

1 October 2004

GENERAL NOTICE

INTRODUCTION

The Mafube Local Municipality adopted the Customer Care and Revenue Management By-laws, contained herein, on 29 September 2004. These By-laws were advertised for public comment for the period of 14 days from the 25 August 2004 at all Municipal Offices and Libraries. No written objections or comments were received from the public.

The Customer Care and Revenue Management By-laws will come into effect from the date of this publication.

MAFUBE LOCAL MUNICIPALITY

CUSTOMER CARE AND REVENUE MANAGEMENT BY-LAWS

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1. Definitions

For the purposes of these by-laws, unless the context otherwise indicates—

“account holder” means any person who is due to receive a municipal account, which includes a user of pre-paid electricity or water;

“Act” means the Local Government: Municipal Systems Act, 2000 (Act No, 32 of 2000);

“applicant” means a person who applies for the supply of municipal services;

“billing” means invoicing on a municipal account to an account holder of an amount or amounts payable for assessment rates, metered services, other municipal charges, levies, fees, fines, taxes, or any other amount or amounts payable arising from any other liability or obligation;

“Departmental Head: Electricity” means the person who holds the position as “Departmental Head Electricity” either substantively or in an acting capacity with Council, or any other officer authorised by The Departmental Head, Electricity;

“Departmental Head: Infrastructure” means the person who holds the position as Departmental Head: Infrastructure either substantively or in an acting capacity with Council, or any other officer authorised by the Departmental Head: Infrastructure;

“Council” means the Mafube Local Municipality Council or any service provider to Council;

“credit control” means all the functions relating to the collection of revenue;

“consumer” means the occupier of any premises to which the Council has agreed to supply or is actually supplying municipal services, or if there is no occupier, then any person who has entered into a service agreement with the Council for the supply of municipal services to such premises, or, if there be no such person, then the owner of the premises;

“customer management” means the focusing on the account holder’s needs in a responsive and proactive way to encourage payment and thereby limiting the need for enforcement;

“customer service centre” means and serves as—

- (a) an office where an applicant may apply for services and enter into a service agreement with Council;
- (b) an office where an account holder may settle an account or may make pre-payment for services;
- (c) a credit screening point where the credit assessment of an applicant can be processed; or
- (d) an office where an account holder may query or verify accounts and metered consumption, and may communicate grievances, inquiries, recommendations and other relevant issues to Council and from where the response from Council can be conveyed to the account holder;

“due date” means the date specified as such on a municipal account dispatched from the offices of the responsible officer for any charges payable and which is the last day allowed for the payment of such charges;

“interest” means an amount calculated at a rate determined by Council on a municipal account in arrears;

“municipal account” means an account rendered on which is billed an amount or amounts payable to Council for assessment rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable arising from any other liability or obligation;

“Municipal Manager” means the person appointed in terms of section 82 of the Local Government Municipal Structures Act, 1998 (Act No. 117 of 1998);

“municipal services” means those assessment rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable arising from any other liability or obligation reflected on the municipal account for which payment is required by Council;

“occupier” means any person who occupies any premises or part thereof without regard to the title under which the person occupies, and includes—

- (a) any person in actual occupation of those premises;
- (b) any person legally entitled to occupy those premises;

- (c) in the case of those premises being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants whether on the person's own account or as agent for any person entitled thereto or interested therein;
- (d) any person having the charge or management of those premises, and includes the agent of any such person when the person is absent from the Republic of South Africa or his or her whereabouts are unknown; and
- (e) the owner of those premises;

“officer” means an employee of Council or any other person who is specifically authorised thereto by Council to perform any act, function or duty in terms of, or exercise any power under these by-laws;

“owner” means—

- (a) a person in whom the legal title to a premises is vested;
- (b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in the case where Council is unable to determine the identity of the person in whom the legal title is vested, the person who is entitled to the benefit of such premises or a building thereon;
- (d) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- (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), and without restricting the above, the developer or the body corporate in respect of the common property; or
 - (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
- (f) any legal person including, but not limited to—
 - (i) a company registered in terms of the Companies Act, 1973 (Act No. 61 of 1973), Trust inter vivos, Trust mortis causa, a Closed Corporation registered in terms of the Closed Corporation's Act, 1984 (Act No. 69 of 1984), a voluntary association;
 - (ii) any Department of State;
 - (iii) any Councillor Board established in terms of any legislation applicable to the Republic of South Africa; and
 - (iv) any Embassy or other foreign entity; and

- (g) a lessee of municipal property who will be deemed to be the owner for the purposes of rendering a municipal account;

“person” includes a legal person;

“preferred customer” means a person who may be granted special concessions by Council;

“premises” means any piece of land, the external surface boundaries of which are delineated on—

- (a) a general plan or diagram registered in terms of Land Survey, Act of 1927 (Act No. 9 of 1927), or in terms of the Deeds Registry, Act of 1937 (Act No. 47 of 1937); or
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 93 of 1986), which is situated within the area of jurisdiction of Council;
- (c) and includes any other land and any building or structure above or below the surface of any land;

“prescribed charge” means a charge prescribed by Council;

“revenue” means all monies due to Council and to which Council has the right to exact and to enforce payment of, irrespective of the reason for or the origin of its factuality;

“tampering” means any unauthorised interference with Council’s supply, seals and metering equipment and “tamper” has a corresponding meaning;

“tampering” means any unauthorised interference with Council’s supply, seals and metering equipment and “tamper” has a corresponding meaning;

“target” means realistic targets which may be set by Council from time to time; and

“unreliable customer” includes an account holder, who according to his or her payment record fails to settle his or her municipal account by the due date or who is in arrears with payments due to councillor who tampers or interferes with metering equipment, seals, or the supply of municipal services.

