the rate, charge, tariff, flat rate, or subsidy determined by the municipal council;

“**average consumption**” means the average consumption of a consumer of a municipal service during a specific period, which consumption is calculated by dividing that consumer’s total measured consumption of that municipal service over the preceding three months by three;

“**agreement**” means the contractual relationship between the municipality or its authorised agent and consumer, whether written or deemed;

“**area of supply**” means any area within the area of jurisdiction of the municipality to which a municipal service or municipal service or municipal services are provided;

“**arrears**” means any amount due, owing and payable by a consumer in respect of municipal services not paid on the due date;

“**authorised agent**” means -

(a) any person authorised by the Council to perform any act, function or duty in terms of, or exercise any power under these bylaws; and/or

(b) any person to whom the Council has delegated the performance of certain rights, duties and obligations in respect of providing revenue services; and/or

(c) any person appointed by the Council in terms of a written contract as a service provider to provide revenue services to consumers on its behalf to the extent authorised in such contract;

“**commercial consumer**” means a consumer other than household and indigent consumers, including without limitation, business, government and institutional consumers;

“**connection**” means the point at which a consumer gains access to municipal services;

“**council**” means the Ubuhlebezwe Municipality and its successors in law, and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws;

“**consumer**” means a person with whom the municipality or its authorised agent has concluded an agreement for the provision of municipal services; “**defaulter**” means a consumer who owes arrears;

“**due date**” means the date on which the amount payable in respect of an account becomes due, owing and payable by the consumer, which date shall be not less than 14 days after the date of the account;

“**emergency situation**” means any situation that if allowed to continue poses a risk or potential risk to the financial viability or sustainability of the municipality or a specific municipal service;

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**“estimated consumption”** means the deemed consumption by a consumer whose consumption is not measured during a specific period, which estimated consumption is rationally determined taking into account at least the consumption of municipal services for a specific level of service during a specific period in the area of supply of the municipality or its authorised agent;

**“household consumer”** means a consumer that occupies a dwelling, structure or property primarily for residential purposes;

**“illegal connection”** means a connection to any system through which services are provided that is not authorised or approved by the municipality or its authorised agent; **“indigent customer”** means a household consumer qualifying and registered with the municipality as an indigent in accordance with these bylaws;

**“legal costs”** means legal costs on an attorney-own client scale;

**“municipal manager”** means the person appointed by the municipal council as the municipal manager of the municipality in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) and includes any person –

(a) acting in such position; and

(b) to whom the municipal manager has delegated a power, function or duty in respect of such a delegated power, function or duty;

**“municipal services”** means for purposes of these bylaws, any services provided by the municipality or its authorised agent, including refuse removal, water supply, sanitation, and electricity services;

**“occupier”** includes any person in actual occupation of the land or premises without regard to the title under which he occupies, and, in the case of premises sub-divided and let to lodgers or various tenants, shall include the person receiving the rent payable by the lodgers or tenants whether for his own account or as an agent for any person entitled thereto or interested therein;

**“owner”** means -

(a) the person in who the legal title to premises is vested;

(b) in case where the person in whom the legal title to premises is vested is insolvent or deceased, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;

(c) in any case where the municipality or its authorised agent is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises or a building or buildings thereon

(d) in the premises for which a lease agreement of 30 years or longer has been entered into, the lessee of the premises;

(e) in relation to -

(i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of the common property; or

(ii) a section as defined in the Sectional Titles Act, 1986 (Act No. 95 of 1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person; or

(f) a person occupying land under a register held by a tribal authority;

**“person”** means any natural person, local government body or like authority, a company or close corporation incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

**“public notice”** means publication in an appropriate medium that may include one or more of the following:

(a) Publication of a notice, in the official languages determined by the municipal council,

- (i) In the local newspaper or newspapers in the area of the municipality; or (ii) In the newspaper or newspapers circulating in the area of the municipality determined by the municipal council as a newspaper of record; or
- (iii) By means of radio broadcasts covering the area of the municipality; or
- (iv) displaying a notice at appropriate offices and pay-points of the municipality or its authorised agent; or
- (b) Communication with consumers through public meetings and ward committee meetings;
- “shared consumption”** means the consumption of a consumer of a municipal service during a specific period, which consumption is calculated by dividing the total metered consumption of that municipal service within the supply zone within which a consumer’s premises is situated for the same period by the number of consumers within that supply zone, during the same period;
- “subsidised service”** means a municipal service which is provided to a consumer as an applicable rate which is less than the cost of actually providing the service including services provided to consumers at no cost;
- “supply zone”** means an area, determined by the municipality or its authorised agent, within which all consumers are provided with services from the same bulk supply connection, and
- “unauthorised services”** means receipt, use or consumption of any municipal service which is not in terms of an agreement, or authorised or approved by the municipality or its authorised agent.

