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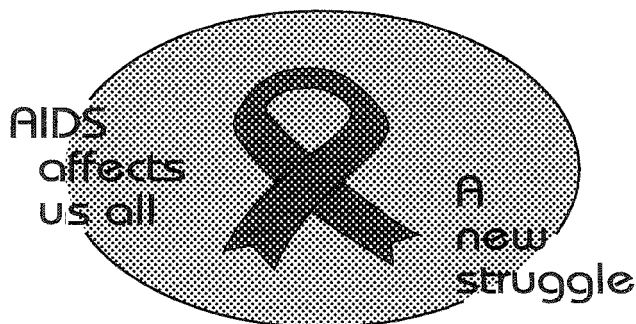
# Provincial Gazette Igazethi Yephondo Provinsiale Koerant

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KING WILLIAM'S TOWN, 3 JULY 2006

**No. 1554**  
(Extraordinary)

**We all have the power to prevent AIDS**



Prevention is the cure

**AIDS  
HELPLINE**

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DEPARTMENT OF HEALTH



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## LOCAL AUTHORITY NOTICE

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### LOCAL AUTHORITY NOTICE 96

### MUNICIPALITY OF BUFFALO CITY

### CREDIT CONTROL BY-LAW

### TO REGULATE CUSTOMER CARE MANAGEMENT, CREDIT CONTROL AND DEBT COLLECTION POLICIES IN BUFFALO CITY MUNICIPAL AREA.

THE BUFFALO CITY MUNICIPALITY HEREBY MAKES THE FOLLOWING BY-LAW IN TERMS OF SECTION 98(1) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, NO. 32 OF 2000.

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**BE IT ENACTED BY THE BUFFALO CITY MUNICIPALITY AS FOLLOWS :-**

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

**“Arrangement”** means a written agreement entered into between the Council and the debtor where specific repayment parameters are agreed to.

**“Account”** means an account rendered specifying charges for services provided by the municipality, or any authorised and contracted service provider, and/or assessment rates levies;

**"billing date"** means the date upon which the monthly statement is generated and debited to the customer's account.

**"business premises"** means premises utilised for purposes other than residential and excludes the following :-

- (a) hospitals, clinics and institutions for mentally ill persons which are not operated for gain;
- (b) museums, art galleries, libraries and botanical gardens which are registered in the names of private persons and are open to the public, whether admission fees are charged or not;

- (c) sports grounds used for the purpose of amateur sports and any social activities which are connected with such sports;
- (d) any property registered in the name of an institution or organisation which, in the opinion of the Council, performs charitable work;
- (e) any property utilised for bona fide church or religious purposes.

**"Chief financial officer"** means the official accountable and responsible to the municipal manager for the implementation, enforcement and administration of the customer care management and debt collection policies contained in these by-laws.

**"Credit Control"** means all the functions relating to the collection of monies owed by ratepayers and the users of municipal services.

**"Council"** means the Municipal Council of Buffalo City Municipality or any duly authorised Committee, political office bearer or official of the said Council.

**"Customer"** means any occupier of any premises to which the Council has agreed to supply or is actually supplying services, or if there is no occupier, then the owner of the premises and includes any debtor of the Municipality.

**"day/days"** means calendar days, inclusive of Saturdays, Sundays and public holidays.

**"Defaulter"** means any person owing the Council arrear monies in respect of taxes and/or service charges.

**"due date"** in relation to –

- (a) rates due in respect of any immovable property, means the thirtieth day of September of the financial year for which such rate is made, or any other date determined by council by notice in the Provincial Gazette, and
- (b) in respect of service charges due in respect of any immovable property, means the date for payment indicated on the account.

- (c) Should such day fall on a Saturday, Sunday or public holiday the due date shall be the next working day.

**"immovable property"** includes –

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

**"Indigent debtor"** means:

- (a) the head of an indigent household:
- (i) who applied for and has been declared indigent in terms of this By-Law for the provision of services from the municipality; and
  - (ii) who makes application for indigent support in terms of these by-laws on behalf of all members of his or her household;
- (b) orphaned minor children duly represented by their legal and/or defacto guardians.

