

21. Short title and commencement

This by-law shall be known as the Commonage By-law and shall come into operation on the date of publication thereof in the Provincial Gazette.
9 November 2009 20647

**BERGRIVIER MUNICIPALITY
CREDIT CONTROL, TARIFFS AND DEBT COLLECTION BY-LAW**

Under section 156 of the Constitution of the Republic of South Africa, 1996, the Bergrivier Municipality, enacts as follows:—

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1. Definitions

For the purposes of this by-law, unless the context otherwise indicates—

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

“**annual budget**” means the budget approved by the municipal council for any particular financial year, and includes any adjustments to such budget;

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

“**availability charge**” means a fixed monthly or annual charge levied against the owner of the property which is based on the cost for providing a municipal service to the premises;

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

“**consumer**” means the occupier of any premises to which the municipality has agreed to supply or is actually supplying municipal services, or if there is no occupier, then any person who has entered into a service agreement with the municipality for the supply of municipal services to such premises, or, if there be no such person, then the owner of the premises, and “**domestic consumer**” or “**domestic user**” of municipal services means the person or household to which municipal services are rendered in respect of residential property;

“**consumer price index**” means the consumer price index (CPIX) as determined and gazetted by the South Bureau of Statistics;

“**Council**” means the Council of the Bergrivier Municipality (or any service provider to the municipality);

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

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

“**customer service centre**” means and serves as—

- (a) an office where an applicant may apply for services and enter into a service agreement with the municipality;
- (b) an office where an account holder may settle an account or may make pre-payment for services;

- (c) a credit screening point where the credit assessment of an applicant can be processed; or
- (d) an office where an account holder may query or verify accounts and metered consumption, and may communicate grievances, inquiries, recommendations and other relevant issues to the municipality and from where the response from the municipality can be conveyed to the account holder;

“domestic consumer or domestic user” of municipal services means the person or household to which municipal services are rendered to a residential property;

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

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

“land reform beneficiary”, in relation to a property, means a person who—

- (a) acquired the property through the provision of the Land and Assistance Act, 1993 (Act 126 of 1993);
- (b) acquired the property through the provision of the Restitution of Land Rights Act, 1994 (Act 22 of 1994);
- (c) holds the property subject to the Communal Property Associations Act, 1996 (Act 29 of 1996); or
- (d) holds or acquires the property in terms of such other land tenure reform legislation as may be enacted;

“local community” or **“community”**, in relation to the municipality, means that body of persons comprising the residents of the municipality, the ratepayers of the municipality, any civic, non-governmental, private sector or labour organisations or bodies involved in local affairs within the municipality, and 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;

“major services” means those services contemplated in section 17(5);

“market value” in relation to a property means the value of the property as determined in accordance with section 46 of the Property Rates Act, 2004 (Act 6 of 2004);

“minor tariffs” means all tariffs, charges, fees, rentals or fines levied or imposed by the municipality in respect of services, other than major services provided, and includes services incidental to the provision of the major services.

“month” means one of 12 months of a calendar year;

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

“municipal entity” means—

- (a) a private company referred to in section 86B (1) (a) of the Municipal Systems Act, Act 32 of 2000;
- (b) a service utility; or
- (c) a multi-jurisdictional service utility;

“municipality” means the Municipality of Bergrivier, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, municipality or, agent or employee;

“municipal manager” is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, 1998 and includes any person:

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated any power, function or responsibility in as far as it concerns the execution of those powers, functions or duties.

“municipal property” includes a property owned by a municipal entity;

“multiple purposes”, in relation to a property, means the use of a property for more than one purpose;

“municipal service” means a service that a municipality in terms of its powers and functions provides or may provide to or for the benefit of the local community irrespective of whether—

- (a) such a service is provided, or to be provided, by the municipality through an internal mechanism contemplated in section 76 of the Municipal Systems Act, 2000 or by engaging an external mechanism contemplated in the said section 76; and
- (b) fees, charges or tariffs are levied in respect of such a service or not;

“municipal tariff” means a tariff for services which the municipality sets for the provision of a service to the local community, such as a tariff set for major services or a minor tariff, and includes a surcharge on such service;

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

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

“officer” means an employee of the municipality or any other person who is specifically authorised thereto by the municipality to perform any act.

function or duty in terms of, or exercise any power under this by-law;

“organ of state” means an organ of state as defined in section 239 of the Constitution;

“owner” means—

- (a) a person in whom the legal title to a premises is vested;
- (b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in the case where the municipality is unable to determine the identity of the person in whom the legal title is vested, the person who is entitled to the benefit of such premises or a building thereon;
- (d) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- (e) in relation to—
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), and without restricting the above, the developer or the body corporate in respect of the common property; or
 - (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
- (f) any legal person including, but not limited to—
 - (i) a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), Trust inter vivos, Trust mortis causa, a Closed Corporation registered in terms of the Closed Corporation's Act, 1984 (Act 69 of 1984), a voluntary association;
 - (ii) any Department of State;
 - (iii) any council or Board established in terms of any legislation applicable to the Republic of South Africa; and
 - (iv) any Embassy or other foreign entity; and
- (g) a lessee of municipal property who is deemed to be the owner for the purposes of rendering a municipal account;

“owner”, in relation to—

- (a) a property referred to in paragraph (a) of the definition of “property”, means a person in whose name ownership of the property is registered;
- (b) a right referred to in paragraph (b) of the definition of “property”, means a person in whose name the right is registered;
- (c) a land tenure right referred to in paragraph (c) of the definition of “property”, means a person in whose name the right is registered or to whom it was granted in terms of legislation; and
- (d) public service infrastructure referred to in paragraph (d) of the definition of “property”, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of “publicly controlled”, however, the municipality may, for the purposes of the Property Rates Act, 2004 (Act 6 of 2004), regard as the owner of a property—
 - (i) in the case of a property in a trust, but excluding state trust land, a trustee;
 - (ii) in the case of a property in a deceased estate, an executor or administrator;
 - (iii) in the case of a property in an insolvent estate or in liquidation, a trustee or liquidator;
 - (iv) in the case of a property in the estate of a person under judicial management, a judicial manager;
 - (v) in the case of a property in the estate of a person under curatorship, a curator;
 - (vi) in the case of a property that is subject to a usufruct or other personal servitude, a person in whose name a usufruct or other personal servitude is registered;
 - (vii) in the case of a property that is registered in the name of the municipality and is leased by it, a lessee; and
 - (viii) in the case of a property sold by the municipality and of which possession was given to the buyer pending registration of ownership in the name of such buyer, a buyer;

