

Hessequa, South Africa

## Customer Care Management, Credit Control and Debt Collection

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## Hessequa South Africa

# Customer Care Management, Credit Control and Debt Collection By-law, 2015

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**Assented to on 27 May 2015**

**Commenced on 1 July 2015**

*[This is the version of this document from 19 June 2015 and includes any amendments published up to 9 June 2023.]*

*[Repealed by Credit Control and Debt Collection on 1 July 2016]*

## 1. Preamble

Whereas section 152 (1) (b) of the Constitution of the Republic of South Africa Act 108 of 1996 ('the Constitution') provides that one of the objects of local government is to ensure that the provision of services to communities occurs in a sustainable manner;

And whereas section 4 (1) (c) of the Local Government: Municipal Systems Act 32 of 2000, as amended ('the Systems Act') provides that the Council of a Municipality has the right to finance the affairs of the Municipality by charging fees for services, imposing surcharges on fees, rates on property and, to the extent authorized by national legislation, other taxes, levies and duties;

And whereas section 5 (1) (g), read with subsection (2) (b) of the Systems Act provides that members of the local community have the right to have access to municipal services which the Municipality provides, provided that, where applicable and subject to the policy for indigent customers, pay promptly for services fees, surcharges on fees, other taxes, levies and duties imposed by the Municipality; and

And whereas Chapter 9, sections 95, 96, 97, 98, 99 and 100, of the Systems Act provides for Customer Care Management, Debt Collection responsibility of the Municipality, contents of the policy, by-laws that give effect to the policy, Supervisory authority and Implementing authority, respectively.

Now therefore the Municipal Council of Hessequa Municipality adopts the following By-laws regarding Customer Care, Credit Control and Debt Collection.

### 1.1 Scope of the By-law

- (a) This By-law applies to all administrations within the defined boundaries of the Hessequa Municipality and all customers of these administrations.
- (b) The Credit Control and Debt Collection By-law, as approved by Council, has been enshrined in a Municipal By-law in terms of the Systems Act and such By-law will be binding on the public, officials and Councilors of the Local Municipality of Hessequa and no interference in the process will be permitted.
- (c) The By-law is applicable until such time as it is reviewed and any revisions to the By-law approved by Council.
- (d) All acts performed in terms of the above approved By-law, will not be invalidated due to the timing differences between approval and promulgation.
- (e) All acts performed as mentioned in the previous paragraph will be ratified with the promulgation of the Municipal By-law.

### 1.2 Objective of the By-law

The objective of this By-law is to:-

- (a) Focus on all outstanding debt as raised on the customer's account.
- (b) Provide for a uniform credit control, debt collection and Indigent By-law throughout the Hessequa Municipality.
- (c) Facilitate implementation of this By-law throughout the Hessequa Municipality.
- (d) Promote a culture of good payment habits amongst Hessequa Municipality customers and instill a sense of responsibility towards the payment of municipal accounts and reduction of municipal debt.
- (e) To ensure that the Council of Hessequa Municipality uses innovative, cost effective, efficient and appropriate methods to collect as much of the debt in the shortest possible time without any interference in the process.
- (f) To ensure that Hessequa Municipality effectively and efficiently deal with defaulters in accordance with the terms and conditions of this By-law.

## 2. 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-

**"Account"** means an account rendered specifying charges for municipal services provided by the Municipality, or any authorized and contracted service provide, and which account may include assessment rates levies.

**"Accounting Officer"** means the Municipal Manager appointed in terms of Section 60 of the Municipal Finance Management Act.

**"Annual Budget"** shall mean the budget approved by the municipal council for any particular financial year, and shall include any adjustments to such budget.

**"Annually"** – means once every financial year;

**"Arrangement"** means a written agreement entered into between the Municipality and the customer where specific repayment parameters are agreed to. Such arrangement does not constitute a credit facility envisaged in terms of section 8(3) of the National Credit Act but is deemed to be Incidental Credit as envisaged in terms of [section 4\(6\)\(b\)](#) read with section 5(2) and (3) of the National Credit Act.

**"Arrears"** means those rates and service charges that have not been paid by the due date and for which no arrangement has been made.

**"Authorized Representative"** means a person or instance legally appointed by the Municipality to act or to fulfill a duty on its behalf.

**"Basic municipal services"** shall mean a municipal service necessary to ensure an acceptable and reasonable quality of life, which service – if not provided – would endanger public health or safety or the environment.

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

**"Business and Commercial Property"** means –

- (a) property used for the activity of buying, selling or trading in commodities or services and includes any office or other accommodation on the same property, the use of which is incidental to such activity; or
- (b) property on which the administration of the business of private or public entities take place.

**"Business and Commercial Units"** means - A room, set of rooms, building/s or structure/s on the same Business and Commercial Property, which are separately identifiable on its own or in combination, as

independent or semi-independent units, used for the activity of buying, selling or trading in commodities or services.

**“By-law”** shall mean legislation passed by the council of the Municipality, and which shall be binding on the Municipality and on the persons and institutions to which it applies.

**“Calendar year”** shall mean 12 consecutive months of a financial year(s).

**“Category”** –

- (a) in relation to a property, means a category of properties determined in terms of section 8 (2) of the Municipal Property Rates Act;
- (b) in relation to the owners of property, means a category of owners determined in terms of section 15(2) of the Municipal Property Rates Act.

**“Chief Financial Officer”** means the person appointed as the Chief Financial Officer of the Municipality, or his or her nominee.

**“Consumer Price Index”** shall mean the CPIX as determined and gazetted from time to time by the South Bureau of Statistics.

**“Consolidated Account”** means an account which is a consolidation of any separate accounts of a person who is liable for payment to the Municipality.

**“Council”** means the Council of the Hessequa Municipality.

**“Councilor”** shall mean a member of the Council of the Municipality.

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

**“Customer”** means the occupier of any premises to which the Municipality has agreed to supply or is actually supplying municipal services, or if no occupier can be identified or located, then the owner of the premises and includes any customer of the Municipality.

**“Day/Days”** means calendar days, inclusive of Saturdays, Sundays and public holidays.

**“Debt Collectors”** means an external person or entity appointed by the Municipality to collect monies due and payable to the Municipality, subject to the conditions contained herein.

**“Defaulter”** means any person who owes arrears to the Municipality.

**“Delivery Date”** shall mean the date on which the periodic account is delivered to the customer or 3 days after the date the account was posted, whichever is the first.

**“Domestic Customer or User”** of municipal services shall mean the person or household which municipal services are rendered in respect of “residential property” as defined below.

**“Due Date”** in relation to -

- (a) rates due in respect of any immovable property, means:-
  - (i) the twentieth (20th) day of September of the financial year for which such rate is made, in the case where rates are levied on an annual basis;
  - (ii) the date for payment indicated on the account, in the case where rates are levied on a monthly basis; or
  - (iii) any other date determined by Council in terms of a public notice in the *Provincial Gazette*, and
- (b) service charges due in respect of any immovable property, means the date for payment indicated on the account, provided that the due date for any service charges means the twentieth (20th) day of September in the case where service charges are levied annually; and

- (c) should such day fall on a Saturday, Sunday or public holiday the due date shall be the next working day.
- (d) notwithstanding the above, rates and availability charges levied on an annual basis which are paid in full by the 30th September of each year, is subject to a 3% rebate.

**"Dwelling"** means a building, structure or place of shelter to live in or conduct business from.

**"Electricity Charges"** means service charges in respect of the provision of electricity.

**"Farm Property or Small Holding not used for any purpose"** – means agricultural property or an agricultural zoned land which is not used for farming purposes, regardless of whether such portion of such property has a dwelling on it which is used as a dwelling and must be regarded as residential property.