## CHAPTER 2

### PROVISION OF MUNICIPAL SERVICES TO CONSUMERS OTHER THAN INDIGENT CONSUMERS

#### Part 1: Application for Municipal Services

##### 2. Application for services

- (1) A consumer who qualifies as an indigent consumer must apply for services as set out in Chapter 4 below.
- (2) No person shall be entitled to have access to municipal services unless application has been made to and approved by the municipality or its authorised agent on the prescribed form attached as Annexure A to these bylaws.
- (3) If, at the commencement of these bylaws or at any other time, municipal services are provided and received and no written agreement exists in respect of such services, it shall be deemed that -
- (a) An agreement in terms of subsection (7) exists; and
- (b) The level of services provided to that consumers are the level of services elected, until such time as the consumer enters into an agreement in terms of sub section (2).
- (4) The municipality or its authorised agent must on application for the provision of municipal services inform the applicant of the then available levels of services and then applicable tariffs and/or charges associated with each level of service.
- (5) The municipality or its authorised agent is only obliged to provide a specific level of service requested if the service is currently being provided and if the municipality or authorised agent has the resources and capacity to provide such level of service.
- (6) A consumer may at any time apply to alter the level of services elected in terms of the agreement entered into, provided that such requested level of service is available and that any costs and expenditure associated with altering the level of services is paid by the consumer.

(7) An application for services submitted by a consumer and approved by the municipality or its authorised agent shall constitute an agreement between the municipality or its authorised agent and the consumer, and such agreement shall take effect on the date referred to or stipulated in such agreement.

(8) In completing an application form for municipal services, the municipality or its authorised agent must ensure that the document and the process of interaction with the owner, consumer or any other person making such an application are understood by that owner, consumer or other person and advise him or her of the option to register as an indigent consumer.

(9) In the case of illiterate or similarly disadvantaged persons, the municipality or its authorised agent must take reasonable steps to ensure that the person is aware of and understands the contents of the application form and shall assist him or her in completing such form.

(10) Municipal services rendered to a consumer are subject to the provisions of these bylaws, any applicable bylaws and the conditions contained in the agreement.

(11) If the municipality or its authorised agent -

(a) Refuses an application for the provision of municipal services or a specific service or level of service;

(b) is unable to render such municipal services or a specific service or level of service on the date requested for such provision to commence; or

(c) is unable to render the municipal services or a specific service or level of service, the municipality or its authorised agent must, within a reasonable time, inform the consumer of such refusal and/or inability, the reason therefor and, if applicable, when the municipality or its authorised agent will be able to provide such municipal services or a specific service or level of service.

### **3. Special agreements for municipal services**

The municipality or its authorised agent may enter into a special agreement for the provision of municipal services with an applicant -

(a) within the area of supply, if the services applied for necessitated the imposition of conditions not contained in the prescribed form or these bylaws; (b) receiving subsidised services; and

(c) if the premises to receive such service is situated outside the area of supply, provided that the municipality having jurisdiction over the premises has no objection to such special agreement. The obligation is on the consumer to advise the municipality concerned of such special agreement.

### **4. Change in purpose for which municipal services are used**

Where the purpose or extent to which any municipal service used is changed, the onus and obligation is on the consumer to advise the municipality or its authorised agent of such change and to enter into a new agreement with the municipality or its authorised agent.

## **Part 2: Applicable Charges**

### **5. Applicable charges for municipal services**

(1) All applicable charges payable in respect of municipal services, including but not limited to the payment of connection charges, fixed charges or any additional charges or interest will be set by the Council in accordance with -

(a) its rates and tariff policy;

(b) its credit control and debt collection policy; (c) any bylaws in respect thereof; and

(d) any regulations in terms of national or provincial legislation.

(2) Applicable charges may differ between different categories of consumers, users of services, types and levels of services, quantities of services, infrastructure requirement and geographic areas.

- (3) Services will be terminated due to non-payment on the terms and conditions as stipulated in the credit control and debt collection policy.
- (4) Deferment for payment of service accounts can be granted to consumers in terms of council's delegated powers and conditions approved in its credit control and debt collection policy.
- (5) The municipality may consolidate any separate account of persons who are liable for payment to the municipality and may credit all payments received from such a person to any service and order of performance as determined by council from time to time in its credit control and debt collection policy.

## **6. Availability charges for municipal services**

The Council, in addition to the tariffs or charges prescribed for municipal services actually provided, may levy a monthly fixed charge, annual fixed charge or once-off fixed charge where municipal services are available, whether or not such services are consumed or not.