2. Scope of by-laws

The municipality aims

- (a) to move progressively towards the social and economic upliftment of the community in harmony with its natural environment;
- (b) to provide basic services that are affordable to all its people, and specifically to the poor and disadvantaged, provided that, where applicable, service fees, assessment rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable, arising from any other liability or obligation, are paid for;
- (c) to engage the active participation of the community in the municipality’s affairs, in particular in planning, service delivery and performance management;

- (d) to provide efficient, effective and transparent administration that conforms to constitutional principles;
- (e) to ensure that the municipality is financially and economically viable; and
- (f) to create, a more harmonious relationship between the municipality and the community through the acknowledgement of reciprocal rights and duties, and these by-laws are designed to regulate on and implement, within the scope and spirit of the Act:
 - (i) a customer care and management system which aims
 - (aa) to create a positive and reciprocal relationship between the municipality and an account holder;
 - (bb) to establish mechanisms for an account holder to give feedback to the municipality regarding the quality of the services and the performance of the municipality;
 - (cc) to ensure that reasonable steps are taken to inform an account holder of the costs involved in service provision, the reasons for payment of service fees, and the manner in which monies raised from the services provided, are utilised;
 - (dd) to ensure, where the consumption of services has to be measured, that reasonable steps are taken to measure the consumption by individual account holders of services through accurate and verifiable metering systems;
 - (ee) to ensure that an account holder receives regular and accurate accounts that indicate the basis for calculating the amounts due;
 - (ff) to provide accessible mechanisms for an account holder to query or verify a municipal account and metered consumption and appeal procedures which allow the account holder to receive prompt redress for inaccurate accounts;
 - (gg) to provide accessible mechanisms for dealing with complaints from an account holder, together with prompt replies and corrective action by the municipality, and to provide mechanisms to monitor the response time and efficiency of the municipal's actions;
 - (hh) to provide for accessible pay points and other mechanisms for settling an account or for making pre:- payments for services; and
 - (ii) credit control and debt collection mechanisms and procedures which aim to ensure that all money that is due and payable, from whatever cause, to the municipality, subject to the Act and other legislation, is collected.

IMPLEMENTATION AND ENFORCEMENT OF BY-LAWS, AND DELEGATIONS

3. Municipal Manager responsible officer

The Municipal Manager—

- (a) is responsible to the Mayor for the implementation and enforcement of the provisions of these by-laws;
- (b) must, for the purposes of (a) take the necessary steps to implement and enforce the provisions of these by-laws;
- (c) is accountable to the Mayor for the agreed performance targets as approved by Council and the Mayor, and for these purposes must—
 - (i) from time to time, report to the Mayor on matters relating to these bylaws, including but not limited to—
 - (aa) the effectiveness of administrative mechanisms, resources processes and procedures to collect money that is due and payable to the municipality;
 - (bb) billing information, including the number of account holders, accruals, cash flow, and customer management;
 - (cc) the satisfaction levels of account holders regarding services rendered; and
 - (dd) the effectiveness of the assistance to the poor scheme; and
 - (ii) at regular intervals meet with Municipal Officials with the aim of submitting a joint recommendation on the policy to the Mayor;
 - (iii) where necessary, propose steps to the Mayor with the aim of improving the efficiency of the credit control and debt collection mechanisms, processes and procedures;
 - (iv) where necessary, propose to the Mayor actions and adjustments to correct deviations;
 - (v) establish effective communication channels between Council and account holders with the aim of keeping account holders abreast of all decisions by Council that may affect account holders;
 - (vi) establish customer service centres which are located in such communities as determined by Council;
 - (vii) identify, appoint, and enter into agreements with suitable business concerns, institutions, organisations, establishments or parastatal institutions to serve as agencies for the purposes of these by-laws;
 - (viii) convey to account holders information relating to the costs involved in service provision, the reasons for payment of service fees, and the manner in which monies raised from the services are utilised, and may where necessary, employ the services of local media to convey such information;
 - (ix) expedite the processing of complaints or inquiries received from an account holder and must ensure that an account holder receives a response within a time determined by Council and must monitor the response time and efficiency in these instances;

- (x) in line with the latest technological and electronic advances, endeavour to make electronic inquiry and payment facilities available to account holders;
- (xi) encourage and bear on account holders, where needed, to settle outstanding accounts within the ambit of these by-laws; and
- (xii) with the consent of an account holder, enter into an agreement with the account holder's employer to deduct from the salary or wages of the account holder—
 - (aa) any outstanding amounts as may be agreed; and
 - (bb) such regular monthly amounts as may be agreed to, and employees to consent to such agreements.

4. Delegations

Council must, in terms of and subject to the provisions of sections 59, 60, 61, 63, 64 and 65 of the Act develop a system of delegation—

- (a) that will maximise administrative and operational efficiency; and
- (b) that will provide for adequate checks and balances to ensure that proper financial controls are exercised.