**"Indigent Support Programme"** means a structured programme for the provision of indigent support subsidies to qualifying indigent debtors in terms of the Council's Indigent Support Policy.

**"Indigent Support Policy"** means the Indigent Support Policy adopted by the Council of the Municipality.

**"Interest"** A charge levied on all arrear monies and calculated at a rate determined by Council from time to time;

**"month"** means a calendar month.

**"monthly average consumption"** means the monthly average consumption in respect of that property calculated on the basis of consumption over the preceding twelve months.

**"municipal pay point"** means any municipal office in the area of jurisdiction of the municipality designated by Council for such purposes, or any such other places as the Chief Financial Officer may from time to time designate.

**"municipal services"** means services provided either by the municipality, or by an external agent on behalf of the Municipality in terms of a service delivery agreement, and shall include charges in respect of water and electricity consumption.

**"municipality"** means the Buffalo City Municipality.

**"Municipal Manager"** means the Municipal Manager of the Buffalo City Municipality or his or her nominee acting in terms of power delegated to him or her by the said Municipal Manager with the concurrence of the Council.

**"occupier"** means the person who controls and resides on or controls and otherwise uses immovable property; provided that -

- (a) the husband or wife of the owner of immovable property which is at any time used by such owner and husband or wife as a dwelling, shall be deemed to be the occupier thereof;
- (b) where a husband and wife both reside on immovable property and one of them is an occupier thereof; the other shall also be deemed to be an occupier thereof.

**"owner"** in relation to immovable property means -

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

- (b) if the owner is dead or insolvent or has assigned his or her estate for the benefit of his creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be, shall be deemed to be the owner thereof;
- (c) (i) if the owner is absent from the Republic or if his address is unknown to the Municipality, any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property, or
  - (ii) if the Municipality is unable to determine who such person is, the person who is entitled to the beneficial use of such property.

**"Premises"** includes any piece of land, the external surface boundaries of which are delineated on:

- (a) A general plan or diagram registered in terms of the Land Survey Act, (9 of 1927) or in terms of the Deed Registry Act, 47 of 1937; or
- (b) A sectional plan registered in terms of the Sectional Titles Act, 95 of 1986, which is situated within the area of jurisdiction of the Council.

**"prescribed"** means prescribed by these by-laws and where applicable by Council or the Municipal Manager.

**"person"** means natural and juristic persons, including any department of state, statutory bodies or foreign embassies.

**"rates"** means any tax, duty or levy imposed on property by the municipality.

**"registered owner"** means that person, natural or juristic, in whose name the property is registered in terms of the Deeds Registry Act, no. 47 of 1937.

"**responsible person**" means any person other than the registered owner of an immovable property who is legally responsible for the payment of municipal service charges.

"**service charges**" means the fees levied by the Municipality in terms of its tariff policy for any municipal services rendered in respect of an immovable property and includes any penalties, interest or surcharges levied or imposed in terms of these by-laws.

"**Service Delivery Agreement**" means an agreement between the Municipality and an institution or persons mentioned in section 76(b) of the Local Government: Municipal Systems Act 32 of 2000.

"**Sundry debtor accounts**" means accounts raised for miscellaneous charges for services provided by the Municipality or charges that was raised against a person as a result of an action by a person and which was raised in terms of Councils policies, bylaws and decisions.

"**Tariff**" means any rate, tax, duty and levy or fee which may be imposed by the municipality for services provided either by itself or in terms of a service delivery agreement.

"**Tariff Policy**" means a Tariff Policy adopted by the Council in terms of Section 74 of the Local Government: Municipal Systems Act 32 of 2000.

"**user**" means the owner or occupier of a property in respect of which municipal services are being rendered.