**"Farm Property or Small Holding used for agricultural purpose"** – means property that is used for the cultivation of soils for purposes of planting and gathering in of crops; forestry in the context of the planting or growing of trees in a managed and structured fashion; the rearing of livestock and game or the propagation and harvesting of fish, but excludes the use of a property for the purpose of eco-tourism; and in the respect of property on which game is reared, trade or hunted, it excludes any portion that is used for commercial or business purposes. IN this definition such properties could also be included within the urban edge of a town.

**"Flat"** – means an interconnected suite of rooms which does not include more than one kitchen, designed for the occupation and use by a single family and which forms part of a group or cluster of at least three (3) similar identifiable units, or a Business or Commercial Unit/s, attached or detached.

**"Financial Year"** shall mean the period starting from 1 July in any year and ending on 30 June of the following year.

**"Immovable Property"** also includes -

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

**"Implementing Authority"** means the Municipal Manager or his or her nominee, acting in terms of section 100 of the Local Government: Municipal Systems [Act No. 32 of 2000](#).

**"Indigent Customer"** means the head of an indigent household:-

- (a) who applied for and has been declared indigent in terms of Council's Indigent Policy for the provision of services from the Municipality; and
- (b) who makes application for indigent support in terms of Council's Indigent Support Policy on behalf of all members of his or her household.

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

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

**"Integrated Development Plan"** shall mean a plan formulated and approved as envisaged in Section 25 of the Municipal Systems Act 2000, as amended.

**"Industrial Property"** – means property used for construction, repair, trade or manufacturing, production, assembly or processing of finished or partially finished products from raw materials or fabricated parts on such a large scale that capital and labour are significantly involved, and includes any office or other accommodation on the same property, the use of which is incidental to such activity.

**"Interest"** means the charge levied on arrears, calculated as the prime rate, charged by the bank which holds the Municipality's primary bank account, plus one percent or such other percentage as may be determined by Council from time to time. (See clause 19).



**“Local Community”** – in relation to the Municipality –

- (a) means that body of persons comprising –
  - (i) the residents of the Municipality;
  - (ii) the rate payers of the Municipality;
  - (iii) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the Municipality; and
  - (iv) visitors and other people residing outside the Municipality, who, because of their presence in the Municipality, make use of services or facilities provided by the Municipality; and
- (b) includes, more specifically, the poor and other deprived sections of such body of persons.

**“Manager Income”** Means the Senior Official in a division of the Municipality’s Finance Department, overall responsible for the collection of monies owed to the Municipality and/or any other official to whom he/she has delegated duties and responsibilities in terms of this By-law.

**“Market Value”** – in relation to a property, means the value of the property determined in accordance with section 46 of the Municipal Property Rates Act;

**“Month”** means one of twelve months of a calendar year.

**“Monthly Average Consumption”** means the monthly average consumption in respect of that property calculated on the basis of consumption over the preceding or succeeding twelve months.

**“Multiple purposes”** – in relation to a property, means the use of a property for more than one purpose as intended in section 9 of the Municipal Property Rates Act.

**“Municipality”** or “Municipal Area” shall, where appropriate, mean the geographic area, determined in terms of the Local Government: Municipal Demarcation [Act No. 27 of 1998](#) as the municipal area pertaining to the Municipality.

**“the Municipality”** means Hessequa Local Municipality.

**“Municipal Council”** or “Council” shall mean the municipal council of Hessequa Local Municipality as referred to in Section 157(1) of the [Constitution](#).

**“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 Manager”** means the Municipal Manager of the Hessequa 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.

**“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.

**“Municipal Tariff”** shall mean a tariff for services which the Municipality may set for the provision of a service to the local community, and may include a surcharge on such service. Tariffs for major services shall mean tariffs set for the supply and consumption or usage of electricity, water, sewerage and refuse removal, and minor tariffs shall mean all other tariffs, charges, fees, rentals or fines levied or imposed by the Municipality in respect of other services supplied including services incidental to the provision of the major services.

**“Occupier”** means any person who occupies, controls or resides on any premises, or any part of any premises without regard to the title under which he or she so occupies it.

**“Open Space”** - means land that is used as a park, garden, for passive leisure or maintained in its natural state and that is zoned as open space.

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

- (a) the person in whom is vested the legal title thereto provided that:-
  - (i) the lessee of immovable property which is leased for a period of not less than thirty years, whether the lease is registered or not, shall be deemed to be the owner thereof;
  - (ii) the occupier of immovable property occupied under a service servitude or right analogous thereto, shall be deemed to be the owner thereof;
- (b) if the owner is dead or insolvent or has assigned his or her estate for the benefit of his creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be, shall be deemed to be the owner thereof;
- (c) if the owner is absent from the Republic or if his address is unknown to the Municipality, any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property, or if the Municipality is unable to determine who such person is, the person who is entitled to the beneficial use of such property.

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

**"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](#), and which is situated within the area of jurisdiction of the Municipality.

**"Prescribed"** means prescribed by this By-law and where applicable by Council or the Municipal Manager.

**"Prescribed debt"** means debt that becomes extinguished by prescription in terms of the Prescription [Act 68 of 1969](#).

**"Private Open Space"** means land that is privately owned and used for practising of sport, play- or leisure facilities or used as a botanical garden, cemetery or nature area and which is joined as Private Open Space.

**"Property"** – means immovable property registered under separate title in terms of the provisions of the Deeds Registries Act, 1937 ([Act 47 of 1937](#)) in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person and includes unregistered land if the right of ownership can be determined.

**"Rateable Property"** shall mean property on which the Municipality may in terms of Section 2 of the Municipal Property Rates Act 2004 levy a rate, but excluding property fully excluded from the levying of rates in terms of Section 17 of that Act.

**"Ratepayer"** shall mean a person who is liable to the Municipality for the payment of

- (a) rates on property in the Municipality;
- (b) any other tax, duty or levy imposed by the Municipality; and/or
- (c) fees for services provided either by the Municipality or in terms of a service delivery agreement.

**"Rates"** means a municipal rate on property envisaged in section 229 (1) of the [Constitution](#) read with the Local Government: Municipal Property Rates [Act 6 of 2004](#) and the Local Government: Municipal Finance [Act 56 of 2003](#).

**"Rebate"** in relation to a rate payable on a property, shall mean a discount granted in terms of Section 15 of the Municipal Property Rates Act, 2004 on the amount of the rate payable on the property.

**"Reduction"** - in respect of a rate payable on a property, means the lowering of the amount for which the property was valued and the rating of that property at that lower amount.

**"Refuse Charges"** means service charges in respect of the collection and disposal of refuse.

**"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.

**"Residential Property"** shall mean a property included in the valuation roll in terms of Section 48 (2)(b) of the Municipal Property Rates Act, 2004 as residential.

**"Residential Property"** furthermore means improved property that: -

- (a) is used predominantly (60% or more) for residential purposes, including any adjoining property registered in the name of the same owner and used together with such residential property as if it were one property;

Any such grouping shall be regarded as one residential property for rate rebate or valuation reduction purposes, if still used dominantly for residential purposes;

- (b) is a unit registered in terms of the Sectional Title Act and is used predominantly for residential purposes;
- (c) is owned by a share-block company and is used predominantly for residential purposes;
- (d) is a residence used for residential purposes situated on a property used for educational purposes;
- (e) is property which is included as residential in a valuation list in terms of section 48(2)(b) of the Municipal Property Rates Act, 2004;
- (f) are retirement schemes and life right schemes used predominantly (60% or more) for residential purposes; vacant properties (empty stands), hotels, hostels, old-age homes and accommodataion establishments, irrespective of their zoning or intended use, have been specifically escluded from this property category.