APPLICATION FOR SUPPLY OF MUNICIPAL SERVICES, SERVICE AGREEMENTS, DEPOSITS, CREDIT SCREENING, PAYMENT FOR SERVICES SUPPLIED, AND BILLING

5. Application for supply of municipal services and service agreements

- (1) Any application for any supply of services to any premises must be made at least one working day prior to the service being required in the prescribed format and must comply with the conditions as determined by the Municipal Manager or his or her nominated officer from time to time.
- (2) After the commencement of these by-laws and subject to the provisions of section 32 only the owner of a property or his duly authorised agent on his or her behalf may apply for municipal services to be supplied to a property.
- (3) No services shall be supplied unless and until application has been made by the owner and a service agreement in the format .as prescribed by Council has been entered into and a deposit provided for in Section 7 has been paid.
- (4) An application for a supply for a period of less than six months is regarded as an application for a temporary supply.

6. Credit screening

- (1) Council may require of an applicant to submit information and documentary proof so as to enable Council to bring its records up to date and to assess the creditworthiness of the applicant and Council reserves the right to call for an affidavit.

- (2) For the purposes of determining the creditworthiness of an account holder Council may make use of the service of a credit bureau, or any other agency or means as the Municipal Manager or his nominated officer may determine from time to time.

7. Deposits

- (1) On approval of the application and before the service is made available, Council may require the applicant—
 - (a) to deposit for municipal services with Council a sum of money;
 - (b) to provide any other form of security; or
 - (c) to agree to special conditions regarding payment of the municipal account, and monies so deposited with Council will serve as security and working capital.
- (2) The Municipal Manager or his nominated officer reserves the right to review from time to time the sum of money deposited or the amount for which additional security is required.
- (3) The Municipal Manager or his nominated officer may, in respect of preferred customers, consider relaxation of the conditions pertaining to deposits as set out under 7(1) and 7(2) above.
- (4) On termination of the supply of services, the amount of such deposit, less any payments due to Council, must be refunded to an account holder.

8. Billing and payment

- (1) The account holder must pay all amounts due to Council as reflected in the municipal account, and the onus is on the account holder to verify the accuracy of such account.
- (2) An account holder must -pay for metered services, the assessment rates, other municipal charges, levies, fees, fines, interest, taxes or any other liability or obligation from the date of origin of such municipal charges until the written termination of the services.
- (3) An account holder—
 - (a) has one account number and will be rendered one account, on which the due date for settlement of the total amount owing is reflected; and
 - (b) will be rendered an account monthly in cycles of approximately thirty days;
- (4) Payment must be received on or before the due date at close of business on the due date.
- (5) Payment made via any of the service providers appointed by Council to receive payments on its behalf, should be made at least two working days before the due date to enable the payment to be processed, and interest will accrue should Council receive payment after the due date.
- (6) Where the account holder effects payment of an account via a service provider two working days or more before the due date and such service provider fails to furnish Council with the relevant payment details, such service provider may be held liable for

all charges incurred by Council to recover an arrear amount erroneously reflected on the account of the account holder, as well as for interest charges.

- (7) Council may estimate the quantity of metered services supplied in respect of a period or periods within the interval between actual successive readings of the meters, and may render an account to an account holder for the quantity of metered services so estimated.
- (8) If an account holder is dissatisfied with an account rendered for metered services supplied By Council, such account holder may, prior to the due date stipulated therein, object in writing to the account, setting out reasons for such dissatisfaction.
- (9) Should any dispute arise as to the amount owing by an account holder, and subject to the provisions of section 102 of the Act, the account holder must notwithstanding such dispute proceed to make regular payments by the due date based on the calculation of the average municipal account for the preceding three months prior to the arising of the dispute and taking into account interest as well as the annual amendments of tariffs of Council.
- (10) An error or omission in any account or failure to render an account shall not relieve the account holder of the obligation to pay by the due date.
- (11) If an account holder uses water or electricity for a category of use other than that for which it is supplied by Council and is in consequence not charged for water or electricity so used, or is charged for the water or electricity at a rate lower than that at which the account holder should be charged, the account holder is liable for the amount due to Council in accordance with the prescribed charges in respect of—
 - (a) the quantity of water or electricity which in the opinion of the relevant Head of Department, the account holder has used and for which the account holder has not been charged; or
 - (b) the difference between the cost of the water or electricity used by the account holder at the rate at which the account holder has been charged and the cost of the water or electricity at the rate at which the account holder should have been charged.
- (12) An account holder shall not be entitled to a reduction of the amount payable for metered services which are lost due to a default in the meter, save in terms of the Provisions of Clause 17(8)(c).
- (13) Council may—
 - (a) consolidate any separate accounts of an account holder liable for payment to the municipality; and
 - (b) credit any payment by an account holder against any debt of that account holder.

9. Termination of service agreement

- (1) Termination of the service agreement must be in writing to the other party of the intention to do so.
- (2) An owner may terminate a service agreement where a property is sold by giving Council not less than one working day notice in writing.

- (3) The relevant Head of department may, by notice in writing of not less than fourteen working days, advise an account holder of the termination of the agreement for a supply of municipal services if—
 - (a) the account holder has not consumed any water or electricity during the preceding six months, or has vacated the property and has not made satisfactory arrangements for the continuation of the agreement;
 - (b) the account holder has not consumed any water or electricity during the preceding six months, or has vacated the property and has not made satisfactory arrangements for the continuation of the agreement;
 - (c) the account holder has committed a breach of these by-laws and has failed to rectify such breach; or
 - (d) Council cannot continue to supply the account holder with municipal services, as in terms of an arrangement with another authority supplying municipal services such authority shall in future supply municipal services to the account holder.