## 2. SUPERVISORY AUTHORITY

(1) The Mayor oversees and monitors –

- (a) the implementation and enforcement of this by-law and the municipality's credit control and debt collection policy,

- (b) the performance of the Municipal Manager in implementing this by-law and the credit control and debt collection policy;
- (2) The Mayor shall at least once a year, cause a review of this by-law and the credit control and debt collection policy to be performed in order to improve the efficiency of the Municipality's credit control and debt collection mechanisms, processes and procedures and to the implementation of this by-law.
  - (3) The Mayor shall submit a report to Council regarding the implementation of these by-laws and credit control and debt collection policies at such intervals as Council may determine.
  - (4) The Municipal Manager:
    - (a) implements and enforces this by-law and the municipality's credit control and debt collection policy.
    - (b) Is accountable to the Mayor for the enforcement of this by-law and the policy and shall submit a report to the Mayor regarding the implementation and enforcement of this by-law and the credit control and debt collection policy at such intervals as may be determined by Council.
    - (c) must establish effective administrative mechanisms, processes and procedures to collect money that is due and payable to the Municipality.
    - (d) 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.
    - (e) 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.
    - (f) Establish customer service centers which are located in such communities as determined by Council.

- (g) 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 utilized, and may where necessary, employ the services of local media to convey such information.
- (5) The municipal manager may, in writing, delegate any of the powers entrusted or delegated to him or her in terms of this by-law to the Chief Financial Officer.
- (6) A delegation in terms of subsection (5) –
  - (a) is subject to any limitations or conditions that the municipal manager may impose;
  - (b) may authorize the Chief Financial Officer to, in writing, sub-delegate the delegated power to another official of the municipality;
  - (c) does not divest the municipal manager of the responsibility concerning the exercise of the delegated power.
- (7) The Chief Financial Officer shall be responsible to the Municipal Manager for the implementation, enforcement and administration of the customer care management, and the general exercise of his powers in terms of this by-law.

### **3. APPLICATIONS FOR PROVISIONS OF MUNICIPAL SERVICES**

- (1) All applications for the provision of Municipal Services in respect of any immovable property shall be made by the registered owner of the said immovable property in writing and in accordance with the prescribed form.
- (2) Individuals and businesses with lease agreements to lease properties from the Municipality and Government departments will be allowed to open an account in the name of the lessee of the property.
- (3) The registered owner of an immovable property in respect of which application for the provision of municipal services has been made shall, at

least ten days prior to the date on which the services are required to be connected, enter into a written agreement with the Municipality in accordance with the prescribed form.

- (4) The written agreement referred to in subsection (2) shall, amongst others, make provision for the following:
  - (a) An undertaking by the owner that he or she will be liable for collection costs including administration fees, interests, disconnection and reconnection costs, and any other legal costs occasioned by his or her failure to settle accounts by the due date;
  - (b) An acknowledgement by the owner that accounts will become due and payable by the due date notwithstanding the fact that the owner did not receive the account; and
  - (c) That the onus will be on the owner to ensure that he or she is in possession of an account before the due date.
  - (d) An undertaking by the Municipality that it shall do everything in its power to deliver accounts timeously.
- (5) The Municipality may, upon the written request of the registered owner of an immovable property, enter into a written agreement with both the registered owner and occupier of the immovable property in respect of which application for the provision of municipal services has been made. The agreement shall be in accordance with the prescribed form.
- (6) The registered owner of a property in respect of which application has been made for the provision of Municipal services shall, at least ten days prior to taking occupation of the aforesaid property, notify the Chief Financial Officer thereof in writing in accordance with the prescribed form.
- (7) The Chief Financial Officer shall cause a reading of the meters installed at the premises in respect of which application for the provision of municipal

services has been made to be taken on the working day preceding the date of occupation.

- (8) The Chief Financial Officer may, from time to time, require all owners or occupiers of immovable properties in respect of which Municipal services are being rendered, to enter into written agreements with the Municipality in accordance with the form referred to in subsection (2).
- (9) An applicant for the provision of municipal services in respect of immovable property shall be required to pay a prescribed deposit prior to the provision of any municipal services.
- (10) The municipal manager may, in his sole discretion, and upon written notice to the owner of a property and after the conclusion of the agreement referred to in sub-section (2), either increase or decrease the deposit payable.
- (11) The municipal manager shall give an owner or responsible person notice of any intention to increase the minimum deposit payable by the owner or responsible person, and shall, in the aforesaid notice, state full reasons for the increase and allow the owner or responsible person an opportunity to make written representations in this regard.
- (12) An aggrieved owner or responsible person may, within a period of ten days after having been notified of the aforesaid increase, and in the prescribed manner, lodge an appeal against the decision of the Municipal Manager to the Executive Mayor.
- (13) The Executive Mayor shall, within a period of ten days after receipt of the appeal notice, pronounce upon the matter. No further appeal against the decision of the Executive Mayor shall be allowed.
- (14) The Chief Financial Officer may, in his sole discretion, and in respect of premises utilised for business purposes, accept a guarantee in lieu of a deposit.