“permitted use”, in relation to a property, means the limited purposes for which the property may be used in terms of any restrictions imposed by a condition of title, a provision of the municipality's town planning or land use scheme, or any legislation applicable to any specific property or properties, or any alleviation of any such restrictions;

“person” includes a legal person and an organ of state;

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

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

- (a) a general plan or diagram registered in terms of Land Survey, Act of 1927 (Act 9 of 1927), or in terms of the Deeds Registry, Act of 1937 (Act 47 of 1937); or
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 93 of 1986), which is situated within the area of jurisdiction of the municipality;
- (c) and includes any other land and any building or structure above or below the surface of any land;

“property” means—

- (a) immovable property registered 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;

- (b) a right registered against immovable property in the name of the person, but excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation, such as a "land reform beneficiary"; and
- (d) public service infrastructure;

"publicly controlled" means owned by or otherwise under the control of an organ of state, including a public entity listed in the Public Finance Management Act, 1999 (Act 1 of 1999), a municipality, or a municipal entity;

"public service infrastructure" means publicly controlled infrastructure of the following kinds:

- (a) national, provincial or other public roads on which goods, services or labour move across a municipal boundary;
- (b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme servicing the public;
- (c) power stations, power sub-stations or power lines forming part of an electricity scheme serving the public;
- (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuel forming part of the scheme for transporting such fuels;
- (e) railway lines forming part of a national railway system;
- (f) communication towers, masts, exchanges and lines forming part of a communication system serving the public;
- (g) runways or aprons at national or provincial airports;
- (h) breakwaters, seawalls, channels, basins, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising lighthouses, radio navigational aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;
- (i) any other publicly controlled infrastructure as may be prescribed by as law; and
- (j) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (i);

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

"sectional title scheme" means a scheme as defined in section 1 of the Sectional Titles Act, 1986 (Act 95 of 1986);

"tampering" means any unauthorised interference with the municipality's supply, seals and metering equipment and "tamper" has a corresponding meaning;

"target" means realistic targets which may be set by the municipality ; and

"tariffs for major services" means tariffs set for the supply and consumption or usage of major services;

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

CHAPTER 1

CUSTOMER CARE PRINCIPLES, OBJECTIVES AND IMPLEMENTATION, AND DIFFERENTIATION

2. Customer care principles, and objectives

- (1) The municipality aims—
 - (a) to move progressively towards the social and economic upliftment of the community in harmony with its natural environment;
 - (b) to provide basic services that are affordable to all its people, and specifically to the poor and disadvantaged, provided that, where applicable, service fees, rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable, arising from any other liability or obligation, are paid for;
 - (c) to engage the active participation of the community in the municipality's affairs, in particular in planning, service delivery and performance management;
 - (d) to provide efficient, effective and transparent administration that conforms to constitutional principles;
 - (e) to ensure that the municipality is financially and economically viable; and
 - (f) to create a harmonious relationship between the municipality and the community through the acknowledgement of reciprocal rights and duties;
- (2) The municipality by this by-law, designs, regulates on and implements a customer care and management system as contemplated in section 95 of the Municipal Systems Act.

3. Municipal manager responsible officer

The municipal manager—

- (a) is responsible to the Executive Mayor for the implementation and enforcement of the provisions of this by-law;
- (b) must, for the purposes of paragraph (a) take the necessary steps to implement and enforce the provisions of this by-law;
- (c) is accountable to the Executive Mayor for the agreed performance targets as approved by the municipality and the Executive Mayor, and for these purposes must—
 - (i) report to the Executive Mayor on matters relating to this by-law, including but not limited to—

- (aa) the effectiveness of administrative mechanisms, resources processes and procedures to collect money that is due and payable to the municipality;
- (bb) billing information, including the number of account holders, accruals, cash-flow, and customer management;
- (cc) the satisfaction levels of account holders regarding services rendered; and
- (dd) the effectiveness of the municipality's indigence relief measures; and
- (ii) encourage and bear on account holders, where needed, to settle outstanding accounts within the ambit of this by-law; and
- (iii) with the consent of an account holder, enter into an agreement with the account holder's employer to deduct from the salary or wages of the account holder—
 - (aa) any outstanding amounts as may be agreed; or
 - (bb) such regular monthly amounts as may be agreed, and may provide special incentives for employers to enter into such agreements, and employees to consent to such agreements.

4. Differentiation between customers and exemption

- (1) In accordance with the principles embodied in the Constitution and sections 74(3) and 75 of the Local Government: Municipal Systems Act, 2000, the municipality may differentiate between different categories of users and consumers in regard to the tariffs which it levies, categories of ratepayers, account holders, customers, debtors, taxes, services, service standards and other matters, however, such differentiation must at all times be reasonable, and must be fully disclosed in each annual budget.
- (2) The municipality may, in writing exempt an account holder, category of account holders, or other persons from complying with a provision of this by-law, subject to any conditions it may impose, if the application or operation of that provision would be unreasonable, however the municipality or its authorised agent may not grant exemption from any section of this by-law that may result in—
 - (a) the wastage or excessive consumption of water or electricity;
 - (b) the evasion or avoidance of water or electricity restrictions;
 - (c) significant negative effects on public health, safety or the environment;
 - (d) the non-payment for services;
 - (e) the installation of pipes and fittings which are not acceptable in terms of the municipality's prescribed standard; or
 - (f) any Act, or any regulation made under it, not being complied with.
- (3) The municipality or its authorised agent may at any time after giving written notice of at least 30 days, withdraw any exemption given under subsection (2).

CHAPTER 2

SUPPLY OF MUNICIPAL SERVICES

Part 1:

Application for supply and service agreements, credit screening, deposits, billing and payment, and termination of service agreements

5. Application for supply of municipal services and service agreements

- (1) Any application for any supply of services to any premises must be made at the municipal offices at least four working days, or such lesser period as may be accepted by the municipality, prior to the service being required and must comply with the conditions determined by the Municipal Manager.
- (2) After the commencement of this by-law only the owner of a property or a person who has written authority from the owner, may apply for municipal services to be supplied to a property.
- (3) No services shall be supplied unless and until application has been made by the owner and a service agreement in the format prescribed by the municipality has been entered into and a deposit provided for in section 6 has been paid.
- (4) Upon receipt of an application for services the municipality must notify the applicant of the different levels of services and the tariffs payable in respect of each level of service.
- (5) The municipality shall only be responsible to provide a specific level of services if it already provides such level of services in the ordinary run of matters and if it has the capacity to provide such level of services.
- (6) Where the municipality—
 - (a) refuses to provide a specific level of services;
 - (b) is not in a position to provide such a level of service on the date it is requested;
 - (c) is not in a position whatsoever to provide such a level of service, it must notify the applicant within a reasonable time of its inability to provide the service, the reasons therefor and if applicable, when the municipality will be in a position to provide such service.