ASSESSMENT RATES

10. Amount due for assessment rates

- (1) Joint owners of property are jointly and severally liable for payment of assessment rates.
- (2) Assessment rates is levied annually as a single amount and is payable as such, or could be paid monthly by arrangement.
- (3) Payment of assessment rates may not be deferred beyond the due date by reason of an objection to the valuation of the property appearing on the Valuation Roll.

11. Claim on rental for assessment rates in arrears

Council may apply to court for the attachment of any rent due in respect of rateable property to cover in part or in full any amount outstanding in respect of assessment rates for a period longer than three months after the determined date.

12. Liability of directors and members for assessment rates

Where a company, closed corporation, trust or a body corporate in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986) is responsible for the payment of any arrear amounts to Council, the liability for such entry shall be extended to the directors or members thereof jointly as the case may be.

NON-PAYMENT OF MUNICIPAL ACCOUNTS

13. Arrangements for payments

- (1) Should an account holder, before any of the steps have been taken in terms of section 15, not be able to pay the municipal account in full, the account holder may approach Council with the aim of making short-term arrangements to settle the account.

- (2) Should an account holder, after any of the steps have been taken in terms of section 15, experience difficulties in paying the municipal account, the account holder may approach Council with the aim of making arrangements to settle the account and the account holder must enter into a written agreement with Council to repay to Council the outstanding and due amount under the conditions and on a basis as determined, from time to time, by the Municipal Manager, or his nominated officer.
- (3) The written agreement has to be signed on behalf of Council by a duly authorised officer.
- (4) In the instance where arrangements for payment have been made Council may—
 - (a) review the deposit;
 - (b) require of an account holder to pay by means of a stop order or debit order;
 - (c) require of an account holder to convert to a pre-paid metering system; or
 - (d) require any other form of security, including personal surety ship by the directors or members of a company, closed corporation, trust or body corporate.

14. Interest on overdue municipal accounts

- (1) Council may, from time to time, by resolution of its determined number of members, charge or recover interest at a determined interest rate in respect of any arrear amounts due and payable to Council.
- (2) Irrespective of the reason for non-payment, or where an arrangement has been made in terms of section 13, interest will accrue if an account is unpaid.
- (3) Interest is calculated monthly according to the interest rate approved by Council, and a portion of a month is regarded as a month.
- (4) Interest is payable if payment is not received at an office of Councillor to the credit of the bank account of Council at the close of business by the due date.

15. Debt collection mechanisms

- (1) Where appropriate, the Municipality will at all times attempt to advise an account holder of an impending disconnection or restriction of a supply, and the following mechanisms may be applied should an account holder fail to settle a municipal account by the due date—
 - (a) delivering or mailing of a final demand and explaining to the account holder the status of the account and the consequences of not paying or concluding an arrangement;
 - (b) informing the account holder telephonically or by any other electronic means of the overdue amount and the impending disconnection or restriction of services;
 - (c) disconnecting or restricting the supply of municipal services to the premises and the serving of a disconnection or restriction notice on the account holder; or

- (d) debiting the municipal account of the account holder with all relevant fees or penalties as approved by Council.
- (2) Where the metered supply had been disconnected or restricted, and should the account holder still fail to pay the account, the premises will be revisited at regular intervals to ensure that the metered supply remains disconnected or restricted, and if it is found that the supply which had been disconnected or restricted previously has been restored—
- (a) Council will have the right to take whatever action is required in terms of section 21 of these by-laws, and the account holder shall be responsible for the relevant fees or charges or damages caused;
 - (b) Council may refuse to supply services for a period determined by Council from time to time; and
 - (c) in the instance of the use of a pre-paid meter, Council may cease further vending of pre-paid services.
- (3) Where a duly authorised officer of Council has visited the premises for the purpose of disconnecting or restricting the supply and was obstructed or prevented from effecting such disconnection or restriction, an amount equal to the prescribed fee for a reconnection shall become payable for each visit necessary for the purpose of such disconnection or restriction, subject to a maximum of two such visits during which disconnection or restriction could not be effected.
- (4) Council may use anyone or more of the following mechanisms to secure full payment of any amounts owing to it:
- (a) Restricting or denying the sale of pre-paid services to an account holder, or disconnecting any pre- paid metering system of an account holder, who is in arrears with other services;
 - (b) requiring of the account holder to convert to another metering system;
 - (c) allocating a portion of any pre-paid payment to other debts;
 - (d) releasing debtor information to a credit bureau
 - (e) publishing a list of account holders who remain in default;
 - (f) withholding payment of a grand-in-aid and subject to the provisions of section 23, excluding the account holder from the tender process;
 - (g) withholding payment on contracts for settlement of the municipal account;
 - (h) reviewing and altering the conditions of the service agreement;
 - (i) instituting legal proceedings for the recovery of the debt;
 - (j) classifying the account holder as an unreliable customer;
 - (k) using the services of external debt collection specialists or agencies; insisting on conversion to pre-paid metering at the cost of the account holder; or

- (1) employing any other methods authorised by Council from time to time to recover arrear amounts.
- (2) The cost of collection, where applicable, will be to the account holder's account.
- (3) The right to deny, restrict, disconnect or terminate services due to the non-payment for any assessment rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable arising from any other liability or obligation prevails notwithstanding the fact that—
 - (a) payment was intended for any specific service; or
 - (b) the person who entered into a service agreement for supply of services with Council and the owner are different entities or persons, as the case may be.

METERING EQUIPMENT AND METERING OF SERVICES

16. General Provisions

- (1) Council may introduce various metering equipment and may encourage an account holder to convert to a system which is preferred by Council when there are benefits for Council.
- (2) After commencement of these by-laws, and where possible and applicable, pre-paid meters shall preferably be installed for all new connections.