**"Residential Unit"** means an interconnected suite of rooms which does not include more than one kitchen, designed for the occupation and use by a single family and which may be part of a Residential Property containing two or more Residential units, attached or detached, registered in the name of the same owner and used together with such Residential Property as if it were one property.

**"Service Charges"** means the fees levied by the Municipality in terms of its Tariff By-law for any municipal services rendered in respect of an immovable property and includes any penalties, interest or surcharges levied or imposed in terms of this By-law.

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

**"Sewerage Charges"** means service charges in respect of the provision of sewerage collection and treatment of infrastructure.

**"Small Holding"** means

- (a) all agricultural zoned land units situated within an urban region with an area of one to three hectares; or
- (b) any agricultural zoned land unit situated outside an urban region with an area of three hectares or less.

**"State Owned Property"** excludes any property included in the valuation roll under the category 'residential property' or 'vacant land'.

**"Sundry Customer Accounts"** means accounts raised for miscellaneous charges for services provided by the Municipality or charges that were raised against a person as a result of an action by a person, and were raised in terms of Council's policies, bylaws and decisions.

**"Supervisory Authority"** means the Executive Mayor of the Municipality or his or her nominee, acting in terms of Section 99 of the Municipal Systems [Act 32 of 2000](#).

**"Tariff"** means the scale of rates, taxes, duties, levies or other fees which may be imposed by the Municipality in respect of immovable property and/ or for municipal services provided.

**"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.

**"Vacant Property"** – means any land without any improvements thereon.

**"Water Charges"** means service charges in respect of the provision of water.

### 3. Principles

- (1) Apart from meeting legislative requirements, this By-law also emanates from the objectives determined in Council's anti-corruption strategy.
- (2) The principles of credit management in the Municipality are:-
  - (a) The administrative integrity of the Municipality must be maintained at all times.
  - (b) This By-law must have the full support of Council.
  - (c) Councillors must have full knowledge of the implementation and enforcement of the By-law.
  - (d) Customers must be informed of the contents of this By-law.
  - (e) Customers must apply for services from the Municipality by the completion of the prescribed application form.
  - (f) Customers must receive regular and accurate accounts that indicate the basis for calculating the amounts due. The customer is entitled to have the details of the account explained upon request.
  - (g) Customers must pay their accounts regularly by the due date.
  - (h) Customers are entitled to reasonable access to pay points and to a variety of reliable payment methods.
  - (i) Customers are entitled to an efficient, effective and reasonable response to appeals, and should not suffer any disadvantage during the processing of a reasonable appeal.
  - (j) Debt collection action will be instituted promptly, consistently, and effectively without exception and with the intention of proceeding until the debt, including the cost of collection, is recovered.
  - (k) It shall be the duty of all customers to ensure that they have the correct information regarding all due amounts.

### 4. Supervisory authority

- (1) The Executive Mayor oversees and monitors:-
  - (a) The implementation and enforcement of the Municipality's Credit Control and Debt Collection By-law.

- (b) The performance of the Municipal Manager in implementing the Credit Control and Debt Collection By-law.
- (2) The Executive Mayor shall at least once a year cause an evaluation or review of the Credit Control and Debt Collection By-law to be performed, in order to improve the efficiency of the Municipality's credit control and debt collection mechanisms, processes and procedures, as well as the implementation of this By-law.
- (3) The Executive Mayor shall submit a report to Council regarding the implementation of the Credit Control and Debt Collection By-law at such intervals as Council may determine.

## 5. Implementing authority

- (1) The Municipal Manager:-
  - (a) Implements and enforces the Credit Control and Debt Collection By-law.
  - (b) Is accountable to the Executive Mayor for the enforcement of the By-law and shall submit a report to the Executive Mayor regarding the implementation and enforcement of the Credit Control and Debt Collection By-law at such intervals as may be determined by Council.
  - (c) Must establish effective administration mechanisms, processes and procedures to collect money that is due and payable to the Municipality.
  - (d) Where necessary make recommendations to the Executive Mayor with the aim of improving the efficiency of the credit control and debt collection mechanisms, processes and procedures.
  - (e) Establish effective communication between the Municipality 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 centres, located in such communities as determined by the Municipal Manager.
  - (g) Convey to account holders information relating to the costs involved in service provision, and how funds received for the payment of services are utilized, and may where necessary employ the services of local media to convey such information.
- (2) The Municipal Manager may, in writing, delegate any of the powers entrusted or delegated to him or her in terms of Council's Credit Control and Debt Collection By-law to the Chief Financial Officer.
- (3) A delegation in terms of subsection (2):-
  - (a) Is subject to any limitations or conditions that the Municipal Manager may impose.
  - (b) May authorize the Chief Financial Officer in writing, to sub-delegate duties and responsibilities to the Manager Income.
  - (c) The delegation does not divest the Municipal Manager of the responsibility concerning the exercise of the delegated power.
- (4) The Chief Financial Officer is accountable to the Municipal Manager for the implementation, enforcement and administration of this By-law, and the general exercise of his powers in terms of this By-law.
- (5) The Manager Income shall be accountable to the Chief Financial Officer for the sections of this By-law delegated to the Manager Income in terms of the MFMA section 82.

## 6. Unsatisfactory levels of indebtedness

- (1) If the level of indebtedness in a particular ward or part of the Municipality exceeds the level of the acceptable norm as determined in the Municipality's budget guidelines, the supervisory authority (Executive Mayor) must, without delay, advise the Councilor for that ward or part.
- (2) The Councilor concerned must without delay convene a meeting of the ward committee, if there is one, or convene a public meeting and report the matter to the committee or meeting for discussion and advice; and may make any appropriate recommendations to the supervisory authority.

## 7. Application for the provision of municipal services

- (1) A customer who requires the provision of municipal services must apply for the service from the Municipality. The application must be made on the prescribed form "APPLICATION FOR DELIVERY/TERMINATE/CHANGE OF SERVICES".
- (2) The application for the provision of municipal services must be made by the registered owner of an immovable property only.
- (3) The Municipality will not entertain an application for the provision of municipal services by a tenant of a property, or any other person who is not the owner of the property. The only exception will be:-
  - (a) Individuals and Businesses with lease agreements to lease properties from the Municipality;
  - (b) Government Departments;
  - (c) Body Corporates who take the responsibility for the payment of basic water, basic sewer and refuse removal services on behalf of the individual sectional title owners; and
  - (d) Approved Indigent Customers for the purposes of registering and allocating the applicable subsidy to qualified indigent customers whom will be allowed to open an account in the name of the lessee of the property.
- (4) In case of existing arrangements where tenants have existing accounts, written permission of the owner may be requested from the owner by the Municipality. If the tenant is guilty of non-payment the owner, where permission has been granted, as a last resort is liable for the outstanding debt, except where the property concerned is owned by the Municipality.

In terms of section 102(3) of the Municipal Systems Act the Municipality must provide an owner of a property in its jurisdiction with copies of accounts sent to the occupier of the property for municipal services supplied to such a property if the owner requests such accounts in writing from the Municipality.