- (15) 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.

#### **4. ACCOUNTS AND BILLING**

- (1) The Municipality shall provide every person who is liable in terms of a signed agreement for service charges in respect of Municipal services, with an account in respect of every property for which that person is liable and all services rendered in respect of those properties.
- (2) Accounts will be rendered on a monthly basis in cycles of approximately thirty days.
- (3) All accounts rendered by the Municipality shall be payable on the due date as indicated on the account.
- (4) Any amount which remains due and payable after the due date shall attract interest.
- (5) Payments shall be deemed to be late unless received on or before the due date at a Municipal pay point by the close of business.
- (6) Electronic payments or payments made through agents, must be received in the Municipal bank account by the close of business on the due date.
- (7) All accounts shall be payable by the due date regardless of the fact that the person responsible for the payment of the account has not received it and the onus shall be on such person to obtain a copy of the account before the due date.

#### **5. POWER TO RESTRICT OR DISCONNECT SUPPLY OF SERVICES**

- (1) The Council may disconnect the supply of electricity, block the purchase of electricity on the prepayment system and/or restrict or disconnect the supply of water whenever a user of any such service:

- 
- (a) Fails to make full payment on the due date or fails to make an acceptable arrangement for the repayment of any amount due in respect of Municipal charges.
  - (b) fails to comply with a condition of supply imposed by the Council;
  - (c) tampers with any municipal supply meter or bypasses any metering equipment in order to obtain an un-metered service;
  - (d) commits any act which would in terms of the applicable Electricity and Water By-Laws, entitle the Municipality to discontinue municipal services;
  - (e) causes a situation which in the opinion of the council is dangerous or a contravention of relevant legislation;
  - (f) is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act 24 of 1936 or any other applicable law;
  - (g) becomes subject to an order granted in terms of section 74 of the Magistrates Court Act, 1944 (Act 32 of 1944),
- (2) Council shall, before limiting or discontinuing water services to any premises or consumer, ensure that a fair and equitable procedure is followed. Council shall provide reasonable notice of intention to limit or discontinue water services and grant the affected person an opportunity to make written representations in terms of Section 4 of the Water Services Act, 108 of 1997.
  - (3) The right to restrict, disconnect or terminate a service shall be in respect of any service rendered by Council, and shall prevail notwithstanding the fact that payment has been made in respect of any specific service and notwithstanding the fact that the person who entered into an agreement for the supply of services with the Council and the owner are different entities or persons, as the case may be.

## **6. METERING OF MUNICIPAL SERVICES**

- (1) Council may introduce various metering equipment and may encourage an account holder to convert to a system which is preferred by Council when Council considers this to be beneficial to its functioning and operations.
- (2) Councils preferred metering system to measure electricity is the prepayment electricity metering system for domestic consumers and for certain business consumers.
- (3) The Chief Financial 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 holder's 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.
- (4) 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;

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- (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 three years 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 shall not prevent a consumer from claiming overpayment for any longer period where the consumer is able to prove the claim in the a court of law.
- (5) The following applies 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 apply all the debt collection functions available on the prepayment electricity system to collect arrear debt; and

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

## **7. PAYMENT FACILITIES AND METHODS**

- (1) Payments on accounts rendered may be effected at any Municipal office designated for this purpose by Council or such other places as the Chief Financial Officer may from time to time designate.
- (2) The Chief Financial Officer may at his discretion and from time to time, designate certain payment methods which will be acceptable to the Municipality.
- (3) Any payments made in respect of municipal charges may be allocated by the Municipality entirely within its discretion, provided that any part payment on an account shall be allocated firstly to reduce any penalty charges which may have accrued on the account.