17. Metering equipment and measuring of consumption

- (1) Council shall, at the consumer's cost in the form of a direct charge or prescribed fee or as decided by Council, provide, install and maintain appropriately rated metering equipment at the point of metering for measuring metered services.
- (2) Council reserves the right to meter the supply to a block of shops, flats, tenement houses and similar buildings for the building as a whole, or for an individual unit, or for a group of units.
- (3) Where any building referred to in subsection 17(2) is metered by Council as a whole—
 - (a) the owner may, at own cost, provide and install appropriate sub-metering equipment for each shop, flat and tenement; or
 - (b) the relevant Business Unit Manager may require the installation, at the account holder's expense, of a meter for each unit of any premises in separate occupation for the purpose of determining the quantity of metered services supplied to each such unit.
- (4) Where the electricity used by consumers is charged at different tariff rates, the consumption shall be metered separately for each rate.
- (5) Where sub-metering equipment is installed, accommodation separate from Council's metering equipment must be provided where appropriate.
- (6) Except in the case of pre-payment meters, the quantity of metered services used by a consumer during any metering period is ascertained by reading the appropriate meter or

meters supplied and installed by Council at the beginning and end of such metering period, except where the metering equipment is found to be defective.

- (7) For the purpose of calculating the amount due and payable for the quantity of metered services consumed, the same amount of metered services shall be deemed to be consumed during every period of 24 hours between readings.
- (8) The following apply to the accuracy of metering:
 - (a) a meter shall be conclusively presumed to be registering accurately if its error, when tested in the manner prescribed in subsection 17(13), is found to be within the limits of error as provided for in the applicable standard specifications;
 - (b) the Municipality has the right to test its metering equipment, and if it is established by test or otherwise that such metering equipment is defective, the Municipality shall in accordance with the provisions of subsection 17(6)—
 - (i) in case of a credit meter, adjust the account rendered; or
 - (ii) in the case of prepayment meters:
 - (aa) render an account where the meter has been under-registering; or
 - (bb) issue a free token where the meter has been over-registering; and
 - (c) the consumer is entitled to have the metering equipment tested by the Municipality on payment of the prescribed fee, and if the metering equipment is found not to comply with the system accuracy requirements as provided for in the applicable standard specifications, an adjustment in accordance with the provisions of paragraph 17(8)(b) and subsection 17(7) shall be made and the aforesaid fee shall be refunded.
- (9) No alterations, repairs, additions or connections of any description may be made on the supply side of the point of metering unless specifically approved in writing by the Municipal Manager or a duly authorised officer of Council.
- (10) Prior to the Municipality making any upward adjustment to an account in terms of paragraph 17(8)(b), the Municipality must—
 - (a) notify the consumer in writing of the monetary value of the adjustment to be made and the reasons therefore;
 - (b) in such notification provide sufficient particulars to enable the consumer to submit representations thereon; and
 - (c) all upon the consumer in such notice to present it with reasons in writing, if any, within 21 days or such longer period as Council may permit, why the account should not be adjusted as notified, and should the consumer fail to provide any representation during the period referred to in paragraph 17(10)(c) Council shall be entitled to adjust the account as notified in paragraph 17(10)(a).
- (11) The Municipality must consider any representation provided by the consumer in terms of subsection 17(10) and must, if satisfied that a case has been made out therefore, adjust the account appropriately.

- (12) If the Municipal Manager or a duly authorised officer of Council decides, after having considered the representation made by the consumer, that such representation does not establish a case warranting an amendment to the monetary value established in terms of subsection 17(15), Council is entitled to adjust the account as notified in terms of paragraph 17(10)(a), and the consumer has the right to appeal the decision of the official in terms of section 62 of the Municipal Systems Act, 2000 (Act No 3 of 2000).
- (13) Meters are tested in the manner as provided for in the applicable standard specifications.
- (14) When an adjustment is made to the consumption registered on a meter in terms of paragraphs 17(8)(b) or 17(8)(c), such adjustment is, based either on the percentage error of the meter as determined by the test referred to in subsection 17(13), or upon a calculation by the Municipality from consumption data in its possession and where applicable, due allowance shall be made, where possible, for seasonal or other variations which may affect consumption.
- (15) When an adjustment is made as contemplated in subsection 17(14), the adjustment may not exceed a period of six months preceding the date on which the metering equipment was found to be inaccurate, however the application of this subsection does not bar a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.
- (16) The relevant Head of Department may dispense with the use of a meter in case of—
 - (a) special circumstances at the Head of department's discretion.
- (17) Council may by notice—
 - (a) prohibit or restrict the consumption of metered services—
 - (i) for specified or non-specified purposes;
 - (ii) during specified hours of the day or on specified days or otherwise than during specified hours of the day or on specified days; and
 - (iii) in a specified or non-specified manner; and
 - (b) determine and impose—
 - (i) limits on the quantity of metered services which may be consumed over a specified period;
 - (ii) charges additional to those prescribed in respect of the supply of metered services in excess of a limit contemplated in subparagraph (i); and
 - (iii) a general surcharge on the prescribed charges in respect of the supply of metered services; and
 - (c) impose restrictions or prohibitions on the use or manner of use or disposition of an appliance by means of which metered services is used or consumed, or on the connection of such appliance.