- (5) An agent may with a proxy open an account in the name of the owner.
- (6) The application for the provision of municipal services must be made in writing on the prescribed application form that is provided by the Municipality.
- (7) By completing the prescribed application form for the provision of municipal services the consumer of services enters into an agreement with the Municipality. Such agreement does not constitute a credit facility envisaged in terms of section 8(3) of the National Credit Act (NCA) but shall be incidental credit as envisaged in terms of section 4(6)(b) of the NCA, to which the NCA will only apply to the extent as stipulated in section 5 of the NCA.
- (8) The agreement with the Municipality makes provision for the following:-
  - (a) An undertaking by the occupier that he or she will be liable for collection costs including administration fees, interest, disconnection and reconnection costs, and any other legal costs occasioned by his or her failure to settle accounts by the due date on an attorney/ client basis;

- (b) An acknowledgement by the occupier that accounts will become due and payable by the due date notwithstanding the fact that the owner did not receive the account;
  - (c) That the onus will be on the occupier to ensure that he or she is in possession of an account before the due date; and
  - (d) An undertaking by the Municipality that it shall do everything in its power to deliver accounts timeously.
- (9) The application for the provision of municipal services shall be made at least fourteen (14) days prior to the date on which the services are required to be connected.
- (10) On receipt of the application for provision of municipal services, the Municipality will cause the reading of metered services linked to the property to be taken on the working day preceding the date of occupation.
- (11) The first account for services will be rendered after the first meter reading cycle to be billed following the date of signing the service agreement.
- (12) In case of new buildings being erected and a connection is made for the first time to the main service lines the metering and levying of services actually consumed or received will take place as follow:-
- (a) Basic water, basic electricity (in the case of builders' connections) refuse removal and all types of sewer charges are levied with effect from the connection date.
  - (b) Basic electricity (if no builders' connection), charges are levied with effect from the date of the Occupancy Certificate issued by the Building Control Section.
- (13) Any connection date between the 1st and 15th of the month will be levied for a full month whilst any connection date after the 15th of the month will only be levied from the 1st of the following month.

## 8. Deposits and guarantees

- (1) Every customer must, on application for the provision of municipal services pay a deposit to the municipality prior to the provision of any municipal services. The amount of which shall be annually determined by Council and is contained in the tariff book produced annually.
- (2) No interest will be paid on any deposit held by Council.
- (3) For the purposes of registering and allocating the applicable subsidy to qualified indigent customers, accounts will be opened for these customers without requiring any deposit. This is made possible through the fact that the value of services levied against these accounts is fully offset on a monthly basis against the applicable indigent subsidy. This arrangement will immediately terminate if the status of the indigent customer changes.
- (4) The Chief Financial Officer may, in respect of business premises, accept an irrevocable bank guarantee in lieu of a deposit on application for the provision of municipal services by a business.
- (5) Existing customers moving to a new address are required to pay the prescribed customer deposit on application for the provision of municipal services at the new address.
- (6) The customer deposit paid on application for the provision of municipal services may be reviewed annually and may be increased or decreased upon written notice to customers. The deposit will be the equivalent of one month's charge for all municipal services supplied, however this may be increased if it is determined that the customer is a credit risk.
- (7) On termination of the supply of services the amount of the deposit less any payment due to the Municipality will be refunded to an account holder, provided that payments due are less than the deposit paid, and that the account holder has provided a forwarding address.



- (8) Existing customers changing from conventional to pre-paid electricity, will not receive a refund of the current deposit.
- (9) If the Chief Financial Officer intends increasing the minimum deposit payable by the owner, then he or she shall, in the aforesaid notice, state full reasons for the increase, and allow the owner an opportunity to make written representations in this regard.
- (10) An aggrieved owner may, within a period of twenty one (21) days of having been notified of an increase in the minimum deposit payable, lodge an appeal against the decision of the Chief Financial Officer with the Municipal Manager.
- (11) The Municipal Manager shall, in his or her capacity as the appeal authority, consider the appeal, and confirm, vary or revoke the decision of the Chief Financial Officer, within a reasonable period.

## 9. Termination of services

- (1) It is the responsibility of the consumer to notify the municipality when municipal services are no longer required due to the sale of the property or other reasons.
- (2) failure to comply with the provision of paragraph 1 above renders the consumer liable for all service charges and interest thereon accumulated from the date when the premises are vacated to the date when council becomes aware of such vacation.
- (3) A customer may terminate an agreement for the supply of municipal services by giving at least 21 (twenty-one) days' written notice to the Municipality of such termination.
- (4) The Municipality may terminate an agreement for the supply of municipal services by giving at least 21 (twenty-one) days' written notice to a customer where:-
  - (a) Municipal services were not utilized by such customer for a conservative period of 2 months and without an arrangement, to the satisfaction of the municipality, having been made for the continuation of the agreement; or
  - (b) Premises have been vacated by the customer concerned and no arrangement for the continuation of the agreement has been made with the Municipality provided that, in the event of the customer concerned not being the registered owner of the premise, a copy of the aforesaid notice shall also be served on such registered owner.
- (5) A customer shall remain liable for all arrears and applicable charges that are payable for municipal services rendered prior to the termination of an agreement.

## 10. Accounts and billing

- (1) The Municipality shall provide all customers with a monthly consolidated account for municipal service rendered, which account shall be generated on a monthly basis in cycles of approximately thirty (30) days.
- (2) The monthly consolidated account can include property rates charges, in which case they shall comply with section 27 of the Municipal Property Rates [Act No. 6 of 2004](#).
- (3) All accounts rendered by the Municipality shall be payable on the due date.
- (4) Account balances which remain unpaid on the first day of the month following the month in which the account becomes payable shall attract interest on arrears, irrespective of the reasons for non-payment. Interest will be charged from the first day of the month following the month in which the account becomes payable.
- (5) All accounts are payable as above regardless of the fact that the customer has not received the account; the onus being on the customer to obtain a copy of the account before the due date.
- (6) Accounts will be rendered using conventional postal services, hand delivery at the premises or by means of an email if so requested by the customer.



- (7) No accounts will be rendered in the case of an outstanding balance of R30.00 or less or where such account has a credit balance.
- (8) In the case of joint ownership the Municipality may, in order to limit costs and prevent unnecessary administration, recover the rates and service charges continuously from one of the joint owners.

## 11. Rates

- (1) Rates shall be billed annually and maybe recovered annually or monthly, as determined by the Municipality.
- (2) Property rates which are billed and recovered annually shall be billed in terms of the July account of each year.
- (3) Rates payable on an annual basis will be subject to a 3% rebate if paid in full before or on 30 September of each year.
- (4) Property rates may also be billed annually for a specific financial year but recovered in monthly installments to assist its customers. In the case of the consolidated account of a customer being in arrear during a specific financial year the full amount becomes due and payable with immediate effect.
- (5) The tariffs to calculate property rates are determined annually, approved by Council and contained in the tariff book produced by the Municipality.

## 12. Electricity charges

- (1) The provisions of this By-law, in respect of the supply of electricity to a customer, shall constitute the payment conditions of the Municipality as licensee, contemplated in section 21(5) of the Electricity Regulation [Act No. 4 of 2006](#).
- (2) Service charges in respect of electricity shall be determined in accordance with metered consumption.
- (3) Monthly accounts shall be rendered for electricity consumption and the customer shall effect payment thereof by the due date.
- (4) Availability charges for electricity, where applicable, are levied annually for a specific financial year but recovered in monthly installments to assist its customers. In the case of the consolidated account of a customer being in arrear during a specific financial year the full amount becomes due and payable with immediate effect.
- (5) Availability charges for electricity payable on an annual basis will be subject to a 3% rebate if paid in full before or on 30 September of each year.
- (6) The tariffs to calculate the electricity charges are determined annually, approved by Council and contained in the tariff book produced by the Municipality.

## 13. Water charges

- (1) The provisions of this By-law, in respect of the supply of water to a customer, shall constitute the payment conditions of the Municipality as water services authority and water services provider, contemplated in sections 4 and 21 of the Water Services [Act No. 108 of 1997](#).
- (2) Service charges in respect of water shall be determined in accordance with metered consumption.
- (3) Monthly accounts shall be rendered for water consumption and the customer shall effect payment thereof by the due date.
- (4) Availability charges for water, where applicable, are levied annually for a specific financial year but recovered in monthly installments to assist its customers. In the case of the consolidated account of

a customer being in arrear during a specific financial year the full amount becomes due and payable with immediate effect.

