

PROVINCIAL NOTICES ☒ PROVINSIALE KENNISGEWINGS

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PROVINCIAL NOTICE 100 OF 2015

# **JOE GQABI DISTRICT MUNICIPALITY**

## **CREDIT CONTROL AND DEBT COLLECTION BY-LAWS**

[ PROVINCIAL NOTICE NO.]

[ DATE OF COMMENCEMENT:]

[These By-laws were published in Provincial Gazette No.]

**The Joe Gqabi District Municipality, acting under the authority of Section 156 of the Constitution of the Republic of South Africa, 1996 and Section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), enacts as follows:**

**JOE GQABI DISTRICT MUNICIPALITY**  
**DRAFT CREDIT CONTROL AND DEBT COLLECTION BY-LAWS**

The Joe Gqabi District Municipality, in accordance with section 13(2) of the Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes the Draft Credit Control and Debt Collection By-Laws, as set out hereunder:

**TABLE OF CONTENTS**

**CHAPTER 1: INTERPRETATION AND APPLICATION**

1. Definitions
2. Application of the By-law

**CHAPTER 2: PROVISION OF MUNICIPAL SERVICES TO CUSTOMERS OTHER THAN INDIGENT CUSTOMERS**

**Part 1: Application for municipal services**

3. Application for services
4. Special agreements for water services
5. Change in purpose for which water services are used
6. Termination of agreements for municipal services
7. Property developments

**Part 2: Charges for municipal services**

8. Applicable charges for municipal services
9. Availability charges for water services
10. Subsidised services
11. Indigent subsidies
12. Authority to recover additional costs and fees

**Part 3: Payment**

13. Payment of deposits and the screening of consumers
14. Methods for determining amounts due and payable
15. Payment for municipal services provided
16. Full and final settlement of an account
17. Responsibility for amounts due and payable
18. Dishonoured payments
19. Incentive schemes

20. Pay-points and approved agents

**Part 4: Accounts**

21. Accounts
22. Consolidated debts

**Part 5: Queries, complaints and appeals**

23. Queries or complaints in respect of account
24. Appeals against the finding of Municipality in respect of queries or complaints

**Part 6: Arrears**

25. Consolidated arrears
26. Final demand notice
27. Interest
28. Limitation or discontinuation of municipal services
29. Accounts 30 (thirty) days in arrears
30. General

**Part 7: Agreement for the payment of arrears in instalments**

31. Agreements
32. Duration of agreements
33. Failure to honour agreements
34. Re-connection of services

**CHAPTER 3: PROVISION OF MUNICIPAL SERVICES TO INDIGENT CUSTOMERS**

35. Qualification for registration
36. Application for registration
37. Approval of application
38. Conditions
39. Annual application
40. Subsidised services for indigent consumers
41. Existing arrears of indigent consumers on approval of application
42. Audits
43. De-registration

**CHAPTER 4: EMERGENCY SITUATIONS**

44. Declaration of emergency situations

**CHAPTER 5: UNAUTHORISED SERVICES**

45. Unauthorised services
46. Interference with infrastructure for the provision of municipal services
47. Obstruction of access to infrastructure for the provision of municipal services
48. Illegal re-connections
49. Immediate disconnections

**CHAPTER 6: OFFENCES**

50. Offences

**CHAPTER 7: DOCUMENTATION**

51. Signing of notices and documents
52. Notices and documents
53. Authentication of documents
54. Prima facie evidence

**CHAPTER 8: GENERAL PROVISIONS**

55. Provision of information
56. Power of entry and inspection
57. Exemption
58. Indemnification from liability
59. Availability of by-laws
60. Conflict of law
61. Repeal of existing municipal credit control and debt collection by-laws
62. Short title and commencement

## Chapter 1: Definitions and Applications

### 1. Definitions

For the purpose of these by-laws any words or word or expressions to which a meaning has been assigned in the Local Government: Municipal Systems Act 32 of 2000 or Local Government Municipal Finance Management Act 56 of 2003 shall bear the same meaning in these by-laws and unless the context indicates otherwise:

- “account”** means an account rendered for municipal services provided.
- “Act”** means Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000) as amended.
- “applicable charges”** means the rate , charge, tariff or subsidy determined by the Municipal Council.
- “average consumption”** means the average consumption by a consumer of a municipal service during a specific period, which consumption is calculated by dividing the total measured consumption of that municipal service by that customer over the preceding three months by three.
- “actual consumption”** means the measured consumption of any consumer for any given period.
- “agreement”** means the contractual relationship between the Municipality and a customer whether in writing or not.
- “ area of supply”** means any area within or partly within the area of jurisdiction of the Municipality to which services are provided.
- “ arrears”** means those rates, consumed services, service charges and municipal rent that have not been paid by the due date and for which no arrangement have been made.
- “arrangement”** means a written agreement entered into between the Municipality and the consumer where specific repayment parameters are agreed to. Such arrangement does not constitute a credit facility envisaged in terms of Section 8(3) of the National Credit Act but is deemed to be incidental credit as envisaged in terms of Section 4(6) (b) read with Section 5(2) and (3) of the National Credit Act.
- “authorised agent or representative”** means:
- a) Any person authorised by the Municipal Council to perform any act, function or duty in terms of, or exercise any power under these by-law;
  - b) Any person to whom the Municipal Council has delegated the performance of certain rights, duties and obligations in respect of providing revenue services;

- c) Any person appointed by the Municipal Council in terms of a written contract as a service provider to provide revenue services or municipal services to consumers on its behalf, to the extent authorised in such contract.

**“authorised officer”**

means any official of the Municipality who has been delegated with authority to implement the provisions of this by-law.

**“charges”**

means the rate, charge, tariff, flat rate or subsidy determined by the Municipality.

**“consumer”**

means a person with whom the Municipality has concluded a services contract for the provision of a municipal service”.

**“domestic consumer “**

means a consumer that occupies a dwelling, structure or property primarily for residential purposes.

**“commercial customer”**

means any customer other than domestic consumer and indigent consumers, including without limitation, business, industrial, government and institutional consumers.

**“connection”**

means a point at which a customer gains access to a service”.

**“consolidated account”**

means an account which is a consolidation of any separate accounts or service charges of a consumer who is liable for payment to the Municipality.

**“debt collectors”**

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

**“defaulter”**

means a consumer who owes any arrears to the Municipality.

**“due date”**

means the date for payment indicated on the account.

**“emergency situation”**

means any situation that poses a risk or potential risk to life, health, the environment or property.

**“equipment”**  
means a building or other structure, pipe, pump, wire, cable, engine or any accessories.

**“estimated consumption”**

means the deemed consumption by a consumer whose consumption is not measured during a specific period, which estimated consumption is rationally determined taking into account at least the consumption of municipal services for a specific level of service during a specific period in

the area of supply of the Municipality.

- “household”** means a traditional family unit, as determined by the Municipality from time to time taking into account the number of persons comprising a household, the relationship between the members of the household, the age of persons who are members of the household and any other relevant factor.
- “illegal connection”** means a connection to any system through which services are provided that is not authorised or approved by the Municipality.
- “indigent consumer”** means a domestic consumer qualifying and registered with the Municipality as an indigent in accordance with the Municipality’s applicable policy and by-laws.
- “interest”** means the charge levied on arrears, calculated at the prime rate charged by the bank which holds the Municipality’s primary bank account, plus a percentage as may be determined by the municipal council from time to time.
- “municipal account”** means an account rendered specifying charges for services provided by the Municipality, or any authorised and contracted service provider, and/or assessment rates levies as well as municipal rent.
- “Municipality”** means the Joe Gqabi District Municipality in terms of section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, duly authorised agent or any employee action 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, agent or employee.
- “Municipal Manager”** means the person appointed as the municipal manager of the Municipality in terms of Section 82 of the Local Government Municipal Structures Act, 1998 ( Act 117 of 1998), and includes any person acting in such position and to whom the Municipal Manager has transferred a power, function or duty in respect of such power, function or duty.
- “Municipal Council”** means the Municipal Council of Joe Gqabi District Municipality as referred to in Section 157(1) of the Constitution, 1996 (Act No.108 of 1996).
- “occupier”** means a person who occupies any (or a part of any) land, building, structure or premises and includes a person who, for someone else’s reward or remuneration, allows another person to use or occupy any (or part of any) land, building, structure or premises.