6. Deposits

- (1) On approval of the application and before the service is made available, the municipality may require the applicant—
 - (a) to deposit for municipal services with the municipality a sum of money;
 - (b) to provide any other form of security; or

- (c) to agree to special conditions regarding payment of the municipal account, and monies so deposited with the municipality serve as security.
- (2) The amount payable as deposit shall be determined as part of the municipality's tariff policy and may be determined for different kinds of consumers.
- (3) The director: Financial Services may, in respect of preferred clients, grant a relaxation of the conditions applicable to deposits as contemplated in subsections (1) and (2), and may in the case of services being suspended or restricted, decide to increase the deposit for re-connection.
- (4) Upon the suspension of services, the deposit, minus any payments due to the municipality, must be refunded to the account holder.
- (5) The municipality is not liable for interest payable on deposits held.

7. Billing and payment

- (1) The account holder must pay all amounts due to the municipality as reflected in the municipal account, and the onus is on the account holder to verify the accuracy of such account.
- (2) An account holder must pay for metered services, and must pay the rates, other municipal charges, levies, fees, fines, interest, taxes or any other liability or obligation from the date of origin of such municipal charges until the written termination of the services.
- (3) An account holder—
 - (a) must, where possible, be rendered one account, on which the due date for settlement of the total amount owing is reflected, subject to the provisions of subsection (14); and
 - (b) must be billed monthly in cycles of approximately 30 days.
- (4) Payment must be received on or before the close of business on the due date.
- (5) Payment made via electronic media or any of the service providers appointed by the municipality to receive payments on its behalf, should be made at least four working days before the due date to enable the payment to be processed, and interest accrues should the municipality receive payment after the due date.
- (6) Where the account holder effects payment of an account via a service provider four working days or more before the due date and such service provider fails to furnish the municipality with the relevant payment details, such service provider may be held liable for all charges incurred by the municipality to recover an arrear amount erroneously reflected on the account of the account holder, as well as for interest charges.
- (7) The municipality may estimate the quantity of metered services supplied in respect of a period or periods within the interval between actual successive readings of the meters, which intervals may not exceed 4 months, and may render an account to an account holder for the quantity of metered services so estimated.
- (8) If an account holder is dissatisfied with an account rendered for metered services supplied by the municipality, such account holder may, prior to the due date stipulated therein object to the account, setting out reasons for such dissatisfaction.
- (9) Should any dispute arise as to the amount owing by an account holder, and subject to the provisions of section 102 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the account holder must notwithstanding such dispute proceed to make regular payments by the due date based on the calculation of the average municipal account for the preceding three months prior to the arising of the dispute and taking into account interest as well as the annual amendments of tariffs of the municipality.
- (10) An error or omission in any account or failure to render an account does not relieve the account holder of the obligation to pay by the due date.
- (11) If an account holder uses water or electricity for a category of use other than that for which it is supplied by the municipality and is in consequence not charged for water or electricity so used, or is charged for the water or electricity at a rate lower than that at which the account holder should be charged, the account holder is liable for the amount due to the municipality in accordance with the prescribed charges in respect of—
 - (a) the quantity of water or electricity which the account holder has used and for which the account holder has not been charged; or
 - (b) the difference between the cost of the water or electricity used by the account holder at the rate at which the account holder has been charged and the cost of the water or electricity at the rate at which the account holder should have been charged.
- (12) An account holder is not entitled to a reduction of the amount payable for metered services which are lost due to a fault in the meter, until such time as the provisions of section 13(8)(c) have been met.
- (13) The municipality may—
 - (a) consolidate any separate accounts of an account holder liable for payment to the municipality; and
 - (b) credit any payment by an account holder against any debt of that account holder.
- (14) The owner of property may enter into an agreement with the municipality in terms of which payment for rates is made annually, in which case payment must be made on or before the date determined by the municipality.
- (15) Where an account is not paid in full, any lesser amount offered and accepted by the municipality, shall not be regarded as full and final settlement of the account, unless the municipal manager has accepted in writing such payment as full and final settlement of the account.
- (16) The municipality undertakes to provide and maintain strategically situated payment offices and cashiers throughout the municipal area.

8. Termination of service agreement

- (1) Termination of the service agreement must be in writing to the other party of the intention to do so.
- (2) Where a property is sold, an owner may terminate a service agreement by giving the municipality not less than four working days' notice in writing.
- (3) The municipality may, by notice in writing of not less than 14 working days, advise an account holder of the termination of the agreement for

a supply of municipal services if—

- (a) the account holder has committed a breach of this by-law and has failed to rectify such breach; or
- (b) the municipality cannot continue to supply the account holder with municipal services, as in terms of an arrangement with another authority supplying municipal services such authority must in future supply municipal services to the account holder.

Part 2:

Non-payment of municipal accounts

9. Arrangements for payments

- (1) Should an account holder, before any of the steps have been taken in terms of section 11, not be able to pay the municipal account in full, the account holder may approach the municipality with the aim of making short-term arrangements to settle the account.
- (2) Should an account holder, after any of the steps have been taken in terms of section 13, experience difficulties in paying the municipal account, the account holder may approach the municipality with the aim of making arrangements to settle the account, and the account holder must enter into a written agreement with the municipality to repay to the municipality the outstanding and due amount under the conditions and on a basis determined, by the Municipal Manager.
- (3) The written agreement must be signed on behalf of the municipality by a duly authorised officer.
- (4) In the instance where arrangements for payment have been made the municipality may—
 - (a) review the deposit;
 - (b) require of an account holder to pay by means of a stop order or debit order;
 - (c) require of an account holder to convert to a pre-paid metering system; or
 - (d) require any other form of security, including personal suretyship by the directors or members of a company, closed corporation, trust or body corporate.

10. Interest on overdue municipal accounts

- (1) The municipality may, charge or recover interest at a rate determined by it in respect of any arrear amounts due and payable.
- (2) Irrespective of the reason for non-payment, or where an arrangement has been made in terms of section 9, interest accrues if an account is unpaid.
- (3) Interest is calculated monthly according to the interest rate approved by the municipality, and a portion of a month is regarded as a month.
- (4) Interest is payable if payment is not received at an office of the municipality or to the credit of the bank account of the municipality at the close of business on the due date.