- (5) Availability charges for water payable on an annual basis will be subject to a 3% rebate if paid in full before or on 30 September of each year.
- (6) The tariffs to calculate the water charges are determined annually, approved by Council and contained in the tariff book produced by the Municipality.

#### **14. Refuse and sewer charges**

- (1) Refuse and Sewer charges are billed monthly.
- (2) Refuse and Sewer charges charged monthly are billed on the monthly accounts and the due date for the payment of the charges is as indicated on the accounts.
- (3) Availability charges for sewer, where applicable, are levied annually for a specific financial year but recovered in monthly installments to assist its customers. In the case of the consolidated account of a customer being in arrear during a specific financial year the full amount becomes due and payable with immediate effect.
- (4) Availability charges for sewer payable on an annual basis will be subject to a 3% rebate if paid in full before or on 30 September of each year.
- (5) The tariffs to calculate the refuse and sewer charges are determined annually, approved by Council and contained in the tariff book produced by the Municipality.

#### **15. Sundry customer accounts**

- (1) Sundry customer accounts may be rendered by the Municipality from time to time.
- (2) Any sundry customer account shall be included in the monthly consolidated account produced by the Municipality.

#### **16. Final accounts**

Upon receipt of a customer's application for the termination of municipal services, the Municipality shall:-

- (1) take final readings in respect of metered municipal services;
- (2) prepare and render a final account;
- (3) appropriate the customer deposit for the reduction or settlement of any outstanding amount owed by the customer; and
- (4) return the customer deposit to the customer in the event that no amount is owed to the Municipality.

#### **17. Levying and metering of municipal services**

- (1) The Municipality may introduce various metering equipment and may encourage customers to convert to a system which is preferred by the Council when Council considers this to be beneficial to its functioning and operations.
- (2) Electricity and water consumption is measured with credit and prepayment electricity and water meters.
- (3) Customers may apply to Council for the installation of a prepayment electricity meter in place of a credit meter at the cost of the customer.
- (4) Where a customer has successfully applied for indigent status the credit meter for electricity or water will be changed to a prepayment electricity or water meter at the cost of the Council.

- (5) The following applies to the reading of credit meters:-
- (a) Credit electricity and water meters are read in cycles of approximately 30 days.
  - (b) If for any reason the credit electricity and water meters cannot be read, the Municipality will render an account based on estimated consumption. The estimate will be based on the average of the previous 12 months consumption.
  - (c) The account based on estimated consumption will be adjusted in the subsequent account based on the actual consumption.
  - (d) The customer is responsible to ensure access to metering equipment for the purpose of obtaining meter readings for billing purposes.
  - (e) Customers can, for reasons of non-accessibility to their properties by meter readers, provide the Municipality with monthly meter readings for billing purposes, provided that an audit reading can be obtained by the Municipality once every six months and provided that a final reading can be obtained should the customer vacate the property.
  - (f) If any basic charge or other calculation, reading or metering error is discovered in respect of any account rendered to a customer (whether in favour of the Council or customer):-
    - (i) the error shall be corrected in the subsequent account;
    - (ii) where the discovery is in favour of the customer, any such correction in terms of accounts billed monthly may apply in respect of an account from a date no more than 3 (three) years / 36 months back from the date on which the error on the account was discovered;
    - (iii) where the discovery is in favour of the municipality, any such correction in terms of accounts billed monthly shall only apply in respect of an account from the date on which the error on the account was discovered
    - (iv) where the discovery is in favour of the customer, any such correction in terms of basic charges levied annually may apply in respect of an account from a date no more than 3 (three) years / 36 months back from the date on which the error on the account was discovered; and
    - (v) the correction shall be based on the tariffs applicable during the period.
  - (g) Any water leakage discovered on the side of the customer will be the responsibility of the customer.
  - (h) When a customer vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made by the Municipality and the final account rendered accordingly.
- (6) The following applies to prepayment metering:-
- (a) Prepayment electricity and water is purchased at prepayment vending points for consumption after the date of purchase.
  - (b) Amounts tendered for the purchase of prepayment electricity and water will not be refunded after the prepayment meter voucher has been produced.
  - (c) The basic levy outstanding for six months plus, on the pre-payment electricity system at 30 June and 31 December each year, will be billed in the following months on the Venus Financial System and the normal credit control measures will apply.
  - (d) On request of the customer, copies of the previous prepayment meter vouchers will be produced. Lost vouchers will not be replaced under any circumstances.
  - (e) Credits remaining in the prepayment meter will not be refunded when a premises is vacated by a customer or in case of purchasing against a wrong account.

- (f) The Municipality shall not be liable for the reinstatement of credit in a prepayment meter due to tampering with, or the incorrect use or abuse of prepayment meters.
- (g) The Municipality may appoint vendors for the sale of prepaid electricity and water but does not guarantee the continued operation of any vendor.
- (h) The Municipality may apply all the debt collection functions available on the prepayment system to collect all arrear debt on the account of the customer.

## **18. Payment of accounts**

- (1) All accounts rendered by the Municipality are due and payable on the due date.
- (2) All payments, whether made by cash, stop order, electronic payments or payments made through duly authorized agents must be receipted by the Municipality by the close of business on the due date. Cheques will be accepted as payment for all municipal services excluding the municipal resorts and in cases set out in par 18(3) below. Where a cheque has been dishonored the person issuing the cheque shall not be allowed to pay by cheque in future. All costs associated with a dishonored cheque will be for the account of the customer.
- (3) Unless the customer has a municipal account to which a dishonored cheque can be debited only cash (or debit cards where available) will be accepted as payment for prepaid electricity, municipal accounts and the registering and licensing of vehicles.
- (4) Only cash, credit- or debit cards will be accepted as payment at the municipal resorts, regardless of whether a customer has a municipal account.
- (5) Accounts rendered by the Municipality can be paid at any municipal cashier office and any other pay point as determined by the Municipal Manager from time to time.
- (6) The payment methods and facilities supported by the Municipality can be used to make payments on accounts.
- (7) Payments received in respect of rates and service charges will be allocated by the Municipality entirely within its discretion, on the account of the customer.
- (8) Part payment received on an account shall be allocated firstly to reduce any penalty charges that may have accrued on the account.
- (9) An official receipt issued by the Municipality or its duly authorized agent will be the only proof of payments made.
- (10) Payment by cellphone and internet will be accepted as payment methods for pre-paid electricity purchases.

## **19. Interest on arrear debt**

- (1) Account balances which remain unpaid 30 days after the first day of the month when the account becomes payable shall attract interest irrespective of the reason for non-payment.
- (2) Interest on arrear debt shall, subject to sub-clause (1) above, be calculated for each month, or part thereof, for which such payment remains unpaid.
- (3) Interest will be charged from the first day of the month following the month in which the account becomes payable.
- (4) In case of outstanding debt owed by Residential Households, no further interest shall be charged on any outstanding amounts in respect of which an agreement had been concluded for the payment by way of installment thereof, provided the installments are paid in full by the due dates thereof.
- (5) For the 2015/2016 financial year the interest rate is determined as the prime rate charged by the bank which holds the municipality's primary bank account, plus one percent.