- “owner”** means:
- a) The person in whose name the ownership of the premises is registered from time to time or his or her agent;
  - b) Where the registered owner of the premises is insolvent or, or dead, or for any reason lacks legal capacity, or is under any form of legal disability, that has the effect of preventing him or her from being able to perform a legal act on his or her own behalf, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
  - c) Where the Municipality is unable to determine the identity of the owner, a person who has legal right in, or the benefit of use of, any premises, building, or any part of a building, situated on them;
  - d) Where a lease has been entered into for a period of 30 years or longer, or for the natural life of the lessee or any other person mentioned in the lease, or is renewable from time to time at the will of the lessee indefinitely or for a period or periods which, together with the first period of the lease, amounts to 30 years, the lessee or any other person to whom he or she has ceded his or her right of title and interest under the lease, or any gratuitous successor to the lessee.
  - e) In relation to-
    - i) A piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of the common property; or
    - ii) A section as defined in the Sectional Titles Act, 1986 (Act No. 95 of 1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person; or
    - iii) A person occupying land under a register held by a tribal authority in accordance with a sworn affidavit made by the tribal authority.
- “person”** means any natural person, whether natural or juristic, and includes, but is not limited to, a company incorporated under any law, a body of persons whether incorporated or not, a statutory body, voluntary association or trust.
- “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 the Land Survey Act, 1927 (Act No.9 of 1927), or in terms of the Deeds Registries Act, 1937 (Act No.47 of 1937);
  - b) sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986);
  - c) register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority.



- “property”** means any portion of land, of which the boundaries are determined, within the jurisdiction of the Municipality.
- “public notice”** means a publication in appropriate media that may include one or more of the following:
- a) Publication of a notice, in the official languages determined by the Municipality in any local newspaper or newspapers circulating in the area of supply of the Municipality, in the newspaper or newspapers circulating in the area of supply of the Municipality determined by the Municipality as a newspaper of record, or by means of radio broadcasts covering the area of supply of the Municipality;
  - b) Displaying a notice at appropriate offices and pay-points of the Municipality; or
  - c) Communication with consumers through public meetings and ward committee meetings.
- “rates”** means a municipal rate on property envisaged in Section 229(1) of the Constitution read with the Local Government: Municipal Property Rates Act 6 of 2004 and the Local Government: Municipal Finance Act 56 of 2003.
- “service charges”** means the fees levied by the Municipality in terms of its tariff policy for any municipal services rendered in respect of immovable property and includes any penalties, interest or surcharges levied or imposed in terms of this policy.
- “services contract”** means the agreement between the Municipality and a consumer, whether written or deemed as provided for.
- “shared consumption”** means the consumption of a consumer of a municipal service during a specific period, which consumption is calculated by dividing the total metered consumption of that municipal service within which a consumer’s premises are situated for the same period by the number of consumers within that supply zone, during the same period.
- “subsidised service”** means a municipal service which is provided to a consumer at an applicable rate which is less than the cost of actual providing the service to consumers at no cost.
- “sundry consumer accounts”** means accounts raised for miscellaneous charges for services provided by the Municipality or charges that were raised against a consumer as a result of an action by a consumer, and were raised in terms of Council’s policies, by-laws and decisions.

**“supervisory authority”**

means the Executive Mayor of the Municipality or his or her nominee, acting in terms of Section 99 of the Municipal Systems Act 32 of 2000.

**“supply zone”**

means an area, determined by the Municipality, within which all consumers are provided with services from the same bulk connection.

**“tariff”**

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

**“unauthorised services”**

means receipt, use or consumption of any services which is not in terms of a services agreement, or authorised or approved by the Municipality.

**2. Application of the by-laws**

These by-laws shall apply to all consumers in respect of amounts due and payable to the Municipality for deposits, charges, arrears and interest which has or will accrue in respect of the aforementioned.

**Chapter 2: Provision of municipal services to customers other than indigent customers****Part 1: Application for municipal services****3. Application for services**

- 1) A consumer who requires the provision of municipal services must apply for the service from the Municipality. The application for the provision of municipal services must be made in writing on the prescribed form.
- 2) By completing the prescribed application form for the provision of municipal services the consumer enters into an agreement with the Municipality. Such agreement does not constitute a credit facility envisaged in terms of Section 8(3) of the National Credit Act(NCA) but shall be incidental credit as envisaged in terms of Section 4(6)(b) of the NCA, to which the NCA will only apply to the extent as stipulated in Section 5 of the NCA.
- 3) Where a premises or consumer are provided with a service, it shall be deemed that an agreement in terms of sub-section (1) above of this by-law exists.
- 4) A Municipality must on application for the provision of municipal services, inform the consumer of the different levels of services available and the tariffs and/or charges associated with each level of services.
- 5) A consumer must elect the available level of services to be provided to him, her or it.
- 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 services are available and that any costs and expenditure associated with altering the level of services will be payable by the consumer.
- 7) An application agreed to by the Municipality shall constitute an agreement

between the Municipality and the applicant, and such agreement shall take effect on the date referred to or stipulated in such agreement.