- (18) Council may limit the application of the provisions of a notice contemplated by subsection 17(17) to specified areas and classes of account holders, premises and activities, and may provide for the Engineer to permit deviations and exemptions from, and the relaxation of any of the provisions on such grounds as he or she may deem fit.
- (19) To ensure compliance with a notice published in terms of subsection 17(17), the relevant Head of Department may take, or by written notice require an account holder at the account holder's expense to take, such measures, including the installation of measuring devices and devices for restricting the flow of metered services as may be necessary.
- (20) In addition to the person by whose act or omission a contravention of or failure to comply with the terms of a notice published in terms of subsection 17(17) is actually committed, an account holder in respect of the premises to which metered services are supplied is presumed also to have committed the contravention or to have so failed to comply, unless it is proved that the account holder had taken all reasonable steps to prevent such a contravention or failure to comply by any other person, however, the fact that the account holder issued instructions to the other person shall not of itself be accepted as sufficient proof that the account holder took all such reasonable steps.
- (21) The provisions of this section also apply in respect of metered services supplied directly by Council to account holders outside its area of jurisdiction, notwithstanding anything to the contrary in the conditions governing such supply, unless otherwise specified in the notice published in terms of subsection 17(17).
- (22) If such action is necessary as a matter of urgency to prevent waste of metered services, refuse or sewerage, damage to property, danger to life, or pollution of water, the relevant Head of Department may—
 - (a) without prior notice disconnect the supply of metered services to any premises; and
 - (b) enter upon such premises and do such emergency work, at the account holders expense, as he or -she may deem necessary, and in addition by written notice require the account holder to do within a specified period such further work as the relevant Business Unit Manager may deem necessary.
- (23) Before any metered or pre-paid metered supplies which have been disconnected or restricted for non-payment is restored, an account holder must pay all fees and charges as determined by Council, from time to time.
- (24) The relevant officer may, at the written request of an account holder and on the dates requested by the account holder—
 - (a) disconnect the supply of metered services to the account holders premises; and
 - (b) restore the supply, and the account holder must before the metered services is restored pay the prescribed charge for the disconnection and restoration of his or her supply of metered services.
- (25) After disconnection for non-payment of an account or a contravention of any provision of these by-laws, the prescribed fees must be paid before reconnection is made.
- (26) The following apply to the reading of credit meters:

- (a) unless otherwise prescribed, credit meters are normally read at intervals of approximately one month and the fixed or minimum charges due in terms of the tariff are assessed accordingly and Council is not obliged to effect any adjustments to such charges;
- (b) if for any reason the credit meter cannot be read, Council may render an estimated account, and estimated consumption shall be adjusted in a subsequent account in accordance with the consumption actually consumed;
- (c) when an account holder vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made and the final account rendered accordingly;
- (d) if a special reading of the meter is desired by a consumer, this may be obtained upon payment of the prescribed fee; and
- (e) if any calculating, reading or metering error is discovered in respect of any account rendered to a consumer—
 - (i) the error shall be corrected in subsequent accounts;
 - (ii) any such correction shall only apply in respect of accounts for a period of six months preceding the date on which the error in the accounts was discovered;
 - (iii) the correction shall be based on the actual tariffs applicable during the period; and
 - (iv) the application of this section does not prevent a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.

(27) The following apply to prepayment metering:

- (a) no refund of the amount tendered for the purchase of electricity or water credit shall be given at the point of sale after initiation of the process by which the prepayment meter token is produced;
- (b) copies of previously issued tokens for the transfer of credit to the prepayment meter may be issued at the request of the consumer;.
- (c) when an account holder vacates any premises where a prepayment meter is installed, no refund for the credit remaining in the meter shall be made to the owner by Council;
- (d) Council shall not be liable for the reinstatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, prepayment meters or tokens;
- (e) where an account holder is indebted to Council for any assessment rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable arising from any other liability or obligation Council

may deduct a percentage from the amount tendered to offset the amount owing to Council; and

- (f) Council may appoint vendors for the sale of credit for prepayment meters and does not guarantee the continued operation of any vendor.

18. Resale of water or electricity

- (1) No account holder who is supplied with metered services in terms of these by-laws may sell or supply water or electricity, supplied to the account holders premises under an agreement with Council, to any other person or persons for such use upon any premises other than those in respect of which such agreement is made, or permit or suffer such resale or supply to be made, unless provision has been made therefore in a special agreement or unless prior permission from Council to do so has been obtained.
- (2) If Council grants the permission referred to in subsection 18(1), it may stipulate the maximum price at which the water or electricity may be sold and impose such other conditions as it may deem fit.
- (3) Permission referred to in subsection 18(1) may be withdrawn at any time.
- (4) Where water or electricity is resold for use on the same premises, such resale must be in accordance with the tariff and subject to such conditions as Council may decide.

19. Assistance to the poor

- (1) To qualify as a poor household, the following requirements must be met:
 - (a) The applicant must be an account holder.
 - (b)
 - (i) The applicant must occupy the property.
 - (ii) In the case of tenants, the tenant must apply in person and will only qualify for electricity, water and sewerage charges, i.e. the charges for which he/she receives a municipal account. The landlord will be responsible for rates and refuse charges.
 - (iii) The existing and future accounts of poor households where the account holder has deceased, i.e. an “estate late” account, be accepted under the assistance scheme, on condition that only the surviving spouse and/or dependant children may apply or benefit.
 - (c) The applicant may not be the owner of more than one property within or outside the Metropolitan area; and vacant land will not qualify as a property.
 - (d) The collective household income may not exceed an amount as determined by Council. Council may determine a certain maximum amount for consumption of water or electricity or the municipal valuation. Council may utilise any combination of these values.
 - (e) The municipal valuation of the property may not exceed the value as determined by Council from time to time.