## 20. Enquiries and appeals

- (1) Any aggrieved person may address a grievance or query regarding charges for municipal services to the Chief Financial Officer in writing or may visit any customer care office provided by the Municipality.
- (2) Every customer has the right to ask and to be provided with a clear explanation as to the services being charged and a breakdown of all amounts shown on their account.
- (3) The aggrieved person shall clearly state the basis of his or her dissatisfaction and the desired resolution.
- (4) The lodging of an inquiry shall not relieve the aggrieved person of the responsibility to settle his or her account. An interim payment similar to an average account must be paid by the due date pending finalization of the enquiry.
- (5) The Municipality will respond to all inquiries from customers in writing within twenty eight days from the lodging of the enquiry.
- (6) A person 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. Such appeal will be dealt with in terms of Section 62 of the Municipal Systems Act.
- (7) The Chief Financial Officer will keep custody of all enquiries and appeals through the Collaborator Programme and report monthly to Council on all enquiries and appeals yet to be resolved.

## 21. Limitation, disconnection or discontinuation of supply

- (1) An account rendered to a customer by the Municipality in respect of rates or municipal services, including the collection and disposal of refuse, electricity, water and sewerage services shall be paid by the due date.
- (2) If the customer fails to pay any account after the expiry of the due date then, (within a period of fourteen (14) days for residential customers and two (2) days for businesses):-
  - (a) the Municipality may limit, disconnect or discontinue the supply of electricity or water to the immovable property in question; and
  - (b) the Chief Financial Officer or any duly authorized person may instruct attorneys to recover the outstanding amounts owed.
- (3) The limitation, disconnection or discontinuation of the supply of electricity or water shall be effected in the manner that is customarily used or by taking such reasonable and lawful steps as may be necessary.
- (4) Any disbursements or charges incurred or raised in respect of the limitation, disconnection or discontinuation of the supply of electricity or water shall be paid by the customer.
- (5) Prior to the limitation, disconnection or discontinuation of the supply of electricity or water as per paragraph 21(2) above, the Municipality shall:-
  - (a) provide the customer with adequate notice, including:-
    - (i) the date and time of the proposed limitation, disconnection or discontinuation;
    - (ii) the reason for the proposed limitation, disconnection or discontinuation;
    - (iii) the place at which the customer can challenge the basis of the proposed limitation, disconnection or discontinuation; and
  - (b) allow the customer to challenge or make representations (within a period of fourteen (14) days for residential customers and two (2) days for businesses).

- (6) The limitation, disconnection or discontinuation of the supply of water shall not result in a customer being denied access to basic water services for non-payment, where the customer proves, to the satisfaction of the Municipality, that he or she is unable to pay for basic water services.
- (7) If a customer unlawfully reconnects or attempts to reconnect a supply of electricity or water that has been limited, disconnected or discontinued, then -
  - (a) the Municipality may disconnect or discontinue the supply entirely by removing the service connection from the premises; and
  - (b) any disbursements, penalties or reconnection charges, together with any outstanding amounts owed in respect of rates or municipal services, must be paid in full before a reconnection can be made.
- (8) Subject to the provisions of this By-Law, the Chief Financial Officer or any person duly authorized thereto may enter into an arrangement with a defaulter for the payment of an outstanding account, in which event -
  - (a) payment may be made by way of installments; and
  - (b) the normal supply of electricity and water to the premises shall be resumed.
- (9) Any defaulter who enters into a *bona fide* arrangement with the Municipality for the settlement of arrears, and who fails to honour the terms of such arrangement, shall not be allowed to enter into any further arrangement with the Municipality.
- (10) Any customer already handed over to a debt collector or attorney is not allowed to make any arrangement with the Municipality for the payment of such an account and must be referred to the relevant debt collector or attorney attending to the account handed over.
- (11) In the case of a customer where the supply of electricity or water has been limited, disconnected or discontinued at least twice during the preceding period of twelve (12) months, the Municipality may review the amount of the customer deposit required from such customer.
- (12) The Municipality must provide an owner of a property in its jurisdiction with copies of accounts sent to the occupier of the property for municipal services supplied to the property if the owner requests such accounts in writing from the Municipality.
- (13) The Municipality must provide an owner of a property in its jurisdiction with copies of any agreement entered into with the occupier of the property for the payment of an outstanding account if the owner requests such agreement in writing from the Municipality.

## **22. Recovery of rates from owners, tenants, occupiers and agents**

- (1) The Municipality may utilize the procedures prescribed in terms of [section 21](#) of this By-law to recover rates arrears from the owner of immovable property.
- (2) Any limitation, disconnection or discontinuation of the electricity or water supply, for the purposes of sub-section (1), shall be effected subject to the requirements contained in [section 21](#) of this By-law.
- (3) Alternatively to sub-section (1), above, the Municipality may recover rates arrears in whole or in part from a tenant or occupier of the immovable property, despite any contractual obligation to the contrary on the tenant or occupier. The Municipality may recover an amount only after the Municipality has served a written notice on the tenant or occupier.
- (4) The amount the Municipality may recover from the tenant or occupier of a property is limited to the amount of rent or other money due and payable, but not yet paid, by the tenant or occupier to the owner of the property.
- (5) Any amount the Municipality recovers from the tenant or occupier of the property must be set off by the tenant or occupier against any money owed by the tenant or occupier to the owner.

- (6) The tenant or occupier of a property must, on request by the Municipality, furnish the Municipality with a written statement specifying all payments to be made by the tenant or occupier to the owner of the property for rent or other money payable on the property during a period determined by the Municipality.
- (7) The Municipality may, despite the Estate Agents Affairs Act 1976, recover the amount due for rates on a property in whole or in part from the agent of the owner, if this is more convenient for the Municipality.
- (8) The Municipality may recover the amount due for rates from the agent of the owner only after it has served a written notice on the agent.
- (9) The agent must, on request by the Municipality, furnish the Municipality with a written statement specifying all payments for rent on the property and any other money received by the agent on behalf of the owner during a period determined by the Municipality.
- (10) The amount the Municipality may recover from the agent is limited to the amount of any rent or other money received by the agent on behalf of the owner, less any commission due to the agent.

## 23. Debt collection

- (1) Handover of debt to debt collectors
  - (a) Debts which have been outstanding for more than 60 days from due date may be handed over to debt collectors appointed by the Municipality for the purposes of collecting such debt.
  - (b) The relevant debt collectors must ensure that the stipulations contained in the NCA with respect to incidental credit are duly complied with.
  - (c) If the debt collectors are unsuccessful in collecting the debt within 90 days of same being handed over, the debt may be handed over to attorneys for legal action.
  - (d) Only the Chief Financial Officer may hand over debts to attorneys for collection, and the Chief Financial Officer shall hand such debts over to attorneys for collection if they have not been collected by debt collectors within the aforementioned period of ninety (90) days, unless the Chief Financial Officer is of the opinion that it shall not be cost effective to do so.
  - (e) If the Chief Financial Officer is of the opinion that it is appropriate to do so (such as in cases of urgency), he or she may hand over debts for collection to attorneys at any time prior to the expiration of any of the periods referred to above and without first handing them to debt collectors.
  - (f) The following types of debt will not be handed over to debt collectors:
    - (i) Debts of indigent customers that are registered as indigent at the date of handover.
    - (ii) Government debt.
    - (iii) Debt that is being paid off as per an arrangement with the customer.
    - (iv) Debt that has not been subject to internal credit control actions for at least two months.
  - (g) The process of collecting debt by debt collectors includes:-
    - (i) The phoning of customers.
    - (ii) Sending an sms to customers.
    - (iii) Sending out demand letters.
    - (iv) Making arrangements with customers to pay off debt in terms of the Council's Credit Control And Debt Collection By-law.



