

Mbizana, South Africa

Credit Control and Debt Collection

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Credit Control and Debt Collection
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Mbizana South Africa

Credit Control and Debt Collection By-law, 2019

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PURPOSE

To give effect to the Municipalities credit control and debt collection policy and the implementation thereof i.e. it is the process utilised by a municipality to ensure collection of revenue from rates, fees levied and for services rendered and entails in the main, metering/measurement, billing/invoicing and debt collection.

WHEREAS in terms of section 11 (3)(m) of the Local Government; Municipal Systems [Act 32 of 2000](#), read with section 162 of the [Constitution of the Republic of South Africa Act 108 of 1996](#), municipalities have the legislative power to promulgate By-laws regarding any matter which falls within its functional competence;

NOW THEREFORE the Council of the Mbizana Local Municipality, acting in terms of section 156 read with Schedule 5 (Part B) of the [Constitution of the Republic of South Africa Act 108 of 1996](#), and read with section 1 of the local Government: Municipal Systems [Act 32 of 2000](#), hereby makes the following By-Law: THE CREDIT AND DEBT COLLECTION BYLAW.

1. Definitions

"arrangement" means an agreement entered into between the municipality and a debtor in terms of which payment terms for the settlement of an outstanding debt are agreed upon and expressly stipulated;

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

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

- (a) hospitals, clinics and institutions for mentally ill persons which are not operated for gain;
- (b) museums, art galleries, libraries and botanical gardens which are registered in the names of private persons and are open to the public, whether admission fees are charged or not;
- (c) sports grounds used for the purpose of amateur sports and any social activities connected with such sports;
- (d) any property registered in the name of an institution or organisation which, in the reasonable opinion of the municipality, performs charitable work;
- (e) any property utilised for *bona fide* church or religious purposes;

"chief financial officer" means the official accountable and responsible to the municipal manager for the implementation, administration and enforcement of the municipality's credit control and debt collection policy;

"credit control" means all the functions relating to the collection of monies owed by debtors;

"customer" means the occupier of any premises to whom the municipality has agreed to supply, or is actually supplying, services, or, if there is no occupier, then the owner of the premises;

"day" means a calendar day, inclusive of Saturdays, Sundays and public holidays;

"debtor" means any person who is liable to the municipality for payment of any amount, including -

- (a) rates;
- (b) fees for municipal services provided by the municipality or another institution or person in terms of a service delivery agreement; or
- (c) any other tax, duty or levy imposed by the municipality;

"dependant" means any person who relies on any other person for financial support;

"due date", with regard to -

- (a) rates due in respect of any immovable property, means the first day of July of the financial year for which such rate is applicable; and
- (b) service charges due in respect of any immovable property, means the seventh day of the month succeeding the month during which municipal services were supplied, provided that a date falling on a Saturday, Sunday or public holiday shall result in the due date being determined as the next working day;

"immovable property" includes -

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

"indigent debtor" means the head of an indigent household -

- (a) who applies to the municipality for the provision of services;
- (b) who makes application for, and is accorded, indigent support in terms of this by-law; and
- (c) who shall be regarded as the representative of all members of his or her household, including all dependants;

"indigent support policy" means the indigent support policy approved and adopted by the municipal council of the municipality;

"indigent support programme" means a structured programme for the provision of indigent support subsidies to qualifying indigent debtors in terms of the municipality's indigent support policy;

"month" means a calendar month;

"average monthly consumption" means the monthly consumption in respect of any property, calculated on the basis of average consumption over the preceding 6 (six) months;

"municipal account" means an account recording the transactions associated with the rates and service charges applicable to a customer;

"municipal pay point" means any municipal office in the area of jurisdiction of the municipality, or any such other place as the chief financial officer may from time to time designate for the payment of municipal accounts;

"municipal services" means services provided either by the municipality, or by an institution or person in terms of a service delivery agreement, and shall include the provision of water, electricity, sewerage, refuse and fire protection services, and "services" shall have a corresponding meaning;

"municipality" means the Municipality of Mbizana, established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998](#), 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 to such political structure, political office bearer, councillor, agent or employee;