## **7. Subsidised services**

- (1) The Council may, from time to time, and in accordance with national policy, but subject to principles of sustainability and affordability, by public notice, implement subsidies for a basic level of municipal service.
- (2) The Council may, in implementing subsidies, differentiate between types of household consumers, types and levels of services, quantities of services, geographical areas and socio-economic areas.
- (3) A public notice in terms of subsection (1) must contain at least the following details applicable to a specific subsidy:
- (a) the household consumers who will benefit from the subsidy;
  - (b) the type, level and quantity of municipal service that will be subsidized; (c) the area within which the subsidy will apply;
  - (d) the rate (indicating the level of subsidy);
  - (e) the method of implementing the subsidy; and
  - (f) any special terms and conditions which will apply to the subsidy.
- (4) If a household consumer's consumption or use of municipal services is -
- (a) less than the subsidised service, the unused portion may not be accrued by the consumer and will not entitle the consumer to cash or a rebate in respect of the unused portion; and
  - (b) in excess of the subsidised service, the consumer will be obliged to pay for such excess consumption at the applicable rate.
- (5) A subsidy implemented in terms of subsection (1) may at any time, be withdrawn or altered in the sole discretion of the Council, after -
- (a) service of notice as contemplated in section 115 of the Act on the person affected by the council's intention to consider such withdrawal or alteration; and
  - (b) consideration by the Council of any comments or requests received from the person affected.
- (6) Commercial consumers shall not qualify for subsidised services.
- (7) Subsidised services shall be funded from the portion of revenue raised nationally which is allocated to the municipality and if such funding is insufficient the services may be funded from revenue raised through rates, fees and charges in respect of municipal services.

## **8. Authority to recover additional costs and fees**

- (1) The municipality or its authorised agent has the authority to, notwithstanding the

provisions of any other sections contained in these bylaws, recover any additional costs incurred in respect of implementing these bylaws against the account of the consumer, including but not limited to -

- (a) all legal costs, including attorney and client costs incurred in the recovery of amounts in arrears shall be against the arrears account of the consumer; and/or
- (b) the or essential costs incurred relating to any action taken in demanding payment from the consumer or reminding the consumer, by means of telephone, fax, e-mail, letter or otherwise.

### **PART 3: PAYMENT**

#### **9. Payment of deposit**

- (1) The Council may, from time to time, determine different deposits for different categories of consumer, users of services, debtors, services and service standards, provided that the deposit will not be more than two and a half times the monetary value of the most recent measured monthly consumption of the premises for which an application is made.
- (2) A consumer must on application for the provision of municipal services and before the municipality or its authorised agent will provide such services, pay a deposit, if the municipal council has determined a deposit.
- (3) The municipality or its authorised agent may annually review a deposit paid in terms of subsection (2) and in accordance with such review require that an additional amount be deposited by the consumer where the deposit is less than the most recent deposit determined by the Council.
- (4) If a consumer is in arrears, the municipality or its authorised agent may require that the consumer-
  - (a) pay a deposit if that consumer was not previously required to pay a deposit; and
  - (b) pay an additional deposit where the deposit paid by that consumer is less than the most recent deposit determined by the Council.
- (5) Subject to subsection (7), the deposit shall not be regarded as being in payment of an account.
- (6) No interest shall be payable by the municipality or its authorised agent on any deposit held.
- (7) The deposit, if any, is refundable to the consumer on termination of the agreement. A deposit shall be forfeited to the municipality if it has not been claimed by the consumer within 12 months of termination of the agreement.

#### **10. Methods for determining amounts due and payable**

- (1) The municipality or its authorised agent must in respect of municipal services that can be metered, endeavour to, within available financial and human resources, meter all consumer connections and/or read all metered consumer connections, on a regular basis, subject to subsection (2).
- (2) If a service is not measured, a municipality or its authorised agent may, notwithstanding subsection (1), determine the amount due and payable by consumer, for municipal services supplied to him, her or it, by calculating-
  - (a) the shared consumption, if possible; or
  - (b) the estimated consumption.
- (3) If a service is metered, but it cannot be read due to financial and human resource constraints or circumstances out of the control of the municipality or its authorised agent, and the consumer is charged for an average consumption the account following the reading of the metered consumption must articulate the difference between the actual consumption and the average consumption, and the resulting credit or debit adjustment.
- (4) Where water supply services are provided through a communal water services network (standpipe), the amount due and payable by consumers gaining access to water supply services through that communal water services network, must be based on the shared or estimated consumption of water supplied to that water services network.
- (5) Where in the opinion of the municipality or its authorised agent it is not reasonably possible or cost effective to meter all consumer connections and/or read all metered consumer connections within a determined area, the Council may, on the recommendation of the municipality or its authorised agent, determine a basic tariff (flat rate) to be paid by all the consumers within that area, irrespective of actual consumption.
- (6) The municipality or its authorised agent must inform consumers of the method for determining amounts due and payable in respect of municipal services provided which will apply in respect of their consumption or supply zones.