## **8. ENQUIRIES AND APPEALS**

- (1) An aggrieved person may address a grievance or query regarding charges for Municipal services to the Chief Financial Officer in writing and in accordance with the prescribed form.
- (2) The aggrieved person shall clearly state the basis of his/her dissatisfaction and the desired resolution.
- (3) The lodging of an inquiry shall not relieve the aggrieved person of the responsibility to settle the account, provided that the Chief Financial Officer may, on application in writing and in his sole discretion, direct that interim payments be made pending the finalisation of the inquiry.

- (4) The Chief Financial Officer shall respond to such an inquiry in writing within sixty days from the date of the lodgment of the inquiry.

## **9. CREDIT CONTROL AND DEBT COLLECTION POLICY**

- (1) The Council shall have a written policy on credit control and debt collection which shall be termed the Credit Control and Debt Collection Policy and which must provide for:
- (a) Credit control procedures and mechanisms;
  - (b) Debt collection procedures and mechanisms;
  - (c) Provision for indigent debtors;
  - (d) Interest on arrears;
  - (e) Extensions of time for payment of accounts, including arrangements for payment;
  - (f) Termination of services or the restriction of the provision of services when payments are in arrears;
  - (g) The provision of new services;
  - (h) An agreement between a debtor's employer and the Council to deduct amounts from the debtors salary or wage;
  - (i) Any other matter which is incidental to credit control and debt collection;
  - (j) The sale in execution of any property. In determining its policy, the Council may differentiate between categories of persons, clients, debtors and owners as it may deem appropriate provided such differentiation does not amount to unfair discrimination.
- (2) Anyone shall, upon payment of the prescribed fee be entitled to a copy of the Credit Control Policy.

**10. CREDIT CONTROL AND DEBT COLLECTION PROCEDURES: RATES AND SERVICE CHARGES.**

- (1) Annual rates and service charges are levied on all properties during July of every year, and the due date for the payment of these charges are on the thirtieth (30<sup>th</sup>) day of September of every year. Council may by notice in the Provincial Gazette amend these dates.
- (2) Rates, refuse and sewerage charges which are by arrangement paid on a monthly basis shall be payable by the due date as indicated on the account.
- (3) Accounts rendered by the Municipality in respect of electricity and water shall be payable by the due date as indicated on the account.
- (4) Interest on arrears shall accrue on all amounts that remain unpaid after the due date as indicated on the account rendered by the municipality.
- (5) In the event of an owner of property failing to pay the outstanding rates and service charges by the due date, the Chief Financial Officer or any person duly authorised thereto, shall ensure that the necessary steps are taken to collect the arrear debt in accordance with the debt collection procedures prescribed in terms of the Credit Control and Debt Collection Policy.
- (6) The Municipality shall disconnect the electricity supply or block the purchase of electricity on the prepayment electricity system and/or restrict or disconnect the water supply of any property in respect of which an account has not been paid by the due date in the manner provided for in the Electricity and Water By-laws.
- (7) Any legal costs, collection costs and disbursements relating to the aforesaid procedures shall be debited to account of the defaulting debtor.
- (8) Persons who have made arrangements to settle their rates accounts on a monthly basis shall maintain regular payments. Failure to adhere to the arrangement and to pay the monthly installments for three consecutive

months shall result in the cancellation of the said facility, and the outstanding balance shall become due and payable.

- (9) The Chief Financial Officer may refuse to allow any registered owner who has defaulted on the monthly payment facility to enter into such an arrangement for a further period determined by the Chief Financial Officer or any person duly authorised thereto and which period shall not exceed three years.
- (10) Where a company, closed corporation or a body corporate in terms of the Sectional Titles Act, 1986 is responsible for the payment of any amount to the Council, the liability of such entity shall be extended to the directors or members thereof jointly and severally as the case may be.
- (11) The Chief Financial Officer may, upon good cause shown, allow any defaulting owner or occupier of a property, to enter into an arrangement for the payment of the outstanding account by way of installments, on such terms and conditions determined by the Credit Control and Debt Collection Policy. When such an agreement has been entered into, all actions against the owner or occupier of a property in terms of the Credit Control and Debt Collection policy shall be suspended.
- (12) The Chief Financial Officer may, in respect of an owner of a property where the water and/or electricity connections had been disconnected at least twice during the preceding period of twelve months, give notice in terms of the provisions of these by-laws of his intention to review the amount of the deposit required from that owner.