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

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

"**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 10 (ten) years, whether the lease is registered or not, shall be deemed to be the owner thereof; and
 - (ii) the occupier of immovable property occupied in terms of a servitude, or right analogous thereto, shall be deemed the owner thereof;
- (b) if the owner is deceased, insolvent, has assigned his or her estate for the benefit of his or her creditors, has been placed under curatorship by order of court, or is a company being wound up or under judicial management, then, 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;
- (c) if the owner is absent from the Republic, or if his or her address is unknown to the municipality, then, any person who, as agent or otherwise, receives, or is entitled to receive, the rent in respect of such property; or
- (d) if the municipality is unable to determine who the owner is, then, the person who is entitled to the beneficial use of such property;

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

- (a) a general plan or diagram registered in terms of the Land Survey Act, 1997 ([Act No. 8 of 1997](#)), or in terms of the Deeds Registries Act, 1937 ([Act No. 47 of 1937](#));
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986, and situated within the jurisdiction of the municipality;

"**person**" means a natural or juristic person, including any sphere of government, department of state, statutory body or foreign embassy;

"**prescribed**" means prescribed in terms of this by-law;

"**rate**" means a municipal rate on property, as contemplated in terms of Section 229(1)(a) of the [Constitution](#);

"**ratepayer**", in relation to the municipality, means a person who is liable to the municipality for the payment of rates on property in the municipality;

"**registered owner**" means the person, natural or juristic, in whose name a property is registered in terms of the Deeds Registries Act, 1937;

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

"**service delivery agreement**" means an agreement between the municipality and an institution or persons, contemplated in terms of Section 76(b) of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000](#);

"**tariff**" means a schedule of taxes, duties, levies or fees which may be imposed by the municipality, for municipal services provided, either by itself, or another institution or person, in terms of a service delivery agreement;

"**tariff policy**" means the tariff policy approved and adopted by the municipal council of the municipality.

2. Scope and objectives of the bylaw

- (1) This By-Law applies to the Municipality's area of jurisdiction, and is only applicable to the ratepayers of Mbizana Municipal area, who are excluded from the Assistance to the Poor / Indigent Policy of the municipality, as determined or revised from time to time by Council.
- (2) The objectives of the Credit Control and Debt Collection By-Law are as follows: -
 - (i) Ensuring that households pay for the basic services that they are afforded by the municipality,
 - (ii) Ensuring that the municipality is able to provide services as approved in its annual budget or its annual Integrated Development Program (IDP), and
 - (iii) Ensuring that the non-payment of services is minimised.

3. Credit control principles

The following principles are to be considered:

- (1) Enforcement is a local matter subject only to relevant legislation;
- (2) The municipal manager who is entrusted with the determination and execution of credit control measures must report to the municipal council;
- (3) Enforcement and policy-making must be independent to ensure accountability;
- (4) Credit control must be understandable, uniform, fair and consistently applied;
- (5) Credit control must be effective, efficient and economical;
- (6) The credit control measures employed must be sustainable in the long term; and
- (7) A proper indigence policy must be in place to ensure that the circumstances of the poor are accommodated.

4. Elements of credit control

1. Metering/Measurement
 - (a) Service metering or measurement is the determination of the amount of service rendered to each customer in each category.
 - (b) This may vary from flat rates, such as refuse removal, to metered consumption of water and electricity, to deemed consumption such as sewerage disposal.
2. Billing/Invoicing
 - (a) Billing refers to the process of preparing and presenting a claim or invoice to each consumer, which is based on the quantity of service, which is consumed by, and delivered to the consumer in a specified time.
3. Arrear Collection
 - (a) Arrear collection, commonly known as credit control in local government, refers to the process of recovery of outstanding amounts from customers by taking the necessary steps

and actions which include among others, interruption of services, litigation and attachment of assets.