#### **11. Payment for municipal services provided**



(1) A consumer shall be responsible for payment of all municipal services consumed by him/her or it from the commencement date of the agreement until his/her or its account has been settled in full and the municipality or its authorised agent must recover all applicable charges due to the municipality.

(2) If a consumer uses municipal services for a use other than which it is provided by the municipality or its authorised agent in terms of an agreement and as a consequence is charged at a lower than the applicable charge the municipality or its authorised agent may make an adjustment of the amount charged and recover the balance from the consumer.

(3) If amendments to the applicable charge become operative on a date between measurements for the purpose of rendering an account in respect of the applicable charges and the date of payment, -

(a) it shall be deemed that the same quantity of municipal services was provided in each period of twenty-four hours during the interval between the measurements; and

(b) any fixed charge shall be calculated on a pro rata basis in accordance with the charge that applied immediately before such amendment and such amended applicable charge.

#### **12. Full and final settlement of an account**

(1) Where an account is not settled in full, any lesser amount tendered and accepted shall not be deemed to be in final settlement of such an account.

(2) Subsection (1) shall prevail notwithstanding the fact that such lesser payment was tendered and/or accepted in full and final settlement, unless the municipal manager or the manager of the municipality's authorised agent made such acceptance in writing.

#### **13. Responsibility for amounts due and payable**

Notwithstanding the provisions of any other section of these bylaws, the owner of premises shall be liable for the payment of any amounts due and payable to the municipality or its authorised representative in respect of the preceding two years, where the owner is not the consumer and the municipality or its authorised agent after taking reasonable measures to recover any amounts due and payable by the consumer from the latter, could not recover such amounts.

#### **14. Dishonoured payments**

Where any payment made to the municipality or its authorised agent by negotiable instrument is later dishonoured by the bank, the municipality or its authorised agent –

1. may recover the average bank charges incurred relating to dishonoured negotiable instruments against the account of the consumer; and

2. shall regard such an event as default on payment.

#### **15. Incentive schemes**

The Council may institute incentive schemes to encourage payment and to reward consumers that pay accounts on a regular and timeous basis.

#### **16. Paypoints and approved agents**

(1) A consumer must pay his/her or its account at pay-points, specified by the municipality or its authorised agent from time to time, or at approved agents of the municipality or its authorised agent.

2. The municipality or its authorised agent must inform a consumer of the location of specified pay-points and approved agents for payment of accounts.

#### **17. PART 4: ACCOUNTS**

(1) Accounts will be rendered monthly to consumers at the address last recorded with the

municipality or its authorised agent. The consumer may receive more than one account for different municipal services if they are accounted for separately.

(2) Failure to receive or accept an account does not relieve a consumer of the obligation to pay any amount due and payable.

(3) The municipality or its authorised agent must, if administratively possible, issue a duplicate account to a consumer on request upon payment of a fee as prescribed in the Council's tariff of charges.

(4) Accounts must be paid not later than the last date for payment specified in such account, which date will be at least 14 days after the date of the account.

(5) Accounts must reflect at least - (a) the services rendered;  
(b) the consumption of metered service or average, shared or estimated - consumption;

(c) the period stipulated in the account;

(d) the applicable charges;

(e) any subsidies;

(f) the amount due (excluding value added tax); (g) value added tax;

(h) the adjustment, if any, to metered

consumption which has been previously estimated;

(i) the arrears, if any;

(j) the interest payable on arrears, if any;

(k) the methods, places and approved agents where payment may be made; and should ideally state that -

(i) the consumer may conclude an agreement with the municipality or its agent for payment of the arrears amount in instalments, at the municipality or its authorised agent's offices before the final date for payment if a consumer is unable to pay the full amount due and payable;

(ii) if no such agreement is entered into, the municipality or its authorised agent will limit the services after sending a final demand notice to the consumer;

(iii) legal action may be instituted against any consumer for recovery of any amount 45 days in arrears;

(iv) the account may be handed over to a debt collector for collection; and

(v) proof of registration as an indigent customer, in terms of the municipality or its authorised agent's indigent policy, must be handed in at the office of the municipality or its authorised agent before the final date for payment.