- (2) The applicant must immediately notify Council should his or her position change regarding 19(1)(b) to 19(1)(d) above, thus enabling Council to reconsider the household's status as a poor household.
- (3) The applicant must, before a date determined by Council, apply annually, or at such intervals as determined by Council from time to time, to be granted the status as a poor household, and for these purposes must:
 - (a) complete and sign the prescribed forms; and
 - (b) provide any other documentation as may be required by Council from time to time.
- (4) Households which qualify as poor households may receive a credit for some or all of the following:
 - (a) a quantity of electricity, as determined by Council from time to time;
 - (b) a quantity of water, as determined by Council from time to time;
 - (c) the refuse removal charges, as determined by Council from time to time;
 - (d) the sewerage charges, as determined by Council from time to time;
 - (e) assessment rates, as determined by Council; or
 - (f) any other service fees, taxes or charges over and above the rendered services.
- (5) Council has the right to visit the property mentioned in subsection 1(b) at any reasonable time for the purposes of auditing or application.
- (6) The normal rates, fees and charges and the requirement to pay an account will apply should a household account exceed the credit given.

MISCELLANEOUS PROVISIONS

20. Council's powers to restrict or disconnect supply of services

Council may, over and above the provisions of any other provisions in these by-laws restrict or disconnect the supply of water and electricity, or discontinue any other service to any premises if—

- (a) an administration order is granted in terms of section 74 of the Magistrates Court Act, 1944 (Act No. 37 of 1944), in respect of an account holder;
- (b) an account holder of any service fails to comply with a condition of supply imposed by Council;
- (c) an account holder obstructs the efficient supply of electricity, water or any other municipal services to another account holder;
- (d) an account holder supplies such municipal services to any person who is not entitled thereto or permits such service to continue;

- (e) an account holder causes a situation which in the opinion of Council is dangerous or a contravention of relevant legislation; or
- (f) is placed under provisional registration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 (Act No. 24 of 1936).

21. Tampering, unauthorised connections and reconnections, and improper use

- (1) Council reserves the right to monitor the service network for signs of tampering or irregularities.
- (2) No person may in any manner or for any reason whatsoever tamper or interfere with any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of Council.
- (3) Where prima facie evidence exists of a consumer or any person having contravened subsection 21(2), Council has the right to disconnect the supply immediately and without prior notice to the account holder, and the account holder is liable for all fees and charges levied by the Municipality for such disconnection.
- (4) Where an account holder or any person has contravened subsection 21(2) and such contravention has resulted in the meter recording less than the true consumption, Council has the right to recover from the account holder the full cost of his estimated consumption.

22 Clearance certificate

To affect the transfer of any immovable property from one registered owner to another, the Registrar of Deeds requires a clearance certificate. The certificate is obtainable from the Municipal Manager or a duly authorised officer of Council, upon payment of the prescribed fee and subject to the conditions of Section 118 of the Municipal Systems Act, 2000 (Act No 32 of 2000) being met.

23. Tenders and grants-in-aid

- (1) Each tender submitted to the Tender Committee must be accompanied by a certificate from the Municipality stating that the proposed supplier is not indebted to Council for any arrear amount reflected on the municipal account.
- (2) Should a proposed supplier be so indebted, the tender committee may disallow the tender.
- (3) The Tender Committee may only consider a tender once the proposed supplier has made satisfactory arrangements to pay the outstanding amount by means of instalments, or has settled all arrear amounts in full.
- (4) The Municipal Manager or a duly authorised officer of Council shall in the condition of contract, provide for the deduction from moneys owed to the supplier in order to settle any outstanding amount.
- (5) Payment of any grants-in-aid approved by the authorised, may be withheld pending payment of any outstanding municipal account, or pending an agreement between Council and the receiver of a grant-in-aid in which satisfactory arrangements have been made regarding the settlement of the outstanding municipal account.

24. Power of entry and inspection

- (1) A duly authorised representative of Council may for any reason related to the implementation or enforcement of these by-laws, at all reasonable times or in emergency at any time, enter premises, request information and carry out such inspection as deemed necessary, and may for purposes of installing or repairing any meter or service connection for reticulation disconnect, stop or restrict the provision of any service.
- (2) If Council considers it necessary for work to be performed to enable an officer to perform a function referred to in 24(1) above properly and effectively it may by written notice require an account holder to do, at own expense, specified work within a specified period; or
 - (b) if the situation is a matter of urgency, without prior notice do such work or cause it to be done at the expense of the account holder.
- (3) If the work referred to in 24(2) is carried out for the sole purpose of establishing whether a contravention of these by-laws has been committed and no such contravention has taken place, Council shall bear the expense connected therewith together with that of restoring the premises to their former condition.

25. Relaxation, waiver and differentiation of customers

- (1) Council may differentiate between different categories of ratepayers, account holders, customers, debtors, taxes, services, service standards and other matters.
- (2) Council may, in writing exempt an account holder, category of account holders, or other persons from complying with a provision of these by-laws, subject to any conditions it may impose, if the application or operation of that provision would be unreasonable, however Councillor its authorised agent may not grant exemption from any section of these by-laws that may result in—
 - (a) the wastage or excessive consumption of water or electricity;
 - (b) the evasion or avoidance of water or electricity restrictions;
 - (c) significant negative effects on public health, safety or the environment;
 - (d) the non-payment for services;
 - (e) the installation of pipes and fittings which are not acceptable in terms of Council's prescribed standard; or (f) any Act, or any regulation made in terms thereof, not being complied with.
- (3) Councillor its authorised agent may at any time after giving written notice of at least thirty days, withdraw any exemption given in terms of subsection 25(2).