#### **11. CERTIFICATES REQUIRED FOR THE TRANSFER OF IMMOVABLE PROPERTY**

- (1) Applications for the issuing of certificates required for the transfer of immovable property in terms of Section 118 of the Local Government: Municipal Systems Act No 32 of 2000 must be lodged with the Chief Financial Officer in the prescribed manner.

- (2) A certificate mentioned in subsection (1) may only be issued if all amounts that became due in connection with that property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate have been fully paid.

## **12. INTEREST ON OUTSTANDING BALANCES**

(1) Rates

- (a) All outstanding payments in respect of rates levied and not paid by the due date shall attract interest.

(2) Service Charges

- (a) All outstanding accounts in respect of service charges that are not paid by the due date shall attract interest.

(3) Sundry Debtor Accounts

- (a) All outstanding amounts in respect of sundry debtor accounts and that have not been settled within thirty days from the billing date shall attract interest.

- (4) No interest shall be charged on any outstanding amounts in respect of which an agreement had been concluded for the payment by way of installments thereof, provided that the debtor complies with the terms of the agreement.

- (5) For the purposes of this section the interest shall be calculated for each month for which such payment remains unpaid and a part of a month shall be deemed to be a month.

## **13. WRITE OFF OF IRRECOVERABLE DEBTS**

- (1) The Municipal Council may, on recommendation from the Municipal Manager, or any duly delegated official, write off any debt or portion thereof, provided that the Municipal Council is satisfied that the debt or portion thereof is

irrecoverable or that it will be in the best interest of the Municipality to accept part payment of the debt in full and final settlement.

- (2) The Executive Mayor may recommend to the Municipal Council that any outstanding debt or portion thereof be written off, if in his opinion it would be in the best interest of the Municipality, and that the writing off of the debt will not be contrary to the provisions of the Local Government: Municipal Finance Management Act No. 56 of 2003.
- (3) The Municipal Manager shall in his written recommendations to Council provide details of:
  - (a) The debt collection procedures implemented to recover the debt and the costs incurred as a result thereof;
  - (b) The reasons why the debt collection procedures were not successful and had to be abandoned;
  - (c) The debtors financial position, if known;
  - (d) Reasons why the debt or a portion thereof is regarded as being irrecoverable;

#### **14. TARIFF POLICY**

- (1) The Council of the Municipality shall adopt a tariff policy which shall reflect at least the following principles:
  - (a) That users of municipal services should be treated equitably in the application of tariffs
  - (b) That the amount individual users pay for services should generally be in proportion to their use of that service;
  - (c) That poor households must have access to at least basic services through:
    - (i) tariffs that cover only operating and maintenance costs,

- (ii) special tariffs or life line tariffs for low levels of use or consumption of services or for basic levels of service; or
  - (iii) any other direct or indirect method of subsidisation of tariffs for poor households.
- (d) That tariffs must reflect the costs reasonably associated with rendering a service, including capital, operating, maintenance, administration and replacement costs and interest charges;
  - (e) That tariffs must be set at levels that facilitate the financial sustainability of the service, taking into account subsidisation from sources other than the service concerned;
  - (f) That provision may be made in appropriate circumstances for a surcharge on the tariff for a service;
  - (g) That provision may be made for the promotion of local economic development through special tariffs for categories of commercial and industrial users;
  - (h) That the economical, efficient and effective use of resources, the recycling of waste, and other appropriate environmental objectives are encouraged;
  - (i) That the extent of subsidisation of tariffs for poor households and other categories of users should be fully disclosed.
- (2) Tariffs adopted by the Council in terms of the Tariff Policy shall encourage and promote the objects and programmes contained in the Integrated Development Plan of the Municipality.
  - (3) The Tariff Policy adopted by the Council shall be reviewed by the Council of the Municipality at least once every year.