- 8) A consumer shall be liable for all the prescribed tariffs and/or charges in respect of services rendered to him or her until the agreement has been terminated in accordance with these by-laws or until such time as any arrears have been paid.
- 9) In completing an application form for services for the purpose of making an application as contemplated in sub-section (1), the Municipality will ensure that the document and the process of interaction with the owner, consumer or any other person making application are understood by that owner, consumer or other person and advise him or her of the option to register as an indigent customer. In the case of illiterate or similarly disadvantaged persons, the Municipality will take reasonable steps to ensure that the person is aware of and understands the contents of the application form. The application form will require at least the following minimum requirements:
  - a) certification by an authorised agent that the applicant is aware of and understands the contents of the form;
  - b) acceptance by the consumer of the provisions of the by-laws and acceptance of liability for the cost of services rendered until the agreement is terminated or until such time as any arrears have been paid;
  - c) name of consumer;
  - d) address or stand number of premises to or on which services are to be rendered/used:
    - i) address to which accounts will be sent;
    - ii) source of income of the applicant;
    - iii) name and address of the applicant's employer, where appropriate;
    - iv) if water will be supplied, the purpose for which the water is to be used; and
    - v) the agreed date on which the provision of services will commence.
- 10) Existing customers may be required to complete application forms as approved by the Municipality from time to time, as determined by the Municipal Manager.
- 11) Services rendered to a consumer are subject to the provisions of these by-laws and the conditions contained in the relevant agreement.
- 12) It is the customer's responsibility to ensure that the postal address and other contact details are correct and, in the case of changes, the Municipality must be notified in writing.
- 13) The Municipality may undertake an investigation into the credit worthiness of commercial customers, and may impose specific additional conditions on such customers, subject to the provisions of these by-laws.
- 14) Service applications will be used to, inter alia, categorise customers according to credit risk and to determine relevant levels of services and deposits required.

- 15) If the Municipality:
  - (a) Refuses an application for the provision of municipal services or a specific service or level of service;
  - (b) Is unable to render such a municipal service or a specific service or level of service on the date requested for such provision to commence; or
  - (c) Is unable to render the municipal services or a specific service or service level, the Municipality must within 7(seven) days, inform the customer of such refusal or inability, the reasons therefore and, if applicable, when the Municipality will be able to provide such municipal services or a specific service or level of service.
- 16) Where the signatory is not the owner of the property to which the services are to be provided, a properly executed letter from such owner indicating the signatory is the lawful occupant of the property shall be attached to the service contract.
- 17) If there is an outstanding debt on the property, this debt must be settled in full before a new application on the same property will be allowed.
- 18) If an existing tenant is guilty of non-payment, the owner will be liable for the outstanding debt, except where the property concerned is owned by the Municipality.
- 19) The agreement with the Municipality makes provision for the following:
  - (a) An undertaking by the occupier that he or she will be liable for collection costs including administration fees, interest, disconnection and reconnection costs, and any other legal costs occasioned by his or her failure to settle accounts by the due date on an attorney/client basis;
  - (b) An acknowledgement by the occupier that accounts will become due and payable by the due date notwithstanding the fact that the owner did not receive the account;
  - (c) that the onus will be on the occupier to ensure that he or she received an account before the due date;
  - (d) the Municipality undertakes to do everything in its power to deliver accounts timeously.
- 20) The application for the provision of municipal services shall be made at least 14 (fourteen) days prior to the date on which the services are required to be connected.
- 21) On receipt of the application for provision of municipal services, the municipality will cause the reading of metered services linked to the property to be taken on the working day preceding the date of occupation.
- 22) The first account for services will be rendered after the first meter reading cycle to be billed following the date of signing the service agreement.

**4. Special agreements for water services**

The Municipality, may enter into a special agreement for the provision of services to:

- (a) an applicant inside its area of jurisdiction, if the services applied for necessitates the imposition of conditions not contained in the prescribed form;
- (b) an applicant who receives subsidised services; or
- (c) an applicant outside its area of jurisdiction, if such application has been approved by the Municipality having jurisdiction or supplying services in the area.