11. Debt collection mechanisms

- (1) Where appropriate, the municipality must at all times attempt to advise an account holder of an impending disconnection or restriction of a supply, and the following mechanisms may be applied should an account holder fail to settle a municipal account by the due date:
 - (a) delivering or mailing of a final demand and explaining to the account holder the status of the account and the consequences of not paying or concluding an arrangement;
 - (b) informing the account holder verbally, in writing, telephonically, or by electronic means of the overdue amount and the impending disconnection or restriction of services;
 - (c) disconnecting or restricting the supply of municipal services to the premises and the serving of a disconnection or restriction notice on the account holder; or
 - (d) debiting the municipal account of the account holder with all relevant fees or penalties approved by the municipality.
- (2) Where the water- or electricity supply had been disconnected in terms of this section, such supply shall be re-connected only when—
 - (a) all amounts due plus interest are paid in full or an agreement for settlement has been entered into in terms of the municipality's Credit control and Debt Collection Policy; and
 - (b) the fees for disconnection or re-connection as determined in the municipality's Tariff Policy has been paid.
- (3) Where the metered usage is discontinued or restricted and the account holder remains in default of payment, the premises may visited at regular intervals to ensure that metered supply remains discontinued or restricted and where it is found that such services have been re-connected, the municipality shall have the right to—
 - (a) take the steps required in terms of section 31, in which case the account holder remains responsible for the charges or costs for damages incurred;
 - (b) refuse to provide services for a period determined by the municipality; and
 - (c) in the case of a pre-payment meter, to terminated further selling of prepaid services.
- (4) Where a duly authorised officer of the municipality has visited the premises for the purpose of disconnecting or restricting the supply and was obstructed or prevented from effecting such disconnection or restriction, an amount equal to the prescribed fee for a reconnection becomes payable for each visit necessary for the purpose of such disconnection or restriction, subject to a maximum of two such visits during which disconnection or restriction could not be effected.
- (5) The municipality may use any one or more of the following mechanisms to secure full payment of any amounts owing to it:
 - (a) requiring of the account holder to convert to another metering system;

- (b) allocating a portion of any pre-paid payment to other debts;
 - (c) publishing a list of account holders who remain in default;
 - (d) withholding payment of a grant-in-aid and subject to the provisions of section 30, excluding the account holder from the tender process;
 - (e) withholding payment on contracts for settlement of the municipal account;
 - (f) reviewing and altering the conditions of the service agreement;
 - (g) instituting legal proceedings for the recovery of the debt;
 - (h) classifying the account holder as an unreliable customer;
 - (i) using the services of external debt collection specialists or agencies;
 - (j) insisting on conversion to pre-paid metering at the cost of the account holder; or
 - (k) employing any other methods authorised by the municipality from time to time to recover arrear amounts.
- (5) The cost of collection, where applicable, is for the account holder's account.
- (6) Subject to the provisions of sections 28 and 29 of the Property Rates Act, 2004 Act 6 of 2004), the right to deny, restrict, disconnect or terminate services due to the non-payment for any rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable arising from any other liability or obligation prevails notwithstanding the fact that—
- (a) payment was intended for any specific service; or
 - (b) the person who entered into a service agreement for supply of services with the municipality and the owner are different entities or persons, as the case may be.

*Part 3:
Metering equipment and metering of services*

12. General provisions

The municipality may introduce various metering equipment and may encourage an account holder to convert to a system which will benefit the municipality and account holders.

13. Metering equipment and measuring of consumption

- (1) The municipality must, at the consumer's cost in the form of a direct charge or prescribed fee, provide, install and maintain appropriately rated metering equipment at the point of metering for measuring metered services.
- (2) The municipality reserves the right to meter the supply to a block of shops, flats, tenement-houses and similar buildings for the building as a whole, or for an individual unit, or for a group of units.
- (3) Where any building referred to in subsection (2) is metered by the municipality as a whole —
 - (a) the owner may, at own cost, provide and install appropriate sub-metering equipment for each shop, flat and tenement; or
 - (b) the municipality may require the installation, at the account holder's expense, of a meter for each unit of any premises in separate occupation for the purpose of determining the quantity of metered services supplied to each such unit.
- (4) Where the electricity used by consumers is charged at different tariffs, the consumption must be metered separately for each tariff.
- (5) Where sub-metering equipment is installed, accommodation separate from the municipality's metering equipment must be provided where appropriate.
- (6) Except in the case of pre-payment meters, the quantity of metered services used by a consumer during any metering period is ascertained by reading the appropriate meter or meters supplied and installed by the municipality at the beginning and end of such metering period, except where the metering equipment is found to be defective.
- (7) For the purpose of calculating the amount due and payable for the quantity of metered services consumed, the same amount of metered services is deemed to be consumed during every period of 24 hours between readings.
- (8) The following apply to the accuracy of metering:
 - (a) a meter is conclusively presumed to be registering accurately if its error, when tested in the manner prescribed in subsection (13), is found to be within the limits of error as provided for in the applicable standard specifications;
 - (b) the municipality has the right to test its metering equipment, and if it is established by test or otherwise that such metering equipment is defective, the Municipality must—
 - (i) in case of a credit meter, adjust the account rendered; or
 - (ii) in the case of prepayment meters:
 - (aa) render an account where the meter has been under-registering; or
 - (bb) issue a free token where the meter has been over-registering; and
 - (c) the consumer is entitled to have the metering equipment tested by the municipality on payment of the prescribed fee, and if the metering equipment is found not to comply with the system accuracy requirements as provided for in the applicable standard specifications, an adjustment in accordance with the provisions of paragraph (b) and subsection (7) must be made and the aforesaid fee must be refunded.
- (9) No alterations, repairs, additions or connections of any description may be made on the supply side of the point of metering unless specifically approved in writing by the municipal manager.
- (10) Prior to the municipality making any upward adjustment to an account in terms of subsection (8)(b), the municipality must—