## 15. FIXING OF CHARGES AND FEES BY RESOLUTION

- (1) The Municipal Council shall by special resolution fix charges and fees or tariffs of charges and fees in respect of municipal services:-
  - (a) in connection with any amenity, facility, entertainment, exhibition, performance or service established or provided by it where no such charges, fees or tariffs have been fixed by law;
  - (b) for the exercise and performance of any power, duty or function conferred or imposed on it by or under any law where no such charges, fees or tariff has been fixed by or under such law;
  - (c) and may -
    - (i) in fixing such charges, fees or tariff, differentiate between different classes of persons or property on such grounds as it may deem reasonable;
    - (ii) from time to time amend such charges or fees, and
    - (iii) recover any charges or fees so fixed.
- (2) The Municipal Council shall, after fixing or amending any charges, fees or tariff of charges and fees in terms of subsection (1) in connection with any municipal service;
  - (a) advertise the fixing or amendment of such charges, fees or tariff;
  - (b) in the advertisement contemplated by paragraph (a), specify the date on or circumstances in which such fixing or amendment shall take effect.
- (3) When the Municipal Council has fixed or amended any charges, fees or tariff of charges and fees in terms of subsection (1) in any case not contemplated by section (2) shall, by publication in the press, give notice of the fixing or amendment of such charges, fees or tariff and of the date on or circumstances in which such fixing or amendment shall take effect and such

fixing or amendment shall take effect on the date so fixed or in the circumstances so specified.

#### **16. FULL AND FINAL SETTLEMENT OF AN AMOUNT**

- (1) The Chief Financial Officer shall be at liberty to appropriate monies received in respect of any municipal services provided by the Municipality in a manner he or she deems fit in accordance with the Credit Control and Debt Collection Policy of the Council.
- (2) Where the exact amount due and payable to the Council has not been paid in full, any lesser amount tendered to and accepted by any Council employee, shall not be deemed to be in final settlement of such an amount unless permitted by the Credit Control Policy and Debt Collection Policy of the Council.
- (3) The provisions in sub-section (1) above shall prevail notwithstanding the fact that such a lesser payment was tendered and/or accepted in full settlement.

#### **17. AGREEMENTS WITH EMPLOYER BODIES**

- (1) The Chief Financial Officer may enter into a written agreement with any employer within the Council's area of jurisdiction to deduct outstanding rates and service charges or to settle regular monthly accounts through deductions from salaries or wages of its employees.
- (2) The Municipality may, from time to time, provide special rebates, incentives or benefits to the employer or employees in the event of such an agreement, subject to the provisions of the Local Government: Municipal Property Rates Act, 6 of 2004, and any other applicable legislation.

#### **18. CUSTOMER ASSISTANCE PROGRAMS**

- (1) Water Leak Rebates
  - (a) An owner of property or occupier thereof will only be entitled to a water leak rebate if:-

- (i) Such person submits a certificate from a registered plumber or sworn affidavit from any other person who has repaired the leak, within ten days of the leak having been repaired. The said certificate must clearly state the date on which the leak was repaired, confirm that the leak was not discernable from the surface, certify that the leak occurred on a pipe listed on the schedule of approved pipes and fittings prescribed by the Director of Engineering Services.
- (ii) A leak must be repaired within forty-eight hours (48) after detection and the repair costs shall be for the account of the consumer.

(2) Rates Rebate

- (a) Only properties that are exclusively used for residential purposes qualify for a rates rebate in terms of Councils Property Rates Policy. The rebate to be granted will be determined by Council annually.

(3) Indigent Assistance Program

- (a) An account holder may apply to the Municipality, in the prescribed manner, to be declared indigent provided that the following conditions are applied:
  - (i) That the gross household income must not exceed the poverty threshold value as determined by Council from time to time.
  - (ii) That the Municipality may inspect the property occupied by the applicant and in respect of which municipal services are rendered to assess the merits of the application.
  - (iii) Any aggrieved person who was not successful in the application to be regarded as indigent may lodge an appeal to the chief financial officer within a period of ten (10) days from the date on which the aforesaid decision has been communicated to him/her.

- (iv) Any person who has been declared indigent shall be entitled to indigent subsidies for basic services on a basis determined by Council from time to time and in accordance with National policy on indigents.

## **19. SERVICE AGREEMENTS**

- (1) Where a service is provided on behalf of the Municipality by a service provider, the Council shall ensure that any agreement for the provision of such a service shall contain a reference to the right of the Council to control the setting and adjustment of tariffs to be charged by such service provider for the rendering of the service in question in terms of the Tariff Policy of the Council.