## **18. Consolidated debt**

(1) If one account is rendered for more than one municipal service provided, the amount due and payable by a consumer constitutes a consolidated debt, and a payment made by a consumer of an amount less than the total amount due, will be allocated at the discretion of the municipality between service debt.

(2) If an account is rendered for only one municipal service provided, any payment made by a consumer of an amount less than the total amount due, will be allocated at the discretion of the municipality.

(3) A consumer may not elect how an account is to be settled if it is not settled in full or if there are arrears.

## **PART 5: QUERIES, COMPLAINTS AND APPEALS**

### **19. Queries or complaints in respect of account**

(1) A consumer may lodge a query or complaint in respect of an accuracy of an amount due and payable in respect of a specific municipal service as reflected on the account rendered.

(2) A query or complaint must be lodged with the municipality or its authorised agent before the due date for payment of the account.

(3) A query or complaint must be accompanied by the payment of the average of the last three month's accounts where the history of the account is available or an estimated amount provided by the municipality, before the payment due date until the matter is unresolved.

(4) The municipality or its authorized agent will register the query or complaint and provide the consumer with a reference number. (5)

The Council or its authorized agent -

(a) shall investigate or caused the query or complaint to be investigated; and

(b) must inform the consumer, in writing, of its finding within one month after the query or complaint was registered.

(6) Failure to make such agreed interim payment or payments will render the consumer or liable for disconnection.

## **20. Appeals against findings of municipality or its authorised agent in respect of queries or complaints**

(1) A consumer may appeal in writing against a finding of the municipality or its authorized agent in terms of section 19.

(2) An appeal and request in terms of subsection (1) must be made in writing and be lodged with the municipality within 21 days after the consumer became aware of the finding referred to in section 19 and must -

(a) set out the reason for the appeal; and

(b) be accompanied by any security determined for the testing of a measuring device, if applicable.

## **PART 6: ARREARS**

### **21. Interest**

(1) Interest will be levied on arrears at the prevailing prime interest rate prescribed by the Council from time to time.

(2) The cost associated with the limitation or disconnection of municipal services shall be for the cost of the consumer and shall be included in the account following the re-connection.

### **22. Accounts 45 days in arrears**

(1) Where an account rendered to a consumer remains outstanding for more than 45 (forty five) days the Council or its authorised agent may -

1. institute legal action against a consumer for the recovery of the arrears;

and

2. hand the consumer's account over to a debt collector or an attorney for collection

(2) A consumer will be liable for any administration fees, costs incurred in taking action for the recovery of arrears and penalties, including the payment of a higher deposit, as may be determined by the municipal Council from time to time

## **PART 7: AGREEMENT FOR THE PAYMENT OF ARREARS**

### **23. Agreements**

(1) The following agreement for the payment of arrears in instalments may be entered into:

(a) An acknowledgement of debt.

(b) A consent to judgment.

(c) An emolument attachment order.

(2) The consumer shall acknowledge that interest will be charged at the prescribed rate.

(3) Consumers with electricity arrears must agree to the conversion to a pre-payment meter if and when implementable, the cost of which, and the arrears total, will be paid off either by -

(a) adding to the arrears account and repaying it over the agreed period; or

(b) adding it as a surcharge to the pre paid electricity cost, and repaying it with each purchase of electricity until the debt is settled.

(4) The municipality or its authorised agent must require a consumer to pay at least its current account on entering into an agreement for the payment of arrears in instalments.

(5) The municipality reserves the right to raise the security deposit requirement of debtors who seek agreements.

#### **24. Copy of agreement to consumer**

A copy of the agreement shall be made available to the consumer.

#### **25. Failure to honour agreements**

If a consumer fails to comply with an agreement for the payment of arrears in instalments, the total of all outstanding amounts, including the arrears, any interest thereon, administration fees, costs incurred in taking relevant action, and penalties, including payment of a higher deposit, will be immediately due and payable, without further notice or correspondence and the municipality or its authorised agent may -

(a) disconnect the electricity service provided to the consumer;

(b) in the event that no electricity services are provided by the municipality or its authorised agent, disconnect the water supply services provided to the consumer;

(c) institute legal action for the recovery of the arrears; and

(d) hand the consumer's account over to a debt collector or an attorney for collection.

#### **26. Re -connection of services**

(1) An agreement for payment of the arrear amount in instalments, entered into after the electricity services was discontinued and/or the water services was limited or disconnected, will not result in the services being restored until -

1. the arrears, any interest thereon, administration fees, cost incurred in taking relevant action and penalties, including payment of a higher deposit, are paid in full; or

2. in addition to payments referred to in subsection (1) the consumer shall pay the standard re-connection fee as determined by the municipality from time to time, prior to the re-connection of municipal services by the municipality or its authorised agent.