- (a) notify the consumer in writing of the monetary value of the adjustment to be made and the reasons therefor;
 - (b) in such notification provide sufficient particulars to enable the consumer to submit representations thereon; and
 - (c) call upon the consumer in such notice to present it with reasons in writing, if any, within 21 days or such longer period as the municipality may permit, why the account should not be adjusted as notified, and should the consumer fail to provide any representation during the period the municipality is entitled to adjust the account as notified in paragraph (a).
- (11) The municipality must consider any representation provided by the consumer in terms of subsection (10) and may adjust the account appropriately.
- (12) If the Municipal Manager decides that such representation does not establish a case warranting an amendment to the monetary value established in terms of subsection (15), the municipality is entitled to adjust the account as notified in terms of subsection (10)(a), and the consumer has the right to appeal the decision of the official in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).
- (13) Meters are tested in the manner provided for in the applicable standard specifications.
- (14) When an adjustment is made to the consumption registered on a meter in terms of subsection (8)(b) or (8)(c), such adjustment is based either on the percentage error of the meter as determined by the test referred to in subsection (13), or upon a calculation by the municipality from consumption data in its possession, and where applicable, due allowance must be made, where possible, for seasonal or other variations which may affect consumption.
- (15) When an adjustment is made as contemplated in subsection (14), the adjustment may not exceed a period of six months preceding the date on which the metering equipment was found to be inaccurate, however the application of this subsection does not bar a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.
- (16) The municipality may dispense with the use of a meter in case of—
- (a) an automatic sprinkler fire installation; or
 - (b) special circumstances that may justify such dispensation.
- (17) The municipality may by notice—
- (a) prohibit or restrict the consumption of metered services—
 - (i) for specified or non-specified purposes;
 - (ii) during specified hours of the day or on specified days or otherwise than during specified hours of the day or on specified days; and
 - (iii) in a specified or non-specified manner; and
 - (b) determine and impose—
 - (i) limits on the quantity of metered services which may be consumed over a specified period;
 - (ii) charges additional to those prescribed in respect of the supply of metered services in excess of a limit contemplated in subparagraph (i); and
 - (iii) a general surcharge on the prescribed charges in respect of the supply of metered services; and
 - (c) impose restrictions or prohibitions on the use or manner of use or disposition of an appliance by means of which metered services is used or consumed, or on the connection of such appliance.
- (18) The municipality may limit the application of the provisions of a notice contemplated by subsection (17) to specified areas and classes of account holders, premises and activities, and may provide for the municipality to permit deviations and exemptions from, and the relaxation of any of the provisions.
- (19) To ensure compliance with a notice published in terms of subsection (17), the municipality may take, or by written notice require an account holder at the account holder's expense to take, such measures, including the installation of measuring devices and devices for restricting the flow of metered services as may be necessary.
- (20) In addition to the person by whose act or omission a contravention of or failure to comply with the terms of a notice published in terms of subsection (17) is actually committed, an account holder in respect of the premises to which metered services are supplied is presumed also to have committed the contravention or to have so failed to comply, unless evidence is adduced that the account holder had taken all reasonable steps to prevent such a contravention or failure to comply by any other person, however, the fact that the account holder issued instructions to the other person shall not of itself be accepted as sufficient proof that the account holder took all such reasonable steps.
- (21) The provisions of this section also apply in respect of metered services supplied directly by the municipality to account holders outside its area of jurisdiction, notwithstanding anything to the contrary in the conditions governing such supply, unless otherwise specified in the notice published in terms of subsection (17).
- (22) If action is necessary as a matter of urgency to prevent waste of metered services, refuse or sewerage, damage to property, danger to life, or pollution of water, the municipality may—
- (a) without prior notice disconnect the supply of metered services to any premises; and
 - (b) enter upon such premises and do emergency work, as it may deem necessary, and in addition by written notice require the account holder to do within a specified period such further work as the municipality may deem necessary.
- (23) The municipality may recover from the account holder the cost of any work undertaken in terms of subsection (22)(b) where such work was undertaken because of an unlawful act or omission by the account holder.
- (24) Before any metered or pre-paid metered supplies which have been disconnected or restricted for non-payment is restored, an account holder must pay all fees and charges as determined by the municipality.
- (25) The municipality 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) upon payment of the prescribed charge for restoration, restore the supply of such services.

- (26) After disconnection for non-payment of an account or a contravention of any provision of this by-law, the prescribed fees must be paid before reconnection is made.
- (27) 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 the municipality is not obliged to effect any adjustments to such charges;
 - (b) if for any reason the credit meter cannot be read, the municipality may render an estimated account, and estimated consumption must be adjusted in a subsequent account in accordance with the consumption actually consumed;
 - (c) when an account holder vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made and the final account rendered accordingly;
 - (d) if a special reading of the meter is desired by a consumer, this may be obtained upon payment of the prescribed fee; and
 - (e) if any calculating, reading or metering error is discovered in respect of any account rendered to a consumer—
 - (i) the error must be corrected in subsequent accounts;
 - (ii) any such correction applies only in respect of accounts for a period of six months preceding the date on which the error in the accounts was discovered,
 - (iii) the correction is based on the actual tariffs applicable during the period; and
 - (iv) the application of this section does not prevent a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.
- (28) The following apply to prepayment metering:
- (a) no refund of the amount tendered for the purchase of electricity or water credit is given at the point of sale after initiation of the process by which the pre-payment meter token is produced; provided that this section will only apply to Standard Transfer Specification equipment (STS tokens);
 - (b) copies of previously issued tokens for the transfer of credit to the pre-payment meter may be issued at the request of the consumer;
 - (c) when an account holder vacates any premises where a pre-payment meter is installed, no refund for the credit remaining in the meter is made to the owner by the municipality;
 - (d) the municipality is not liable for the re-instatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, pre-payment meters or tokens;
 - (e) where an account holder is indebted to the municipality for any 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, the municipality may deduct a percentage from the amount tendered to offset the amount owing to the municipality; and
 - (f) the municipality may appoint vendors for the sale of credit for prepayment meters and does not guarantee the continued operation of any vendor.

14. Resale of water or electricity

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

Part 4: Indigence relief measures

15. Requirements for indigence relief

- (1) To qualify for indigence relief, the following requirements must be met:
 - (a) The applicant must be an account holder;
 - (b) the applicant must, before a date determined by the municipality, apply annually, or at such intervals as determined by the municipality, to be granted the status as a poor household, and for these purposes must—
 - (i) complete and sign the prescribed forms; and
 - (ii) provide any other documentation as may be required by the municipality;
 - (c) the applicant may not be the owner of more than one property and he or she must occupy the property; and
 - (d) the collective household income may not exceed the amount determined by the municipality in terms of subsection (2).
- (2) For the purposes of determining the collective household income as contemplated in subsection (1)(d), the municipality may stipulate an amount, or may determine a maximum amount based on any one or more of the following:
 - (a) consumption of water;
 - (b) consumption of electricity; or

- (c) the municipal valuation of the property, which valuation may not exceed the value determined by the municipality .
- (3) In the case of a tenant—
 - (a) the tenant must apply in person and may qualify for electricity, water and refuse and sewage charges only, for which charges he or she must receive a municipal account; and
 - (b) the person receiving the rent payable by the tenant whether on the person's own account or as agent for any other person entitled thereto or interested therein, is responsible for rates.
- (4) In the instance where the account holder is deceased, the existing and future accounts of the household must be accepted under the indigence relief measures, on condition that only the surviving spouse or dependent children may apply or benefit.
- (5) The onus is on the head of an indigent household to notify the municipality of any change in the circumstances which causes non-compliance with this section and at the same time furnish all detail with regard to such changed circumstances.