5. Application for services

- (1) A consumer who qualifies as an indigent consumer must apply for services.
- (2) No person shall be entitled to have access to municipal services unless application has been made to and approved by the municipality or its authorized agent.
- (3) If, at the commencement of these Bylaws or at any other time, municipal services are provided and received and no written agreement exists in respect of such services, it shall be deemed that -
 - (a) an agreement in terms of subsection (2) exists; and
 - (b) the level of services provided to that consumer is the level of services elected, until such time as the consumer enters into an agreement in terms of subsection (2).
- (4) The municipality or its authorized agent must on application for the provision of services inform the applicant of the then available levels of services and then applicable tariffs and/or charges associated with each level of service.
- (5) The municipality or its authorized agent is only obliged to provide a specific level of service requested if the service is currently being provided and if the municipality or authorized agent has the resources and capacity to provide such level of service.
- (6) A consumer may at any time apply to alter the level of services elected in terms of the agreement entered into, provided that such requested level of service is available and that the consumer pays any costs and expenditure associated with altering the level of services.
- (7) An application for services submitted by a consumer and approved by the municipality or its authorized agent shall constitute an agreement between the municipality or its authorized agent and the consumer, and such agreement shall take effect on the date referred to or stipulated in such agreement.
- (8) In completing an application form for municipal services, the municipality or its authorized agent must ensure that the document and the process of interaction with the owner, consumer or other person and advise him or her of the option to register as an indigent consumer.
- (9) In the case of illiterate or similarly disadvantaged persons, the municipality or its authorized agent must take reasonable steps to ensure that the person is aware of and understands the contents of the application form and shall assist him or her in completing such form.
- (10) Municipal services rendered to a consumer are subject to provisions of these Bylaws, any applicable Bylaws and the conditions contained in the agreement.
- (11) If the municipality or its authorized agent-
 - (a) refuses an application for the provision of municipal services or a specific service or level of service;
 - (b) is unable to render such municipal services or a specific service or level of service on the date requested for such provision to commence; or
 - (c) is unable to render such municipal services or a specific service or level of service the municipality or its authorized agent must, within a reasonable time, inform the consumer of such refusal and/or inability, the reason therefore and, if applicable, when the municipality or its authorized agent will be able to provide such municipal services or a specific service or level of service.

6. Deposits

- (1) The service level agreement provides for a deposit or bank guarantee to be paid as security.

- (2) It will be expected of owners to of property to pay such a deposit.
- (3) The deposit should be equal to two months average consumption and the basic charge, per ward, for each applicable service.
- (4) The deposit should be paid on signing the new services agreement.
- (5) When services are terminated due to non-payment, the deposit will be reviewed and might be increased at the discretion of the Chief Financial Officer.
- (6) Deposits received will be reviewed annually and a deposit register will be maintained.
- (7) The total sum of deposits receive shall constitute a short-term liability in the books of the municipality.
- (8) No interest shall accrue in favour of the depositors thereof.
- (9) Upon termination of the debtors' agreement with the Council the deposit shall first be offset against the outstanding balance (if any) and the balance of the deposit if any will be refunded to the consumer.

7. Obligation to measure

- (1) The Council will ensure that every Municipal service provided to a consumer can either be metered, estimated or allocated at regular intervals and will establish a charge or tariff for the service.

8. Rendering of accounts

- (1) The Council will render an account for the amount due by a debtor on a monthly basis.
- (2) The account will reflect as follows:
 - (a) Details of the consumption for a certain period of each service either by measuring, estimating or allocation.
 - (b) The amount due in terms of consumption.
 - (c) Other amount due such as arrear amounts and any interest on arrears.
- (3) Failure of the Council to render an account shall not relieve a debtor of the obligation to pay the account.
- (4) The account may also include information such as, payment methods, places and approved agents where payments can be made.

9. Power to limit or discontinue supply of service

- (1) the municipality may limit, discontinue or disconnect the supply of electricity, water or any other service to any premises, whenever a customer, in respect of a particular service -
 - (a) fails to make full payment on the due date, or fails to make an acceptable arrangement for the repayment of any amount for such particular service;
 - (b) fails to comply with a condition of supply imposed by the municipality;
 - (c) obstructs the efficient supply of water, electricity or any other municipal service to another customer;
 - (d) supplies such municipal service to any person who is not entitled thereto, or permits such a service to continue;
 - (e) tampers with any municipal supply meter, or bypasses any metering equipment, in order to obtain an un-metered service;

- (f) causes a situation which, in the reasonable opinion of the municipality, is dangerous, or a contravention of relevant legislation;
 - (g) is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 [Act No. 24 of 1936](#) or any other applicable law; or
 - (h) if an administration order is granted in terms of Section 74 of the Magistrates Court Act, 1944. [Act No. 32 of 1944](#) in respect of such a customer.
- (2) The right of the municipality to limit, discontinue or disconnect the supply of electricity or water to any premises or consumer shall be subject to the provisions of Section 4(3) of the Water Services Act, 1997 [Act No. 108 of 1997](#) and Section 11 of the Electricity Act, 1987 [Act No. 41 of 1987](#) and any regulations promulgated in terms of the aforesaid legislation.