### **CHAPTER 3 ASSESSMENT RATES**

#### **27. Amount due for assessment rates**

(1) The provisions of Chapter 3 shall apply in respect of the recovery of assessment rates.

(2) All assessment rates due by owners are payable by a fixed date as determined by the municipality in its credit control and debt collection policy.

(3) Joint owners of property shall be jointly and severally liable for payment of assessment rates.

(4) Assessment rates may be levied in equal monthly instalments and when levied in equal monthly instalments, the amount payable will be included in the municipal account.

(5) A property owner remains liable for the payment of assessment rates included in municipal accounts, notwithstanding the fact that -

a) The property is not occupied by the owner thereof; and/or

(b) The municipal account is registered in the name of a person other than the owner of the property.

#### **CHAPTER 4 PROVISION OF MUNICIPAL SERVICES TO INDIGENT CONSUMERS**

#### **28. Qualification for registration as indigent consumer**

All households where the combined gross income of all the members of the household over the age of 18 years old is less than the amount to be determined by the Council, qualify for registration as indigent consumers.

#### **29. Application for registration**

(1) A household who qualifies as an indigent consumer must complete the application form entitled "Application for Registration as Indigent Consumer" attached as Annexure B to these bylaws.

(2) Any application in terms of subsection (1) must be accompanied by -

(i) documentary proof of income, such as a letter from the consumers employer, a salary advice, a pension card, unemployment fund card; or

(ii) An affidavit declaring unemployment or income; and

(iii) The consumer's latest municipal account in his/her possession; (iv) a certified copy of the consumer's identity document; and

(v) The names and identity numbers of all occupants over the age of 18 years who are resident at the property.

(3) A consumer applying for registration as an indigent consumer shall be required to declare that all information provided in the application form and other documentation and information provided in connection with the application is true and correct.

(4) The municipality or its authorised agent shall counter-sign the application form and certify that the consequences and conditions of such an application for the consumer were explained to the consumer and that the consumer indicated that the content of the declaration was understood.

#### **30. Approval of application**

(1) The municipality or its authorised agent may send authorised representatives to premises or households applying for registration as indigent consumers to conduct an on site audit of information provided prior to approval of an application.

(2) An application shall be approved for a period of 12 months only. Subsidies will be forfeited if the applicant fails to submit proof of income or to re-apply for the subsidy.

#### **31. Conditions**

The municipality or its authorised agent may upon approval of an application or any time thereafter -

1. Install a pre-payment electricity meter for the indigent consumer where electricity is provided by the municipality or its authorized agents when implemented; and

2. Limit the water supply services of an indigent consumer to a basic supply of not less than 6 (six) kiloliters per month.

### **32. Application every 12 months**

(1) An indigent consumer must re-apply for indigent support every 12 months, failing which the assistance will cease automatically.

(2) The provisions of section 33 and 34 shall apply to any application in terms of subsection (1).

(3) The municipality or its authorized agent cannot guarantee a renewal for indigent support.

### **33. Subsidised services for indigent consumers**

(1) The Council may annually, as part of its budgetary process, determine services and levels thereof which will be subsidised in respect of indigent consumers in accordance with national policy, but subject to principles of sustainability and affordability.

(3) The Council must, in the determination of municipal services which will be subsidised for indigent consumers, give preference to subsidising at least the following services:

- (a) water supply services of 6 kiloliters per household per month;
- (b) sanitation services of daily night soil removal or an improved ventilated pit latrine per household per month whichever is the most affordable to the municipality or its authorised agent;
- (c) refuse removal services to a maximum of one removal per household per week; and
- (d) all rates levied on properties of which the municipal value is less than R20 000: provided that if in the case of any property or category of properties, it is not feasible to value or measure such property, the basis on which the property rates thereof shall be determined, shall be as prescribed by the Council.

(3) The municipality must, when making a determination in terms of subsection (1) give public notice of such determination.

(4) Public notice in terms of subsection (3) must contain at least the following: (a) the level or quantity of municipal service which will be subsidized; (b) the level of subsidy; (c) the method of calculating the subsidy; and (d) any special terms and conditions which will apply to the subsidy, not provided for in these bylaws.

(5) Any other municipal services rendered by the municipality or municipal services consumed in excess of the levels or quantities determined in subsection (1) shall be charged for and the indigent consumer shall be liable for the payment of such charges levied on the excess consumption.

(6) The provisions of Chapter 3 shall *mutatis mutandis* apply to the amounts due and payable in terms of subsection (5).