## **20. INDIGENT SUPPORT POLICY**

- (1) The Council shall adopt an Indigent Support Policy which shall embody an indigent support programme providing procedures and guidelines for the subsidisation of basic services and tariff charges to indigent households in its municipal area.
- (2) The object of the Indigent Support Policy will be to ensure:
  - (a) The provision of basic services to the community in a sustainable manner within the financial and administrative capacity of the Council; and
  - (b) The provision of procedures and guidelines for the subsidisation of basic service charges to indigent households.

## **21. POWER OF ENTRY AND INSPECTION**

- (1) A duly authorized representative of the Council may for any purpose related to the implementation or enforcement of this by-law, at all reasonable times or in an emergency at any time, enter premises, request information and carry out such inspection and examination as he or she may deem necessary, and

for purposes of installing or repairing any meter or service connection reticulation, or to disconnect, stop or restrict the provision of any service.

- (2) If the Council considers it necessary that work be performed to enable an employee to perform a function referred to in subsection (1) properly and effectively, it may –
  - (a) By written notice require the owner or occupier of the premises at his own expense to do specific work within a specified period; or
  - (b) If in its opinion the situation is a matter of urgency, without prior notice do such work or cause it to be done at the expense of the owner.
  - (c) If the work referred to in subsection (1) above is carried out for the sole purpose of establishing whether a contravention of this by-law has been committed and no such contravention has taken place, the Council shall bear the expense connected therewith together with the expense of restoring the premises to its former condition.

## **22. OFFENCES**

- (1) Any person who-
  - (a) Fails to give the access required by an employee in terms of this by-law;
  - (b) Obstructs or hinders an employee in the exercise of his or her powers or performance of functions or duties under this by-law;
  - (c) Uses or interferes with Council equipment or consumption of services supplied;
  - (d) Tampers or breaks any seal on a meter or on any equipment belonging to the Council, or for any reason as determined by the Chief Financial Officer causes a meter not to properly register the service used;
  - (e) Fails or refuses to give an employee such information as he or she may reasonably require for the purpose of exercising his or her power or

functions under these by-laws or gives such an officer false or misleading information knowing it to be false or misleading;

- (f) Contravenes or fails to comply with a provision of this by-law.
- (2) shall be guilty of an offence and be liable upon conviction to a fine not exceeding R2000 or to imprisonment for a period not exceeding six month's or both such a fine and imprisonment and, in addition, may be charged for usage, as estimated by the Chief Financial Officer based on average usage during the previous 6 months or as may be determined by resolution of the Council from time to time;

### **23. CONFLICT OF BY LAWS**

- (1) If there is any conflict between this by-law and any other by-law of the Council, this by-law will prevail.

### **24. NOTICES AND DOCUMENTS**

- (1) A notice or document issued by the Council in terms of these by-law shall be deemed to be duly issued if signed by an employee duly authorized by the Council.
- (2) If a notice is to be served on a person in terms of this by-law, such service shall be effected by:
  - (a) Delivering the notice to him personally or to his duly authorized agent or:
  - (b) By delivering the notice at his residence or place of employment to a person apparently not less than sixteen years of age and apparently residing or employed there;
  - (c) If he has nominated an address for legal purposes, by delivering the notice to such an address; or
  - (d) By registered or certified post addressed to his last known address.

- (e) In the case of a body corporate, by delivering it to the registered office or the business premises of such a body corporate;
- (f) If service cannot be effected in terms of the aforesaid sub-sections by affixing it to the principal door of entry to the premises, or displaying it on a conspicuous place on the land to which it relates.

## **25. AUTHENTICATION OF DOCUMENTS**

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

## **26. PRIMA FACIE EVIDENCE**

- (1) A certificate under the hand of the Chief Financial Officer reflecting the amount due and payable to the Council shall upon mere production thereof be accepted by any court of law as prima facie evidence of the indebtedness reflected therein.

## **27. GENERAL**

- (1) These by-laws shall be binding on all persons who own and/or occupy property within the area jurisdiction of the municipality.
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