26. Power of council to recover costs

- (1) Where a bank dishonours any payment made to Council, Council may levy and recover all related costs and any administration fees against an account of the defaulting account

holder and may disconnect or restrict the supplies to the premises of such account holder.

- (2) All legal costs, including attorney-and-own-client costs incurred in the recovery of amounts in arrears and payable in terms of the Magistrates Court Act, 1944 (Act No. 32 of 1944) shall be levied against the arrears account of the account holder.
- (3) For any action taken in demanding payment from an account holder or reminding an account holder by means of telephone, fax, electronic mail, letter or otherwise that payments are due, a fee will be levied against the municipal account of the account holder in terms of Council's tariff provisions.

27. Prima facie evidence

A certificate reflecting the amount due and payable to Council, under the hand of the Municipal Manager or a duly authorised officer of Council, is upon mere production thereof prima facie evidence of the indebtedness.

28. Authentication and service of orders, notices and other documents

- (1) An order, notice or other document requiring authentication by Council must be sufficiently signed by the Municipal Manager or by a duly authorised officer of Council, such authority being conferred by resolution of Council or by a by-law or regulation and when issued by Council in terms of these by-laws is deemed to be duly issued if it is signed by an officer authorised by Council.
- (2) Any notice or other document that is served on a person by a duly authorised officer of Council in terms of these by-laws, is regarded as having been served—
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgement of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs 28(2)(a), 28(2)(b) or 28(2)(c);
 - (e) if that person's address agent or representative in the Republic is unknown, when it has been placed in a conspicuous place on the property or premises, if any, to which it relates;
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
 - (g) when it has been delivered, at the request of a person, to that person's electronic mail address.
- (3) When any notice or other document has to be authorised or served on the owner, an account holder or holder of any property or right in any property, it is sufficient if that

person is described in the notice or other document as the owner, account holder or holder of the property or right in question, and it is not necessary to name that person.

- (4) Service of a copy shall be deemed to be service of the original.
- (5) Any legal process is effectively and sufficiently served on Council when it is delivered to the Municipal Manager or a person in attendance at the Municipal Manager's office.

29. Abandonment of bad debts, and full and final settlement of an account

- (1) Before terminating the debt collection procedure in any individual instance, the Municipal Manager must—
 - (a) ensure that all debt collection mechanisms as provided for in these by-laws have been utilised where reasonable;
 - (b) maintain an audit trail; and
 - (c) document the reasons for terminating the debt collection procedure, including the cost of enforcement and necessary financial adjustments.
- (2) The Municipal Manager or a duly authorised officer of Council may consider an offer for full and final settlement, and must, if in the interests of Council, in writing consent to the acceptance of a lesser amount as full and final settlement of the amount due and payable.
- (3) Where the exact amount due and payable to Council has not been paid in full, any lesser amount tendered to and accepted by any Council employee, except the Municipal Manager or the Municipal Manager's delegate, shall not be deemed to be in full and final settlement of such an amount.

30. Right of appeal

- (1) A person whose rights are affected by a decision of a municipal officer may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision,
- (2) The Municipal Manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection 30(4).
- (3) The appeal authority must consider the appeal and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (4) When the appeal is against a decision taken by—
 - (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - (b) the Municipal Manager, the Mayor is the appeal authority; or
 - (c) a political structure or political officer bearer or a Council or, a committee of councillors who were not involved in the decision and appointed by Council., for this purpose is the appeal authority.

- (5) An appeal authority must commence with an appeal within six weeks and decide upon the appeal within a period of twelve weeks.

31. Offences

A person shall be guilty of an offence and liable upon conviction to a period not exceeding six months of community service or a fine not exceeding R20 000 or a combination of the aforementioned if he or she—

- (a) fails to give access required by an officer in terms of these by-laws;
- (b) obstructs or hinders an officer in the exercise of his or her powers or performance of functions or duties under these by-laws;
- (c) uses or interferes with Council equipment or consumption of services supplied;
- (d) fails or refuses to give Council or an officer such information as Council or the officer may reasonably require for the purpose of exercising powers or functions under these by-laws, or gives the Council or the officer false or misleading information knowing it to be false or misleading;
- (e) fails to comply with the terms of a notice served upon him or her in terms of these bylaws;
- (f) fails to notify Council in terms of Section 19(2); or
- (g) tampers or breaks any seal on a meter or on any equipment belonging to Council, or for any reason as determined by the Municipal Manager causes a meter not to register the services used properly, and the person shall furthermore be charged for usage.

32. Transitional provision

A person who is the owner of property within the Municipality before the commencement of these by-laws must within a period determined by Council from time to time, after the commencement of these by-laws, enter into a new service agreement with Council in terms of which such owner undertakes to be solely responsible for any municipal charges relating to each of such owner's properties, failing which the supply to the property may be discontinued.

33. Saving provisions

Should there be any conflict between these by-laws and any other by-laws of Council, these by-laws will prevail.

34. Revocation of By-laws

Any Customer Care and Revenue Management By-laws which applied in the are of jurisdiction of the Council prior to the date of the promulgation of these by-laws, are hereby repealed.