16. Credit given

- (1) Households which qualify for indigence relief measures may receive a credit for some or all of the following as determined by the municipality:
 - (a) a quantity of electricity plus basic fee;
 - (b) a quantity of water plus basic fee;
 - (c) refuse removal charges;
 - (d) sewerage charges;
 - (e) rates; or
 - (f) any other service fees, taxes or charges over and above the rendered services.
- (2) The municipality has the right to review an application for indigence relief on a regular basis and to visit the property mentioned in section 15(1)(c) at any reasonable time for the purposes of verifying the information given in an application.
- (3) The normal rates, fees and charges and the requirement to pay an account will apply should a household account exceed the credit limits approved by the municipality.
- (4) Where it has been established that indigence relief has been granted on the basis of false or fraudulent information supplied, the municipality may withdraw such relief with immediate effect.

17. Cancellation of registration

- (1) Registration as an indigent household shall be cancelled in the cases mentioned below and such household shall forfeit all assistance granted for the unexpired term for which assistance was granted:
 - (a) where it is found that false information was furnished in the application or other documentation or statements;
 - (b) where the head of the indigent household refuses or fails to furnish the information required in terms of section 15(1)(b) for a period of 30 days after suspension of assistance because of failure to prove qualification for assistance;
 - (c) if it is found that circumstances have changed to such an extent that the indigent household no longer satisfies one or more of the requirements for registration.

CHAPTER 3

TARIFFS

Part 1:

General principles, calculation of tariffs for major services

18. General principles

- (1) The municipality adopts, subject to subsection (14), sections 21(3)(d) and (e) and 22(5)(d), a two-part tariff structure consisting of a basic charge coupled with a charge based on consumption which tariffs may be adjusted during the financial year when such adjustment is required or approved in terms of national or provincial legislation.
- (2) In setting its annual tariffs the municipality must at all times take due cognisance of the—
 - (a) tariffs applicable elsewhere in the economic region; and
 - (b) impact which its own tariffs may have on local economic development.
- (3) With the exception of the indigence relief measures approved by the municipality, service tariffs imposed by the municipality should be viewed as user charges and not as taxes, and the ability of the relevant consumer or user of the services to which such tariffs relate, to pay for such services, should not be considered as a relevant criterion.
- (4) The municipality must ensure that its tariffs are uniformly and fairly applied throughout the municipal area.
- (5) Tariffs for the following services rendered by the municipality, must as far as possible recover the expenses associated with the rendering of each service concerned, and, where feasible, generate a surplus as determined in each annual budget:
 - (a) supply of electricity;
 - (b) supply of water;
 - (c) sanitation services, including sewerage and waste water disposal services;
 - (d) refuse (solids waste) removal services; or

- (e) any other services rendered by the municipality.
- (6) The tariff, which a particular consumer or user pays, must be directly related to the standard of service received and the quantity of the particular service used or consumed.
- (7) The municipality must annually review its indigence relief measures, as contemplated in sections 15 and 16, and must set out the—
 - (a) municipality's cost recovery policy in respect of the tariffs which it levies on registered indigents; and
 - (b) the implications of such policy for the tariffs which it imposes on other users and consumers in the municipal region.
- (8) (a) The municipality's tariff policy must be transparent.
 - (b) The extent to which there is cross-subsidisation between categories of consumers or users must be evident to all consumers or users of the service in question.
- (9) The municipality undertakes to—
 - (a) ensure that its tariffs are explained to and understood by all consumers and users affected by this by-law;
 - (b) render its services cost effectively in order to ensure the best possible cost of service delivery.
- (10) In the case of the directly measurable services, namely electricity and water, the consumption of such services must be properly metered by the municipality, and meters must be read, wherever circumstances reasonably permit, on a monthly basis, and the charges levied on consumers must be proportionate to the quantity of the service which they consume.
- (11) In considering the costing of its water, electricity and sewerage services, the municipality must take due cognisance of the high capital cost of establishing and expanding such services, and of the resultant high fixed costs, as opposed to variable costs of operating these services.
- (12) (a) The municipality's tariffs for electricity services are determined to ensure that those consumers who are mainly responsible for peak demand, and therefor for the incurring by the municipality of the associated demand charges from Eskom, have to bear the costs associated with these charges.
 - (b) For the purposes of paragraph (a), the municipality may install demand meters to measure the maximum demand of such consumers during certain periods.
 - (c) Such consumers must pay the relevant demand charge as well as a service charge directly related to their actual consumption of electricity during the relevant metering period.

19. Calculation of tariffs for major services

In order to calculate the tariffs which must be charged for the supply of the services contemplated in section 18(5), the municipality must identify all the costs of operation of the undertakings concerned, including specifically the following:

- (a) cost of bulk purchases in the case of water and electricity;
- (b) distribution costs;
- (c) distribution losses in the case of electricity and water;
- (d) depreciation expenses;
- (e) maintenance of infrastructure and other fixed assets;
- (f) administration and service costs, including—
 - (i) service charges levied by other departments such as finance, human resources and legal services;
 - (ii) reasonable general overheads, such as the costs associated with the office of the municipal manager;
 - (iii) adequate contributions to the provisions for bad debts and obsolescence of stock; and
 - (iv) all other ordinary operating expenses associated with the service concerned including, in the case of the electricity service, the cost of providing street lighting in the municipal area; and
- (g) the cost of indigence relief measures.

Part 2:

Structure of tariffs for major services, minor tariffs

20. Structure of tariffs

- (1) The municipality may—
 - (a) determine the kilowatt-hours of electricity per month and the kilolitres of water which will be provided free of charge to any category of consumer; and
 - (b) consider relief in respect of the tariffs for sewerage and refuse removal for such registered indigent to the extent that the council deems such relief affordable in terms of each annual budget, however, such relief may not be less than a discount as determined by the municipality.
- (2) The tariff for consumption for a pre-paid meter is the same as the ordinary consumption tariffs levied on the category of consumer concerned, and no basic charge is payable on a property where a pre-paid meter has been installed.

21. Electricity

- (1) The various categories of electricity consumers, as set out in subsection (3), are charged at the applicable tariffs, as approved by the municipality in each annual budget.