### **34. Funding of subsidised services**

(1) The subsidised services referred to in section 33 shall be funded from the portion of revenue raised nationally which is allocated to the municipality and if such funding is insufficient the services may be funded from revenue raised through rates, fees and charges in respect of municipal services.

(2) The subsidy amount to be funded from revenue raised nationally which is allocated to the municipality shall be calculated by dividing the amount allocated by the estimated number of consumers which may qualify for registration as indigent consumers.

**35. Existing arrears**

Arrears accumulated in respect of the municipal accounts of consumers prior to registration as indigent consumers will be either -

- (a) written off;
- (b) applied as a surcharge to prepaid electricity coupons; or
- (c) be attempted to be recovered through legal proceedings and/or extended arrangements.

**36. Audits**

The municipality may undertake regular random audits carried out by the municipality or its authorised agent to --

- (a) verify the information provided by indigent consumers;
- (b) record any changes in the circumstances of indigent consumers; and
- (c) make recommendations on the de-registration of the indigent consumer .

**37. De-registration**

(1) Any consumer who provides or provided false information in the application form and/or any other documentation and information in connection with the application shall automatically, without notice, be de-registered as an indigent consumer from the date on which the municipality or its authorised agent become

aware that such information is false.

(2) An indigent consumer must immediately request de-registration by the municipality or its authorised agent if his/her circumstances has changed to the extent that he/she no longer meet the qualifications set out in section 28.

(3) An indigent consumer shall automatically be de-registered if an application in accordance with section 29 is not made or if such application is not approved.

(4) An indigent consumer shall automatically be de-registered if an audit or verification concludes that the financial circumstances of the indigent consumer has changed to the extent that he/she no longer meet the qualifications set out in 28.

(5) An indigent consumer may at any time request de-registration.

**CHAPTER 5****BUSINESSES WHO TENDER TO THE MUNICIPALITY****38. Procurement policy and tender conditions**

The procurement policy and tender conditions may provide that -

1. when inviting tenders for the provision of services or delivery of goods, potential contractors may submit tenders subject to a condition that consideration and evaluation thereof will necessitate the tenderer obtain from the municipality a certificate stating that all relevant municipal accounts owing by the tenderer or its directors, owners or partners have been paid or that suitable arrangements (which include the right to set off in the event of noncompliance) have been made for payment of any arrears;
2. a municipal account is to mean any municipal service charge, tax or other fees fines and penalties, due in terms of a contract or approved tariff or rate, which is outstanding after the due date normally appearing on the consolidated account or overdue in terms of the contract or any other due date that has passed; and
3. tender conditions contain a condition allowing the municipality to deduct moneys

owing to the municipality from contract payments in terms of a reasonable arrangement with the debtor.

## **CHAPTER 6 UNAUTHORISED SERVICES**

### **39. Unauthorised Services**

1. No person may gain access to municipal services unless it is in terms of an agreement entered into with the municipality or its authorised agent for the rendering of those services.

2. The municipality or its authorised agent may, irrespective of any other action it may take against such person in terms of these bylaws by written notice order a person who is using an unauthorised service to -

(a) apply for such services in terms of Chapter 2 part 1;

(b) undertake such work as may be necessary to ensure that the consumer installation through which access was gained complies with the provisions of these or any other relevant bylaws.

### **40. Interference with infrastructure for the provision of municipal services**

(1) No person other than the municipality or

its authorised agent shall manage, operate or maintain infrastructure through which municipal services are provided.

(2) No person other than the municipality or its authorised agent shall effect a connection to infrastructure through which municipal services are provided.

### **41. Obstruction of access to infrastructure for the provision of municipal services**

(1) No person shall prevent or restrict physical access to infrastructure through which municipal services are provided.

(2) If a person contravenes subsection (1), the municipality or its authorised agent may -

(a) by written notice require such person to restore access at his/her own expense within a specified period; or

(b) if it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such person.

### **42. Illegal re-connection**

(1) A person who unlawfully and intentionally or negligently reconnects to services or unlawfully and intentionally or negligently interferes with infrastructure through which municipal services are provided, after such consumers access to municipal services have been limited or disconnected, shall immediately be disconnected.

(2) A person who re-connects to municipal services in the circumstances referred to in subsection (1) shall be liable for the cost associated with any consumption, notwithstanding any other actions which may be taken against such a person.

### **43. Immediate disconnection**

The provision of municipal services may immediately be disconnected if any person -

(a) unlawfully and intentionally or negligently interferes with infrastructure through which the municipality or its authorised agent provides municipal services;

(b) fails to provide information or provides false information reasonably requested by the municipality or authorised agent.