**5. Change in purpose for which water services are used**

Where the purpose for or extent to which services used is changed from that provided for in the agreement, the onus and obligation is on the consumer to advise the Municipality of such change and to enter into a new agreement with the Municipality.

**6. Termination of agreements for municipal services**

- (1) A customer may terminate an agreement for municipal services by giving at least 21 (twenty one) days written notice to the Municipality.
- (2) The Municipality may terminate an agreement for municipal services by giving at least 21 (twenty one) days' notice to the customer where:
  - (a) Municipal services were not utilised for a consecutive 2 (two) months period and no arrangement to the satisfaction of the Municipality for the continuation of the agreement was made;
  - (b) The premises occupied or owned by a customer have been vacated and no arrangement for the continuation of the agreement was made.
- (3) A customer shall remain liable for all arrears and applicable charges payable in respect of municipal services provided, notwithstanding the termination of the agreement for municipal services in terms of sub-sections (1) and (2).

**7. Property developments**

- (1) A property developer must, on the provision of infrastructure through which municipal services will be provided inform the Municipality, in writing, of the details of the municipal services to be provided through infrastructure and the details of all measuring devices that are installed.
- (2) A property developer who fails to comply with the provisions of sub-section (1) shall be liable for the payment of all applicable charges that would have been payable by customers in respect of municipal services used or consumed.

## Part 2: Charges for municipal services

### 8. Applicable charges for municipal services

- (a) The Council of the Municipality shall by resolution set the prescribed tariffs and charges for municipal services, including but not limited to the payment of connection charges, fixed charges, and additional charges of interest, which shall be in accordance with:
- (i) its tariff policy
  - (ii) any by-laws in respect thereof
  - (iii) any regulations in terms of national or provincial legislation
  - (iv) its Water and Sanitation Services Policy
- (b) Applicable charges may differ between different categories of consumers, users of services, types and levels of services, quantities of services, infrastructure requirements and geographic areas.

### 9. Availability charges for water services

The Municipality may, in addition to the charges determined for water services actually provided, levy a monthly fixed charge, annual fixed charge or once-off fixed charge where water services are available, whether or not such services are consumed.

### 10. Subsidised services

- (1) The Municipal Council may, from time to time, subject to principles of sustainability and affordability, by public notice, implement subsidies for basic levels of municipal services, as determined by the Municipal Council.
- (2) The Municipal Council may in implementing subsidies differentiate between different types of domestic customers, types and levels of services, quantities of services, geographic areas and socio-economic areas.
- (3) A public notice in terms of sub-section (1) must contain at least the following details applicable to a specific subsidy-
- (a) The domestic customers who will benefit from the subsidy;
  - (b) The type, level and quantity of municipal service that will be subsidised;
  - (c) The area within which the subsidy will apply;
  - (d) The rate (indicating the level of subsidy);
  - (e) The method of implementing the subsidy;
  - (f) Any special terms and conditions that will apply to the subsidy.
- (4) If a domestic customer's consumption or use of a municipal service is:
- (a) less than the subsidised service, the unused portion may not be accrued by the customer and will not entitle the customer to a payment or a rebate in respect of the unused portion;
  - (b) in excess of the subsidised service, the customer will be obliged to pay for such excess consumption at the applicable rate.

- (5) A subsidy implemented in terms of sub-section 10.1 may at any time, after reasonable notice, be withdrawn or altered at the sole discretion of the Municipal Council. Commercial customers shall not qualify for subsidised services. Subsidised services shall be funded from the portion of revenue raised nationally that is allocated and if such funding is insufficient the services may be funded from the revenue raised through rates, fees and charges in respect of municipal services.
- (6) Subsidised services may include electricity, water, sewerage, refuse removal and assessment rates and any consumption service charges.

#### **11. Indigent subsidies**

- (1) The purpose of the indigent subsidy is to provide funding for a basic level of services to qualifying households with a total gross income level that is below a determined amount, and according to further specified criteria as determined by a Municipal Council from time to time.
- (2) The source of funding of the indigent subsidy is that portion of the equitable share contribution to the Municipality made from the national government's fiscus and as provided for in the budget. As such, the subsidy can only be credited to the qualifying customer's accounts until the amount received by the Municipality from the National Government for this purpose has been exhausted, whereupon no further credits will be made, or the level of credits reduced, until further national funds are received.
- (3) All consumers who qualify for an indigent subsidy may be placed on restricted service levels in order to limit the further escalation of debt.
- (4) Where applicable, these consumers may be exonerated from a portion of or their total arrear debt.
- (5) Where a qualifying indigent applicant customer's account is paid in full at the date of application, or regularly maintains a paid up account after receiving the subsidy, the restriction on service levels may be waived on request by such consumer.
- (6) An indigent consumer must immediately request de-registration by the Municipality or its authorised agent if his/her circumstances have changed to the extent that he/she no longer meet the criteria.
- (7) An indigent consumer may at any time request de-registration.
- (8) A register of indigent consumers will be maintained and may be made available to the general public.