- (2) Subject to section 18(1), tariff adjustments are effective in respect of July accounts each year.
- (3) Categories of consumers and charges are as follows:
 - (a) with the exception of a registered indigent, a consumer must be billed for all the electricity consumed at the tariff applicable to the category in which the particular consumer falls.
 - (b) the tariff for domestic consumption of electricity may not exceed such percentage, per kilowatt-hours, as determined by the municipality, of the tariff applicable to other consumers, and all consumers with the same type of connection must pay the same tariff per kilowatt-hour.
 - (c) electricity consumers of a category determined by the municipality must receive free the amount of kilowatt-hours of electricity as determined in terms of section 20(1).
 - (d) a domestic electricity consumer other than a registered indigent and sub-economic (Government subsidised Housing) consumer may additionally be billed a basic charge per meter installed.
 - (e) a commercial, industrial and other non-domestic property may additionally be billed a monthly basic charge per meter installed and, where applicable, a demand charge appropriate to its respective levels of consumption.

22. Water

- (1) The categories of water consumers as set out in subsection (5), are charged at the applicable tariffs, as approved by the municipality in each annual budget.
- (2) Subject to section 18(1), tariff adjustments are effective in respect of July accounts each year.
- (3) The tariff levied for domestic consumption of water escalates according to the volume of water consumed, and will be based on a monthly consumption as determined by the municipality.
- (4) The tariff for non-domestic water consumption is based on monthly consumption as determined by the municipality.
- (5) Categories of consumers and charges are as follows:
 - (a) a domestic water consumer registered as an indigent with the municipality must receive free the first six kilolitre of water consumed per month, thereafter a tariff as determined by the municipality is applicable on metered water consumption.
 - (b) all other domestic consumers are charged for actual water consumption at a stepped tariff per kilolitre as determined by the municipality.
 - (c) the tariff applicable to domestic consumption of water may not exceed such percentage per kilolitre as determined by the municipality, of the tariff applicable to other consumers and all other consumers, including businesses, industries and institutional consumers, must pay the tariff as contemplated in subsection (4).
 - (d) a basic charge per water meter, as determined by the municipality, is charged on a water consumer.

23. Refuse removal

- (1) The categories of refuse removal users as set out in subsection (3) are charged at the applicable tariffs, as approved by the municipality in each annual budget.
- (2) Subject to section 18(1), tariff adjustments are effective in respect of July accounts each year.
- (3) A separate fixed monthly refuse removal charge applies to each of the following categories of users, based on the costs of the service concerned:
 - (i) domestic and other users, where refuse is removed by the municipality once weekly; and
 - (ii) business and other users, where refuse is removed by the municipality twice weekly;
 - (iii) business and other users, where refuse is removed by the municipality thrice weekly; and
 - (iv) business and other bulk consumers.
- (4) A registered indigent may receive a discount on this charge as the municipality deems affordable when approving each annual budget, which discount may not be less than the percentage, as determined by the municipality, of the monthly amount billed as a refuse removal charge.

24. Sewerage

- (1) The categories of sewerage users as set out in subsection (3) are charged per month at the applicable tariff as approved by the municipality in each annual budget.
- (2) Subject to section 18(1), tariff adjustments are effective in respect of July accounts each year.
- (3) Categories of users and charges are:
 - (a) an availability charge is charged per month or annually for an undeveloped erf, irrespective of its permitted or intended use.
 - (b) a fixed monthly charge based on the costs of the service, is charged for a domestic user, however, a registered indigent may receive such discount on this charge as the municipality deems affordable when approving each annual budget, which discount may not be less than the percentage, as determined by the municipality, of the monthly amount billed for this service.
 - (c) a fixed monthly charge based on the costs of the service is charged for a domestic user, however, a registered indigent may receive such discount on this charge as the municipality deems affordable when approving each annual budget, which discount may not be less than the percentage, as determined by the municipality, of the monthly amount billed for this service.
 - (d) a fixed monthly charge based on the costs of the service is charged to all businesses, industries and institutional users.
 - (e) an effluent fee is payable by a factory and another industrial user where the wastewater emanating from such user requires special

purification measures by the municipality, and the fee is based on the toxic content of the wastewater concerned and the costs of the purification.

- (f) a tariff, at a cost determined annually in the budget, will be levied for each visit to empty a septic tank on the premises of a person requiring such service.

25. Minor tariffs

- (1) All minor tariffs are standardised within the municipal region.
- (2) All minor tariffs are approved by the municipality in each annual budget and are, when deemed appropriate by the municipality, subsidised by property rates and general revenues, particularly when the—
 - (a) tariffs prove uneconomical when charged to cover the cost of the service concerned;
 - (b) cost cannot accurately be determined; or
 - (c) tariff is designed purely to regulate rather than finance the use of the particular service or amenity.
- (3) Unless there are compelling reasons why such adjustment should not be effected, all minor tariffs over which the municipality has full control, and which are not directly related to the cost of a particular service, are adjusted annually at least in accordance with the prevailing consumer price index.
- (4) The following services are subsidised services, and the tariffs levied cover 50%, or as near as possible to 50%, of the annual operating expenses budgeted for the service concerned:
 - (a) burial services and the provision of cemeteries; and
 - (b) the provision of municipal sports facilities for use against a fee.
- (5) The following services are considered as being community services, and no tariffs are levied for their use:
 - (a) a municipal swimming pool;
 - (b) a municipal museum and art gallery;
 - (c) the disposal of garden refuse at the municipal disposal site;
 - (d) a municipal reference library;
 - (e) a municipal lending library, except for fines determined;
 - (f) a municipal botanical garden, other park or open space;
- (6) The following services are considered as being economic services, and the tariffs levied cover 100%, or as near as possible to 100%, of the budgeted annual operating expenses of the service concerned:
 - (a) The maintenance of graves, gardens of remembrance and crematoria against payment of a fee;
 - (b) the availability of a house against payment of a housing rental;
 - (c) subject to subsection (9), the use of a municipal hall and other premises against payment of a fee;
 - (d) the supply of a building plan against payment of a fee;
 - (e) the selling of—
 - (i) plastic refuse bags;
 - (ii) the selling of refuse bins; or
 - (iii) livestock and plants;
 - (f) the cleaning of stands against payment of a fee;
 - (g) the connection of electricity, water and sewerage against payment of a connection fee;
 - (h) the photostatting of copies against payment of a fee; and
 - (i) the issuing of a clearance certificate against payment of a fee.
- (7) The following charges and tariffs are considered as regulatory or punitive, and are determined as appropriate in each annual budget:
 - (a) fines for lost or overdue library books;
 - (b) advertising sign fees;
 - (c) pound fees;
 - (d) disconnection and reconnection fees of electricity and water;
 - (e) penalty and other charges imposed in terms of Chapters 1 and 2; and
 - (f) penalty charges for the submission of dishonoured, stale, post-dated or otherwise unacceptable cheques.
- (8) The costs of the democratic process in the municipality such as, but not limited to, all expenses associated with the political structures of the municipality, form part of the expenses to be financed from property rates and general revenues, and are not included in the costing of the major services of the municipality.