10. Indigent directors

- (1) The municipality shall adopt, implement and enforce an indigent support policy, which shall embody an indigent support programme providing procedures and guidelines for the subsidisation of service charges to indigent households in its jurisdiction.
- (2) The object of the indigent support policy will be to ensure-
- (a) the provision of municipal services to the community in a sustainable manner within the financial and administrative capacity of the municipality; and
 - (b) the provision of procedures and guidelines for the subsidisation of service charges to indigent households.
- (3) Qualification criteria:
- (1) Qualification criteria for indigent support and the municipal services qualifying for such support shall be determined by resolution of the municipality from time to time, provided that, until the municipality determines otherwise, registered customers shall qualify for indigent support, subject to the following conditions-
- (a) the combined or joint gross income of all occupants or dependants over the age of 18 (eighteen) years in a single household which receives services from the municipality does not exceed R700 per month;
 - (b) the municipality must be satisfied that the single household referred to in subsection (a) cannot afford to pay for the services provided to it by the municipality;
 - (c) the single household referred to in subsection (a) must be registered on the municipal database of households receiving indigent support from the municipality;
 - (d) any occupant or dependant of the single household referred to in subsection (a) does not own any property in addition to the property in respect of which indigent support is provided in terms of the municipality's indigent support programme;
 - (e) any occupant or dependant in the single household referred to in subsection (a) does not receive any significant monetary benefit or regular monetary payment from any source whatsoever.
- (2) The extent of the monthly indigent support granted by the municipality to indigent households in its jurisdiction will be determined by resolution of the municipality, regard having been given to its budgetary provisions, any applicable amount received by it from national government, the number of recipients and average monthly consumption, or service charges and rates, as the case may be, in respect of the following services -
- (a) water;

- (b) electricity;
 - (c) sewerage;
 - (d) refuse collection;
 - (e) housing rentals, if applicable; and
 - (f) assessment rates on residential property.
- (3) The municipality will, on a 6 (six)-monthly basis, assess the level of support to indigent households in its jurisdiction, depending on the number of applicants qualifying for indigent support and the municipality's general financial position.
- (4) The level of indigent support granted by the municipality shall not exceed the monthly billings to the accounts of indigent debtors.

11. Application for indigent debtors

- (1) An application for indigent support in terms of this by-law must be made to the Municipality and which must contain at least the following information, to be certified as correct by the applicant -
- (a) details of the applicant's municipal service account or accounts;
 - (b) proof of income;
 - (c) proof of residence;
 - (d) identity number of applicant; and
 - (e) number, names and identity numbers, where applicable, of dependants in the applicant's household.
- (2) At all times, an indigent debtor shall be responsible for any re-application necessary and for the submission of proof regarding a change in circumstances that affects the information provided in terms of subsection (1).

12. Withdrawal of indigent debtors status

- (1) The indigent status of a debtor shall not be withdrawn, suspended or altered in terms of this by-law, unless such debtor has been given an opportunity to be heard and to make representations on the contemplated action against him or her.

13. Methods for determining amounts due and payable

- (1) The Municipality or its authorised agent must in respect of municipal services that can be metered, endeavour to, within available financial and human resources, meter all customer connections and/or read all metered customer connections, on a regular basis.
- (2) If a service is not measured, a Municipality or its authorised agent may, notwithstanding subsection (1), determine the amount due and payable by a customer, for municipal services supplied to him, her or it, by calculating -
- (a) the shared consumption; or if not possible; and
 - (b) the estimated consumption.
- (3) If a service is metered, but it cannot be read due to financial and human resource constraints or circumstances out of the control of the Municipality or its authorised agent, and the customer is charged for an average consumption the account following the reading of the metered consumption must articulate the difference between the actual consumption and the average consumption, and the resulting credit or debit adjustment.