- (v) Making follow-up contact with customers on unpaid arrangements.
- (2) Handover of debt to Attorneys for legal collection
  - (a) Debt that could not be collected by the debt collectors and debt that requires urgent legal attention may be handed over to attorneys for legal collection.
  - (b) The following types of debt will not be handed over to attorneys:-
    - (i) Debt of approved indigent customers that has not yet been written off by the council.
    - (ii) Debt that is being paid off as per an arrangement with the customer.
    - (iii) Debt that has not been subject to internal credit control actions for at least two months.
  - (c) The process of legal collection includes:-
    - (i) Final demands for payment to customers.
    - (ii) Emolument attachment orders on customer's salaries.
    - (iii) Summons issued for debt to be paid.
    - (iv) Default judgment be obtained against the customer.
    - (v) The attachment of moveable properties and sale in execution of moveable property.
    - (vi) The attachment of immoveable property and the sale of immoveable property.
- (3) Withholding or offsetting grants-in-aid.

The Municipality provides annual grants-in-Aid to Institutions on application. If an institution is in arrear with its services account, then the Municipality will withhold the grant-in-aid or the grant-in-aid will be off set against the arrear debt with the Municipality.

- (4) Section 118 of the Local Government: Municipal Systems [Act No 32 of 2000](#).
  - (a) The Municipality will issue a certificate required for the transfer of immovable property in terms of Section 118 of the Systems Act, which is lodged with the Municipality in the prescribed manner.
  - (b) This is subject to 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.
  - (c) Debt older than two years on the property irrespective of whether the owner of the property accumulated the debt will also have to be paid by the owner before the transfer of the property can be affected. In case of a sequestrated estate all debt outstanding two years prior of the date of sequestration must be paid before a certificate will be issued.
  - (d) If the owner refuses to pay the debt which is older than two years (excluding a sequestrated estate) then the Municipality will apply to a competent Court for an order in the following terms:-
    - (i) In the case where there is already a judgment for the payment of the amount, an order that the judgment debt be paid out of the proceeds of the sale, before the mortgage debt is settled.
    - (ii) In the case where there is no judgment debt, for an order staying transfer of the property pending the finalization of a civil action to be instituted against the person who is in law liable for the payment of the outstanding debt.



- (iii) The above action must be taken before the property is transferred as the statutory lien created by Section 118(3) of the Act only endures until the property has been transferred and in terms of Section 118(1) of the Act the new owner of the property cannot be held liable for the debt that became due before a transfer of a residential property took place.
- (e) Rates Clearance Certificates:-
  - (i) will be valid for up to 60 days;
  - (ii) no extension on a certificate will be granted. If it expires a new application for clearance must be made;
  - (iii) if the valid period surpasses 30 June, the total annual debit for the following financial year will be payable; and
  - (iv) outstanding services on properties may only be recovered for a maximum period of two years.
- (5) Debt of approved indigent customers written off
  - (a) Upon registration as an indigent household, the arrears on the account of the applicant will be written off.
  - (b) Where restriction of consumption applies to a particular service, applicants may not refuse to be restricted in terms of Council policy. Where restrictions are not possible the account holder will be responsible for the consumption in excess of the approved subsidy.
  - (c) The writing off of any arrears is strictly subject to the provision that the property may not be sold within a period of eight years from the date that the owner qualify as a registered indigent. In the case of the property being sold inside a period of eight years the arrear debt, excluding any further accumulated interest, will be recovered before a clearance certificate is issued.
- (6) Other debt collection methods

The debt collection methods mentioned in the paragraphs above are not an exhaustive list of methods that can be applied to collect debts and any other methods that can be initiated will be implemented with the approval of Council.
- (7) Debt Collection Costs

Any costs, which include collection costs, charges, disbursements and legal costs relating to any of the debt collection methods applied to collect the debt will be debited to the account of the defaulting customer.

## 24. Arrangements to pay arrear debt

- (1) Arrangements to pay outstanding and due amounts in consecutive installments - residential households
  - (a) One of the key objectives of debt collection is to encourage customers to start paying their monthly accounts in full. In addition it is also necessary to ensure that arrear debt is addressed. The current average balances on customer accounts necessitate that innovative ideas be implemented to encourage customers to pay off their arrears. At the same time it is also of utmost importance that regular payers not be discouraged through the implementation of any possible incentives.
  - (b) The main aim of an agreement will be to promote full payment of the current account and to address the arrears on a consistent basis.

- (c) A customer may enter into a written agreement with the Municipality to repay any outstanding and due amount to the Municipality under the following conditions:-
  - (i) The outstanding balance, costs and any interest thereon shall be paid in regular and consecutive monthly installments;
  - (ii) The current monthly amount must be paid in full; and
  - (iii) The written agreement has to be signed on behalf of the Municipality by a duly authorized officer.
  - (iv) The agreement will be compliant with the requirements of the National Credit Act where applicable.
- (d) In order to determine monthly installments a comprehensive statement of assets and liabilities of the customer must be compiled by a treasury official. To ensure the continuous payment of such arrangement the amount determined must be affordable to the customer, taking into account that payment of the monthly current account is a prerequisite for concluding an arrangement.
- (e) The Municipality may from time to time introduce incentive schemes to improve the debt collection rate.
- (f) A customer who cannot pay their arrear debt may enter into an arrangement to pay the account over an extended period of time.
- (g) During the time of the debt collection process, but before the debt is handed over to the attorneys a customer may enter into an arrangement to payoff arrear debt, which will be made an order of court by agreement in terms of the Rules of the Court.
- (h) No arrangements will be entertained by the Municipality on a debt that has been handed over for legal collection.
- (i) The Municipality will entertain only one arrangement with a customer to pay off arrear debt. Failure to abide by the arrangement will result in that:-
  - (i) the arrangement shall be terminated with immediate effect; and
  - (ii) the outstanding balance shall immediately become due and payable.
- (j) The customer by signing the arrangement agreement to pay off arrear debt acknowledges the following: -
  - (i) The debt is owed to the Municipality.
  - (ii) That on default of the arrangement agreement, interest on arrears will be charged on the amount due, electricity supply will be disconnected to the property of the customer or the customer will be blocked from the purchase of electricity or water on the prepayment system, and legal proceedings will be instituted to collect the debt.
  - (iii) That the customer will be liable for all costs, which includes legal costs on an attorney client basis incurred to collect the debt.
- (2) Arrangements by businesses
  - (a) At the date of the arrangement a minimum of 50% of the capital arrear debt must be paid immediately.
  - (b) The balance of the debt which includes the capital amount and interest must be paid over a 6 to 12 month period provided payments are made monthly by the due date. Only the Chief Financial Officer may approve any extension on this arrangement.
  - (c) The total monthly installment must include the current monthly charges plus the amount to pay off arrear debt.

- (d) Arrangements by businesses to pay off arrear debt will only be entertained for debt on which debt collection actions have been taken and which actions are in an advanced stage.
- (e) During the time of the debt collection process, but before the debt is handed over to the attorneys a customer may enter into an arrangement to pay off arrear debt, which will be made an order of court by agreement in terms of the Rules of the Court.
- (f) No arrangements will be entertained by the Municipality on a debt that has been handed over for legal collection.
- (g) Failure to maintain the arrangement will result in interest being reversed and full debt collection being implemented, with no possibility of reprieve.
- (h) Any arrangement outside of the foregoing must be approved by the Municipal Manager. This function cannot be delegated.

## **25. Indigent customers**

- (1) An account holder (customer) must apply, in the prescribed manner, to be regarded as an indigent customer as defined in the Indigent Policy approved by the Council.
- (2) 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.
- (3) The approved account holder shall remain responsible for any outstanding amount at the date of application as well as for future excess charges.
- (4) The arrears on the accounts of households, approved as indigent, will be submitted to Council to be written off in full. This submission will only be valid as a once-off exercise after approval and will not be applicable for future consumption in excess of the approved subsidy accumulated.
- (5) Where applicable, indigent customers may have their credit electricity and water meters converted to prepayment electricity and water meters at the cost of Council.
- (6) Indigent customers with credit electricity and water meters are required to pay their current monthly account, which is the amount after the indigent subsidy has been deducted, every month by the due date, until the conversion to a prepaid meter has been made.