**CHAPTER 4
AVAILABILITY CHARGES**

26. Availability charges

Availability charges in respect of water, electricity, sewerage and refuse removal, as determined annually in the budget by the municipality, is payable by all owners of undeveloped property where none of the said services are connected, but can be reasonably connected. If one or more of the services are connected, then the basic charge in respect of all the services that can reasonably be connected shall still apply.

**CHAPTER 5
ENFORCEMENT**

27. Municipality's powers to restrict or disconnect supply of services

The municipality may, over and above the provisions of any other provisions in this by-law restrict or disconnect the supply of water and electricity, or discontinue any other service to any premises if—

- (a) an administration order is granted in terms of section 74 of the Magistrates Court Act, 1944 (Act 37 of 1944), in respect of an account holder; provided further that such services will only be suspended if the account holder fails to make regular payments in respect of the current services;
- (b) an account holder of any service fails to comply with a condition of supply imposed by the municipality;
- (c) an account holder obstructs the efficient supply of electricity, water or any other municipal services to another account holder;
- (d) an account holder supplies such municipal services to any person who is not entitled thereto or permits such service to continue;
- (e) an account holder causes a situation which is dangerous or a contravention of relevant legislation; or
- (f) an account holder is placed under provisional registration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 (Act 24 of 1936).

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

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

29. Clearance certificate

To effect the transfer of any immovable property from one registered owner to another, the Registrar of Deeds requires a clearance certificate, which certificate is obtainable from the municipal manager upon payment of the prescribed fee and subject to the conditions of section 118 of the Municipal Systems Act, 2000 (Act 32 of 2000) being met.

30. Tenders and grants-in-aid

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

31. Power of council to recover costs

- (1) Where a bank dishonours any payment made to the municipality, the municipality may levy and recover all related costs and any administration fees against an account of the defaulting account holder and may disconnect or restrict the supplies to the premises of such account holder.
- (2) All legal costs, excluding attorney-and-client costs incurred in the recovery of amounts in arrears and payable in terms of the Magistrates Court Act, 1944 (Act 32 of 1944), must be levied against the arrears account of the account holder.
- (3) For any action taken in demanding payment from an account holder or reminding an account holder by means of telephone, fax, electronic mail, letter or otherwise that payments are due, a fee will be levied against the municipal account of the account holder in terms of the municipality's tariff policy.

32. Prima facie evidence

A certificate reflecting the amount due and payable to the municipality, signed by the municipal manager, is upon mere production thereof prima facie evidence of the indebtedness of the person mentioned in it.

33. Abandonment of bad debts, and full and final settlement of account

- (1) Before terminating the debt collection procedure in any individual instance, the municipal manager must—
 - (a) ensure that all debt collection mechanisms as provided for in section 11 have been utilised where reasonable;
 - (b) maintain an audit trail; and
 - (c) document the reasons for terminating the debt collection procedure, including the cost of enforcement and necessary financial adjustments.
- (2) The municipal manager may consider an offer for full and final settlement, and must, if in the interests of the municipality, in writing consent to the acceptance of a lesser amount as full and final settlement of the amount due and payable.
- (3) Where the exact amount due and payable to the municipality has not been paid in full, any lesser amount tendered to and accepted by any municipal employee, except the municipal manager, shall not be deemed to be in full and final settlement of such an amount.

34. Power of entry and inspection

- (1) A duly authorised representative of the municipality may for any reason related to the implementation or enforcement of this by-law at all reasonable times or in emergency at any time, enter premises, request information and carry out such inspection as deemed necessary, and may for purposes of installing or repairing any meter or service connection for reticulation disconnect, stop or restrict the provision of any service.
- (2) If the municipality considers it necessary for work to be performed to enable an officer to perform a function referred to in subsection (1) properly and effectively, it may—
 - (a) by written notice require an account holder to do, at own expense, specified work within a specified period; or
 - (b) if the situation is a matter of urgency, without prior notice do such work or cause it to be done at the expense of the account holder.
- (3) If the work referred to in subsection (2) 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 municipality must bear the expense connected therewith together with that of restoring the premises to their former condition.

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

- (1) An order, notice or other document requiring authentication by the municipality must be signed by the municipal manager and when issued by the municipality in terms of this by-law is deemed to be duly issued if it is signed by an officer authorised by the municipality.
- (2) Any notice or other document that is served on a person by a duly authorised officer of the municipality in terms of this by-law, is regarded as having been served—
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgement of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been placed in a conspicuous place on the property or premises, if any, to which it relates;
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate to a person apparently over the age of 16 years; or
 - (g) when it has been delivered, at the request of a person, to that person's electronic mail address.
- (3) When any notice or other document has to be served on the owner, an account holder or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, account holder or holder of the property or right in question, and it is not necessary to name that person.
- (4) Service of a copy is deemed to be service of the original.
- (5) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

**CHAPTER 6
GENERAL PROVISIONS**

36. Right of appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision

37. Offences and penalties

A person is, on conviction, and subject to penalties prescribed in any other law, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment if he or she—

- (a) fails to give access required by an officer in terms of section 34;
- (b) obstructs or hinders an officer in the exercise of his or her powers or the performance of functions or duties under this by-law;
- (c) uses or interferes with the municipality's equipment for consumption of services supplied;
- (d) fails or refuses to give the municipality or an officer such information as the municipality or the officer may reasonably require for the purpose of exercising powers or functions under this by-law, or gives the municipality or the officer false or misleading information knowing it to be false or misleading;
- (e) fails to comply with the terms of a notice served upon him or her in terms of this by-law; or
- (f) tampers or breaks any seal on a meter or on any equipment belonging to the municipality, or for any reason causes a meter not to register the services used properly, and the person shall furthermore be charged for usage of electricity or water, as the case may be.

38. Repeal of by-laws

Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law is hereby repealed

39. Conflict with other legislation

In the event of any conflict between any provision of this by-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial Legislation, standards, policies or guidelines shall prevail.

40. Short title and commencement

This by-law may be cited as the Credit Control, Tariffs and Debt Collection By-law and commences on the date of publication thereof in the Provincial Gazette.

**BERGRIVIER MUNICIPALITY
ELECTRICITY SUPPLY BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Bergrivier Municipality, enacts as follows:—

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