- (4) Where water supply services are provided through a communal water services network (standpipe), the amount due and payable by customers gaining access to water supply services through that communal water services network, must be based on the shared or estimated consumption of water supplied to that water services network.
- (5) Where in the opinion of the Municipality or its authorised agent it is not reasonably possible or cost-effective to meter all customer connections and/or read all metered customer connections within a determined area, the municipal council may, on the recommendation of the Municipality or its authorised agent, determine a basic tariff (flat rate) to be paid by all the customers within that area, irrespective of actual consumption.
- (6) The Municipality or its authorised agent must inform customers of the method for determining amounts due and payable in respect of municipal services provided which will apply in respect of their consumption or supply zones.

14. Payment for municipal services provided

- (1) A customer shall be responsible for payment of all municipal services consumed by him/her or it from the commencement date of the agreement until his/her or its account has been settled in full and the Municipality or its authorised agent must recover all applicable charges due to the Municipality.
- (2) If a customer uses municipal services for a use other than which it is provided by the Municipality or its authorised agent in terms of an agreement and as a consequence is charged at a lower than the applicable charge the Municipality or its authorised agent may make an adjustment of the amount charged and recover the balance from the customer.
- (3) If amendments to the applicable charge become operative on a date between measurements for the purpose of rendering an account in respect of the applicable charges and the date of payment, -
 - (a) it shall be deemed that the same quantity of municipal services was provided in each period of twenty-four hours during the interval between the measurements; and
 - (b) any fixed charge shall be calculated on a *pro rata* basis in accordance with the charge that applied immediately before such amendment and such amended applicable charge.

15. Full and final settlement account

- (1) Where an account is not settled in full, any lesser amount tendered and accepted shall not be deemed to be in final settlement of such an account.
- (2) Subsection (1) shall prevail notwithstanding the fact that such lesser payment was tendered and/or accepted in full and final settlement, unless the Municipal Manager or the manager of the Municipality's authorised agent made such acceptance in writing.

16. Responsibility for amounts due and payable

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

17. Dishonoured payments

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

- (1) may recover the average bank charges incurred relating to dishonoured negotiable instruments against the account of the customer; and
- (2) shall regard such an event as default on payment.

18. Incentive schemes

- (1) The municipal council may institute incentive schemes to encourage payment and to reward customers that pay accounts on a regular and timeous basis.

19. Pay-points and approved agents

- (1) A customer must pay his/her or its account at Pay-points, specified by the Municipality or its authorised agent from time to time, or at approved agents of the Municipality or its authorised agent.
- (2) The Municipality or its authorised agent must inform a customer of the location of specified pay-points and approved agents for payment of accounts.

20. Failure to honour agreements

- (1) If a customer fails to comply with an agreement for the payment of arrears in instalments, the total of all outstanding amounts, including the arrears, any interest thereon, administration fees, costs incurred in taking relevant action, and penalties, including payment of a higher deposit, will be immediately due and payable, without further notice or correspondence and the Municipality or its authorised agent may -
 - (a) disconnect the electricity service provided to the customer;
 - (b) in the event that no electricity services are provided by the Municipality or its authorised agent, disconnect the water supply services provided to the customer;
 - (c) institute legal action for the recovery of the arrears; and
 - (d) hand the customer's account over to a debt collector or an attorney for collection.

21. Interest on arrears

- (1) Interest charges are raised on arrear amounts which appear on the municipal accounts.
- (2) The interest rate is determined by Council and is reviewed from time to time.
- (3) A 10% administrative charge shall be levied on arrear rates where the municipality has instituted legal action to recover an outstanding amount.
- (4) Arrears outstanding on business levy accounts are subject to the interest rate specified in terms of the applicable legislation.

22. Reconnection of services

- (1) An agreement for payment of the arrear amount in instalments, entered into after the electricity services was discontinued and/or the water services was limited or disconnected, will not result in the services being restored until -
 - (a) the arrears, any interest thereon, administration fees, cost incurred in taking relevant action and penalties, including payment of a higher deposit, are paid in full; or
 - (b) in addition to payments referred to in subsection (1) the customer shall pay the standard re-connection fee as determined by the Municipality from time to time, prior to the re-connection of municipal services by the Municipality or its authorised agent.