## **26. Debt of absconded owners**

The occupant of the property must sign an agreement in which the occupant agrees to pay all property rates and service charges that are to be raised on the property of the absconded registered owner's property.

## **27. Staff and councillors - payment of arrears**

- (1) All existing staff and Councilors who have not entered into an agreement to pay arrears must do so within thirty days of the approval of this By-law by Council.
- (2) All staff joining the Municipality must within thirty days sign an agreement to pay arrears.
- (3) The repayment period for both Councilors and staff is not to exceed twelve months.
- (4) All agreements with Councilors must not exceed the expiry date of the term of office.

## **28. Administration and debt review orders - payment of arrears**

- (1) On notification that an order for administration in terms of section 74 of the Magistrates Court Act, 1944 order has been granted, Council will manage the debt that is part of the administration order separately to the current account.

- (2) On notification that an order for review of debt, in terms of section 86(7)(c) of the National Credit [Act, 34 of 2000](#), has been granted, Council will manage the debt that is part of the review order separately to the current account.
- (3) The customer will be responsible for the payment of the current monthly account and if the customer defaults on the payment of the account, debt collection action will be implemented.

## 29. Write off of irrecoverable debt

- (1) The objective to write off irrecoverable debt is to have a debt book that does not reflect irrecoverable debt.
- (2) For this purpose Council should adopt and implement a write off policy to formalize the processes for writing off such debts.

## 30. Certificates required for tenders

- (1) A person or an institution reacting to a tender published by the Municipality or wishing to enter into a contract to either provide services or goods to the Municipality must produce a certificate, on the prescribed form, which states that regular payment of rates and services accounts are maintained and that the account is currently up to date.
- (2) A person who fails to provide such a certificate shall be disqualified from the tendering process.
- (3) A person who has an existing arrangement with the Municipality for the payment of arrears shall be exempted from (1) and (2) to the extent of the arrears.

## 31. *Prima facie* evidence

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

## 32. Offences and penalties

- (1) Any person who:-
  - (a) fails to give the access required by a duly authorized representative of the Municipality in terms of this By-law;
  - (b) obstructs or hinders a duly authorized representative of the Municipality in the exercise of his or her powers or performance of functions or duties in terms of this By-law;
  - (c) unlawfully uses or interferes with municipal equipment or the consumption of services supplied to any customer;
  - (d) tampers with or breaks any seal on a meter or on any equipment belonging to the Municipality, or causes a meter not to register properly the service used;
  - (e) fails, or refuses, to give a duly authorized representative of the Municipality such information as he or she may reasonably require for the purpose of exercising or performing his or her powers or functions in terms of this By-law, or gives such representative false or misleading information, knowing it to be false or misleading; or
  - (f) contravenes, or fails to comply with, a provision of this By-law, shall be guilty of an offence.
- (2) Upon conviction in a court, an offender shall be liable for a fine not exceeding R60 000, or to imprisonment for a period not exceeding 12 (twelve) months, or both such a fine and imprisonment, and may be charged for consumption, as determined by the Chief Financial Officer, and based on average monthly consumption, or as determined by resolution of the Municipality from time to time.

### **33. Reporting on performance management**

- (1) The Chief Financial Officer shall report monthly to the Municipal Manager in a suitable format to enable the Municipal Manager to report to the Executive Mayor as supervisory authority in terms of section 99 of the Systems Act, read with section 100(c).
- (2) The Executive Mayor as Supervisory Authority shall, at intervals of three (3) months, report to Council as contemplated in section 99(c) of the Systems Act.
- (3) This report shall contain particulars on cash collection statistics, showing high-level debt recovery information including amongst others numbers of customers, enquiries, arrangements, default arrangements, growth or reduction of arrear debt.
- (4) Where possible, the statistics should ideally be divided into wards, business (commerce and industry), domestic, state, institutional and other such divisions.
- (5) If in the opinion of the Chief Financial Officer, the Municipality will not achieve cash receipt income equivalent of the revenue projected in the annual budget as approved by Council, the Chief Financial Officer will report this with motivation to the Municipal Manager who will, if in agreement with the Chief Financial Officer, immediately move for a revision of the budget according to realistically realizable income levels.

### **34. Property management leases**

The procedure for the recovery of arrears on leases will be in accordance with the conditions contained in the relevant lease contract.

### **35. Temporary workers**

Where the Municipality provides temporary employment to members of the community who are in arrears with payments for municipal rates and services they will be required to enter into a written agreement to pay 50% of their gross remuneration towards these arrears of debt.

### **36. Power of entry and inspection**

- (1) For any purpose related to the implementation or enforcement of this By-law, and at all reasonable times, or in an emergency, a duly authorized representative of the Municipality may enter premises, request information and carry out such inspection or examination, as he or she may deem necessary:-
  - (a) with regard to the installation or repair of any meter or service connection or reticulation; or
  - (b) so as to limit, discontinue, disconnect or reconnect the provision of any service.
- (2) If the Municipality considers it necessary that work be performed to enable the aforesaid authorized representative to perform a function referred to in subsection (1) above properly and effectively, then it may:-
  - (a) by written notice require the owner or occupier of the premises, at his or her own expense, to do specific work within a specified period; or
  - (b) if, in its reasonable opinion, the situation is a matter of urgency, then the Municipality may do such work, or cause it to be done, at the expense of the owner or occupier, and without written notice.
- (3) If the work referred to in subsection (2)(b) above is carried out for the sole purpose of establishing whether a contravention of this By-law has been committed, and no such contravention has taken place, then the Municipality shall bear the expense connected therewith, together with the expense of restoring the premises to its former condition.

### 37. Notices

- (1) A notice or document issued by the Municipality in terms of this By-law shall be deemed to be duly issued if signed by a duly authorized representative of the Municipality.
- (2) If a notice is to be served on a person in terms of this By-law then such service shall be effected by:-
  - (a) delivering the notice to him or her personally, or his or her duly authorized agent;
  - (b) delivering the notice at his or her residence or place of employment, to a person apparently not less than 16 (sixteen) years of age, and apparently residing or employed there;
  - (c) if he or she has nominated an address for legal purposes, delivering the notice to such an address;
  - (d) registered or certified post, addressed to his or her last known address;
  - (e) in the case of a body corporate, delivering it to the registered office or the business premises of such a body corporate; or
  - (f) if service cannot be effected in terms of the aforegoing subsections, by affixing it to the principal door of entry to the premises or displaying it in a conspicuous place on the property to which it relates.

### 38. By-laws

The Municipality may promulgate By-Laws regarding:-

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

### 39. Review of this By-law

- (1) This By-law shall be implemented once approved by Council.
- (2) In terms of section 17(1) (e) of the MFMA this By-law must be reviewed on annual basis and the reviewed By-law tabled to Council for approval as part of the budget process.

### 40. Repeal of by-laws

- 40.1 The [By-law to Regulate Customer Care Management, Credit Control And Debt Collection](#) published by the Hessequa Municipality under PN7278/2014 dated 13 June 2014 is hereby repealed.
- 40.2 This By-law does not repeal the entire existing [By-law on Customer Care and Revenue Management](#) published by the Hessequa Municipality under PN6594/2009 dated 16 January 2009. However, where there are conflicting arrangements on Credit Control and Debt Collection actions specifically this By-law will supersede as the latest arrangement.

### 41. Short-title and commencement

This By-law is the By-law to regulate Customer Care Management, Credit Control and Debt Collection and comes into effect on 1 July 2015.