**44. Offences****CHAPTER 7**

Any person who —

**OFFENCES**

- (1) Fails to give access required by the municipality or its authorised agent in terms of these bylaws;
- (2) assists any person in providing false or fraudulent information or assists in willfully concealing information;
- (3) uses, tampers or interferes with municipal equipment, service supply equipment, reticulation network or consumption of services rendered;
- (4) fails or refuses to give the municipality or its authorised agent such information as may reasonably be required for the purpose of exercising the powers or functions under these bylaws or gives such the municipality or its authorised agent false or misleading information, knowing it to be false or misleading;
- (5) contravenes or fails to comply with a provision of these bylaws

(6) fails to comply with the terms of a notice served upon him/her in terms of these bylaws, shall be guilty of an offence and liable upon conviction to a period not exceeding six months imprisonment or community service or a fine, or a combination of the aforementioned.

## **CHAPTER 8 DOCUMENTATION**

### **45. Signing of notices and documents**

A notice or document issued by the municipality in terms of these bylaws and signed by a staff member of the municipality or its authorised agent shall be deemed to be duly issued and must on its mere production be accepted by a court of law as evidence of that fact.

### **46. Notices and documents**

I. A notice or document issued by the municipality or its authorised agent in terms of these bylaws shall be deemed to be duly authorised if an authorised agent signs it.

2. Any notice or other document that is served on an owner, consumer or any other person in terms of these bylaws is regarded as having been served -

(a) if it has been delivered to that person personally;

(b) when it has been left at that person's place of residence business or employment in the Republic with a person over the age of sixteen years;

(c) when it has been posted by registered or certified mail to that person's last known address in the Republic and an acknowledgement of posting thereof from the postal service is obtained;

(4) if that person's address in the Republic is known, when it has been served on the person's agent or representative in the Republic in the manner provided in sub-section (a) - (c); or

5. if that person's address and agent or representative in the Republic is known, when it has been in a conspicuous place on the property or premises, if any, to which it relates.

(3) When any notice or other document must be authorised or served on the owner, occupier or holder of any property it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and is not necessarily the name of the person.

(4) In the case where compliance with a notice is required within a specified number of working days, such period shall be deemed to commence on the date of delivery or sending of such notice.

### **47. Authentication of documents**

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 officer of the municipality or the authorised agent of the municipality; such authority being conferred by resolution of the municipality, written agreement or by a bylaw.

### **48. Prima facie evidence**

In legal proceedings by or on behalf of the municipality or its authorised agent, a certificate reflecting the amount due and payable to the municipality or its authorised agent, under the hand of the municipal manager, or suitably qualified municipal staff member authorised by the municipal manager or the manager of the municipality's authorised agent, shall upon mere production thereof be accepted by any court of law as prima facie evidence of the indebtedness.

## CHAPTER 9 GENERAL PROVISIONS

### 49. Power of entry and inspection

The municipality or its authorised agent may enter and inspect any premises for any purpose connected with the implementation or enforcement of these bylaws, at all reasonable times, after having given reasonable written notice to the occupier of the premises of the intention to do so.

### 50. Exemption

(1) The municipality may, in writing, exempt an owner, customer, any other person or category of owner, consumers, rate payers, users of services from complying with a provision of these bylaws, subject to any conditions it may impose, if it is of the opinion that application or operation of that provision would be unreasonable, provided that the municipality or its authorised agent shall not grant exemption from any section of these bylaws that may result in -

- (a) the wastage or excessive consumption of municipal services;
  - (b) the evasion or avoidance of water restrictions;
  - (c) significant negative effects on public health, safety or the environment; (d) the non-payment for services;
  - (e) the Act or any regulations made in terms thereof, is not complied with.
- (2) The municipality at any time after given written notice of at least 30 days, withdraws any exemption given in terms of subsection (1).

### 51. Availability of bylaws

- (1) A copy of these bylaws shall be included in the municipalities Municipal Code as required in terms of legislation.
- (2) The municipality or its authorised agent shall take reasonable steps to inform consumers of the contents of the credit control and debt collection bylaws.
- (3) A copy of these bylaws shall be available for inspection at the municipal offices or at the offices of its authorised agent at all reasonable times.
- (4) A Copy of the bylaws may be obtained against payment of a fee as prescribed in the Council's tariff of charges from the municipality or its authorised agent.

### 52. Conflict of law

- (1) When interpreting a provision of these bylaws, any reasonable interpretation which is consistent with the purpose of the Act as set out in Chapter 9 on Credit Control on Debt Collection, must be preferred over any alternative interpretation which is consistent with that purpose.
- (2) If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail.