23. Right of appeal

- (1) An appeal must be submitted in writing to the Municipal Manager prior to the final due date for payment of the contested amount, and must contain full details of the specific item(s) on the account which is the subject of appeal, with full reasons.
- (2) If there is a query to the billing process, the consumer is required to pay the average of the three months' account before they can submit their query.
- (3) The debtor will be required to pay for all other services that do not form part of the query.
- (4) The consumer will not be required to pay the average if their complaint is service related, i.e. if they are not receiving the service. Should, however, it be discovered that the consumer is in fact receiving the service, the service will be disconnected with immediate effect.
- (5) The Municipal Manager is to ensure that all appeals are investigated within 7 (seven) days of the date of the query.
- (6) If it is discovered that the amount billed by the Council is correct, the consumer will be liable to pay the difference of the average amount and the actual amount required and also for any costs incurred in respect of testing meters, etc.
- (7) If it is discovered that the consumer is correct, the Council is liable to pay the costs of the account and the consumer will be credited with these costs of the account.

24. Adjudication of appeal

- (1) If the appeal is in respect of a metered consumption, the metered instrument must be tested, within 14 days of lodging an appeal to establish the accuracy thereof.
- (2) The Municipal Manager will inform the debtor in writing of the results of the test of the instrument, and of any adjustment to the amount due, together with the costs of the test for which the debtor will be liable if no error could be found with the instrument.
- (3) If a faulty meter or instrument is revealed, the Council will bear the costs thereof.

25. Right of access

- (1) Municipal officials have the right of access to any property occupied by a consumer for the purposes of reading or inspecting meters or connections or to disconnect, discontinue or restrict the supply of a service and for the evaluation of the property.
- (2) This right of access is reinforced by Section 101 of the Municipal Systems Act, [Act 32 of 2000](#)

26. Arrear message on account

- (1) When a monthly account is in arrears, the next account will clearly highlight an appropriate reminder message.
- (2) Customers will be required to enter into an agreement with the Council for the payment of outstanding debts at the commencement of this policy.
- (3) On balances that have been outstanding for more than 3 (three) years, the customer is required to pay 30% immediately to the Council, and the balance of the outstanding amount over a period of 24 (twenty four) months, together with the current service charges.
- (4) On balances that have been outstanding for less than 3 (three) years the consumer is required to pay 15% immediately to the Council and the balance of the amount over a 12 (twelve) month together with the service charges.
- (5) If the agreements are not complied with, the legal process which will result in attachment of the property will be instituted.

27. Illegal re-connection

- (1) A person who unlawful and intentionally negligently reconnects to service unlawfully and intentionally or negligently interferes with infrastructure through which municipal services are provided, after such consumers access to municipal services have been limited or disconnected, shall immediately be disconnected.
- (2) A person who re-connects to municipal services in the circumstances referred to in subsection (1) shall be liable for the cost associated with any consumption, notwithstanding any other actions which may be taken against such a person.

28. Immediate disconnection

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

- (a) Unlawfully and intentionally or negligently interferes with infrastructure through which the municipality or its authorized agent provides municipal services;
- (b) Fails to provide information or provides false information reasonably requested by the municipality or authorized agent.

29. Offences

ANY PERSON WHO -

- (1) fails to give access required by the municipality or authorized agent in terms of these Bylaws;
- (2) Assists any person in providing false or fraudulent information or assist in wilfully concealing information,
- (3) Uses, tampers or interference with municipal equipment, services supply equipment, reticulation network or consumption of service rendered;
- (4) Fails or refuses to give the municipality or its authorized agent such information as may be reasonably required for the purpose of excising the power of functions under these Bylaws or gives the municipality or authorized agent false or misleading information, knowing it to be false or misleading;
- (5) Contravenes or fails to comply with a provision of these Bylaws;