#### **12. Authority to recover additional costs and fees**

- (1) The Municipality has the authority, notwithstanding the provisions of any other sections contained in these by-laws, to recover any additional costs incurred in respect of implementing these by-laws against the account of the consumer, including but not limited to:
  - (a) All legal costs, including attorney and consumer costs incurred in the recovery of amounts in arrears shall be against the account of the consumer;

and

- (b) The average costs incurred relating to any action taken in demanding payment from the consumer or reminding the consumer, by means of telephone, fax, email, letter or otherwise.

### **Part 3: Payment**

#### **13. Payment of deposits and the screening of the consumer**

- (1) The Municipal Council may, from time to time, determine different deposits for different categories of consumers, users of services, debtors, services and service standards, provided that the deposits may not be more than three times the monetary value for which an application is made. A minimum deposit of the equivalent of one month's average consumption will be required.
- (2) Every consumer must on application for the provision of municipal services and before such services will be provided by the Municipality, pay a deposit, if the municipal council has determined a deposit. Deposits either in cash or any other security acceptable to the municipality may be required, and may vary according to the risk as determined by the Municipality.
- (3) The Municipality may require a consumer to whom services are provided and who was not previously required to pay a deposit, for whatever reason, to pay a deposit on request within a specified period, which deposit shall be subject to the same terms and conditions as set out in sub-section (1) above.
- (4) The Municipality may from time to time review the deposit paid in terms of sub-section (1) above of this by-law and, in accordance with such review:
  - a) require that an additional amount be deposited by the consumer; or
  - b) refund to the consumer such amount as may be held by the Municipality in excess of the reviewed deposit;
  - c) the frequency of default in payment of accounts by the consumer or members of the community of which the consumer is a member;
  - d) the estimated amount of the monthly water consumption of the consumer;
  - e) its tariff policy and the criteria stated in sub-section (7) below of this by-law.

The Municipality reserves the right to increase deposits at any time and at the sole discretion of the Municipality to a maximum of three months average consumption.

- (5) Subject to sub-section (6) below of this by-law, an amount deposited with the Municipality in terms of sub-sections (1) or (2) shall not be regarded as being in payment or part payment for an account due for water services rendered.
- (6) If, upon the termination of the agreement for the provision of services, an amount remains due to the Municipality in respect of services rendered to the consumer, the Municipality may apply the deposit in payment or part payment of the outstanding amount and refund any balance to the consumer.



- (7) No interest shall be payable by the Municipality on the amount of a deposit held by it in terms of this Section.
- (8) The deposit, if any, is refundable to the customer on settlement of all arrears on termination of the agreement
- (9) If at any time the consumer is in arrears with the payment of his, her or its services account, the Municipality may utilise the deposit which shall be forfeited and credited to the outstanding balance due by the consumer to the Municipality and thereafter the said consumer shall, on receipt of notification, be required to pay a further deposit within a specified period.
- (10) In the event that the consumer does not claim the deposit within a period of twelve months after the termination of the agreement, the deposit shall be forfeited to the Municipality, provided that all reasonable attempts have been made to trace the depositor.
- (11) The owner, occupier and consumer shall be jointly and severally liable and responsible for payment of all services, charges and services consumed in accordance with these bylaws until the date of termination thereof.
- (12) Services provided by the Municipality to a consumer shall be paid for by the consumer at the prescribed tariff or charge set in accordance with Sections 17 and 18? below of this by-law, for the particular category of water services provided.
- 13) A customer shall be responsible for payment for all services provided to the customer from the date of an agreement until the date of termination thereof.
- 14) The Municipality may estimate the quantity of services provided in respect of a period or periods within the interval between successive measurements and may render an account to a client for the services so estimated.
- 15) If a consumer uses services for a category of use other than that for which it is provided by the Municipality in terms of an agreement and as a consequence is charged at a rate lower than the rate which should have been charged, the Municipality may make an adjustment of the amount charged in accordance with the rate which should have been charged and recover from the client the tariffs and charges payable in accordance with such adjustment.
- 16) If amendments to the prescribed tariffs or charges for services provided become operative on a date between measurements for the purpose of rendering an account in respect of the tariffs or charges:
  - a) it shall be deemed that the same quantity of 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 charge.