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

30. Litigation Procedures in Terms of the Magistrates Court [Act 32 of 1994](#)

- (1) Letter of demand
 - (a) Letters of demand shall be produced "in house" by the debt collection section of the municipality and delivered for payment within 14 days from the date of the letter, to the domicilium citandi et executandi of all consumers with amounts in arrears.
 - (b) All the costs of litigation are to be debited to the amount of the consumer concerned.
- (2) Arrangement for extension of payment
 - (a) In terms of section 57 of the Act, a person may acknowledge and undertake to pay any debt in instalments or otherwise. This in turn empowers the municipality to obtain judgment and an emoluments attachment order against the consumer, without having issued summons, provided that a registered letter of demand and a letter of acceptance by the supplier of such acknowledgement and undertaking has been forwarded to the consumer.
- (3) Summons
 - (a) After the expiry of the 14 days (or other determined period) of the letter of demand for payment, the consumer fails or neglects to pay, or make suitable arrangements in terms of [section 2](#) above, the municipality issues summons.
 - (b) Once the summons documentation is complete, it is to be checked and signed by a delegated credit control official on the municipality's behalf.
 - (c) A file must be opened for each matter containing copies of every process and correspondence.
 - (d) A revenue stamp is affixed to the original summons, signed by the delegated credit control officer (who must be a Commissioner of Oaths) where after it is taken to the Clerk of the Court to be signed and issued with a case number.
 - (e) The sheriff of the magistrate's court will be responsible to serve the summons on the defendant.
 - (f) The sheriff will then return the original summons with a document (in terms of section 9 of the Act) which is referred to as the "return of service" stating whether and in which manner the summons was served or not.
 - (g) Should the matter be defended within the prescribed period, the plaintiff having signed and received a copy of such notice, all relevant documentation is handed to an attorney for further action.
- (4) Default judgment
 - (a) When a matter is undefended within 5 days of the issue of summons, an application for default judgment is made.
 - (b) The application is prepared and the original summons and return of service is attached to the application and taken to the Clerk of the court in order to obtain judgment by the magistrate. C.
 - (c) Once default judgment is obtained from the magistrate, the original documentation is filed at Court by the Council's appointed attorney, and a duplicate of the judgment returned to the plaintiff

- (5) Warrant of execution
 - (a) Documentation may be prepared simultaneously with default judgment in order to save time and this document is also returned to the plaintiff.
- (6) Attachment
 - (a) Sufficient copies of the warrant of execution are to be attached to the original for service on each defendant by the sheriff.
 - (b) The sheriff serves and attaches movable property and the plaintiff is provided with a return of service and inventory of goods attached, or returns a "Nulla Bona" service.
 - (c) A notice to remove attached property is then given to the sheriffs, who will then remove and store movable goods on request.
 - (d) If goods sold in execution do not cover the amount owed, a "Nulla Bona" return on the warrant of execution of movable property is received.
 - (e) In the case of immovable property, sufficient copies of the warrant of execution, describing the immovable property, are to be attached to the original document for service by the sheriff on the Registrar of Deeds, the bondholder, local authority and defendant(s) of such attachment of immovable property after which the sheriff will supply a return of service.
- (7) Sale in execution
 - (a) Movable property
 - Notice of the date of sale is prepared with and submitted to the sheriff 3 weeks prior to the date of sale.
 - Should the goods attached exceed the stipulated amount currently stipulated in the Act, a notice of sale in execution must be published in the press.
 - (b) Immovable property
 - Notice of the date of the sale is prepared in conjunction with the sheriff and published in the press.
- (8) Section 65 proceedings

Once a default judgment has been obtained and a warrant of execution produces a "Nulla Bona" return of service, and a Deeds search reveals that the defendant owns no immovable property, proceeding with section 65 of the Act by sending a registered notice in terms of section 65, notifying the defendant of the intended financial enquiry in Court.

31. Offences and penalties

- (1) Any person who -
 - (a) fails to give the access required by a duly authorised representative of the municipality in terms of this by-law;
 - (b) obstructs or hinders a duly authorised 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 authorised 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, 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.

32. Application of Bylaws

This by-law shall be binding on all persons who own or occupy premises within the jurisdiction of the municipality.

33. Regulations

The municipality may make regulations regarding-

- (a) any matter required, or permitted, to be prescribed in terms of this by-law; and
- (b) 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.

34. Repeal of Bylaws

Any By-laws relating to credit control and debt collection adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

35. Short title

This by-law is called the Credit Control and Debt Collection By-law, 2016, and takes effect on a date determined by the municipality by proclamation in the *Provincial Gazette*.