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- 17) The Municipality must inform a consumer where payment of the accounts under its jurisdiction must take place.
  - 18) A consumer must pay his, her or its account at an approved agent of the Municipality. A consumer shall remain liable for payment of an account not paid with the Municipality or an approved agent.
  - 19) All applicants for municipal services may be checked for credit-worthiness including checking information from banks, credit bureaus, other municipalities or municipal entities, trade creditors and employers.
  - 20) Deposits can vary according to the credit-worthiness or legal category of the applicant.

#### **14. Methods for determining amounts due and payable**

- (1) Subject to sub-section (2) the Municipality must in respect of municipal services that can be metered, within available financial and human resources, meter all consumer connections and read all metered consumer connections on a regular basis.
- (2) If a service is not measured, notwithstanding sub-section (1), determine the amount due and payable by a consumer, for municipal services supplied to him, her or it, by:
  - (a) calculating the shared consumption, or if that is not possible;
  - (b) estimating the estimated consumption.
- (3) If a service is metered, but it cannot be read because of financial and human resource constraints or circumstances beyond the control of the Municipality, and the consumer is charged for average consumption, the average consumption will be based on at least three consecutive months' consumption. The account following the reading of the metered consumption must state the difference between the actual consumption and the average consumption, and the resulting credit or debit adjustment. Estimates are limited to a maximum period of 3 (three) months.
- (4) Where water supply services are provided through communal water services networks (standpipes), the amount due and payable by consumers gaining access to water supply services through communal water services networks, must be based on the shared or estimated consumption of water supplied to the water services network.
- (5) Where, in the opinion of the Municipality, it is not reasonably possible or cost effective to meter all consumer connections or read all metered customer connections within a determined area, the Municipal Council may,

notwithstanding sub-section (1), determine the amount due and payable by a customer for municipal services supplied to him, her or it, by:

- (a) calculating the shared consumption; or if this is not possible,
- (b) calculating the estimated consumption.

- (6) The Municipality must inform consumers of the method for determining amounts due and payable in respect of municipal services provided that will apply in respect of their consumption or supply zones.
- (7) Consumers are entitled to request verification of meter readings and accuracy, within reason, but may be held liable for the cost thereof if it is found that the readings are correct or the difference is less than ten percent, up or downwards.

**15. Payment for municipal services provided**

- (1) A customer shall be responsible for payment of all municipal services charged to him, her or it from the commencement of the agreement until his, her or its account has been settled in full and the Municipality shall be entitled to recover all applicable charges due to the municipality.
- (2) If a consumer uses municipal services for the use other than that for which it is provided by the Municipality in terms of an agreement and as a consequence is charged at a charge lower than the applicable charge, the Municipality 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:
  - (a) it shall be deemed that the same quality 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 each amendment and such amended applicable charge.

**16. Full and final settlement of an account**

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

**17. Responsibility for amounts due and payable**

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

**18. Dishonoured payments**

- (1) Where any payment made to the Municipality or its authorised representative by negotiable instrument is later dishonoured by the bank, the Municipality or its authorised agent:
  - a. may recover the average bank charges incurred relating to dishonoured negotiable instruments against the account of the consumer;
  - b. shall regard such an event as a default on payment;
  - c. take appropriate credit control action including, the disconnection or restriction of the services to such applicable property.

**19. Incentive Schemes**

- (1) The Municipal Council may institute incentive schemes to encourage prompt payment and to reward consumers who pay accounts on a regular basis.

**20. Pay-points and Approved Agents**

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

**Part 4: Accounts****21. Accounts**

- (1) Monthly accounts will be rendered to clients for the amount due and payable, at the address last recorded with the Municipality.
- (2) Failure by the Municipality to render an account or non-receipt by a consumer of an account does not relieve a consumer of the obligation to pay any amount due and payable. Provisional statement and/or estimated assessment of an amount due and payable by consumer may be obtained from the Municipality. In the event of non-receipt of an account, the customer shall not be relieved of his, her or its obligation to continue to pay monthly according to the latest account received and/or the estimated assessment made by the Municipality until such time as an account is rendered.
- (3) The Municipality must, if it is reasonably possible to do so, issue a duplicate account to a consumer on request.

- (4) An account rendered by the Municipality to a consumer shall be paid not later than the last date for payment specified in such account, which date will be at least twenty one (21) days after the date of the account.
- (5) If payment of an account is received after the date referred to in sub-section (3) above of this by-law a late payment charge or interest calculated at prime rate plus two percent (2%) per annum must be paid by the consumer to the Municipality or as determined by legislation from time to time.
- (6) Accounts will:
- a) show the following:
    - (i) the consumption or estimated consumption or assumed consumption as determined for the measuring and/or consumption period;
    - (ii) the measuring or consumption period;
    - (iii) the applicable tariff;
    - (iv) the amount due in terms of the consumption;
    - (v) the amount due and payable for any other service rendered by the water service;
    - (vi) provider or authorised agent;
    - (vii) the amount in arrears, if any;
    - (viii) the interest payable on any arrears, if any;
    - (ix) the final date for payment;
    - (x) VAT.
  - b) In addition, accounts may indicate:
    - (i) the methods, places and approved agents where payment may be made; and the consumer may conclude an agreement with the Municipality for payment of the arrear amount in instalments, at the Municipality's offices before the final date for payment, if a consumer is unable to pay the full amount due and payable;
    - (ii) if no such agreement is entered into, the Municipality will limit the water services after sending a final demand notice to the client;
    - (iii) legal action may be instituted against any client for the recovery of any amount 30 (thirty) days in arrears;
    - (iv) proof of registration, as an indigent consumer, in terms of the Municipality's indigent policy must be submitted before the final date for payment; and
    - (v) an indigent consumer is only entitled to basic water services and that an indigent consumer will be liable for payment in respect of services in excess of the quantity of basic services.
- (7) The stipulations as contained in sub-section (5) above of this by-law should be included and incorporated into the service agreement with the consumer.
- (8) Notwithstanding anything to the contrary herein contained, where the premises to which services are provided are situated in an area which does not have a formal physical or postal address, the Municipality may direct the

officer charged with reading the meters measuring the quantity of water services provided to such premises on or about the same date in each month, to advise the consumer or a person apparently over the age of 16 (sixteen) years and present at the premises, of the amount payable for the services supplied to such premises during the immediate preceding month, and he or she shall direct such consumer to make such payment at the nearest office appointed by the Municipality for the receipt of payments for services within five working days.

- (9) At the time that the consumer concerned calls at the office referred to in sub-section (7) above of this by-law as directed, the Municipality shall present such consumer with a written account which complies with the provisions of sub-section (5) above of this by-law, which account shall be deemed to be the account rendered as provided for in Sub-Section (1) above of this by-law.

## **22. Consolidated debt**

- (1) If one account is rendered for more than one municipal service provided, the amount due and payable by a consumer constitutes consolidated debt. The Municipality may consolidate separate municipal accounts, or portions thereof, of a consumer into a single consolidated account.
- (2) The Municipality will, at its discretion, allocate a payment between service debts and a consumer may not specify the allocation of payment.
- (3) Any payment made by a consumer of an amount less than the total amount due, will be allocated in reduction of the consolidated debt in the following order:
- (a) Arrears
  - (b) Interest
  - (c) Sundries
  - (d) Additional deposit
  - (e) Penalty on arrears
  - (f) Collection charges on arrears
  - (g) Water
  - (h) Sewerage
  - (i) VAT on vatable services which will be the proportionate amount for the applicable services
- (4) A consumer may not elect how an account is to be settled if it is not settled in full or if there are arrears

## **Part 5: Queries or complaints in respect of account**

### **23. Queries or complaints in respect of account**

- (1) A consumer may lodge a query or complaint in respect of the accuracy of the amount due and payable in terms of an account rendered to him, her or it.

- (2) A query or complaint must be lodged with the Municipality, in writing, before the due date for payment of the account or as soon as reasonably possible thereafter.
- (3) In the case of an illiterate or similarly disadvantaged consumer, the Municipality must assist such a consumer in lodging his or her complaint in writing and must take reasonable steps to ensure that the query or complaint is reflected correctly.
- (4) Where a query or complaint is lodged after the due date of the account queried or complained about, such query or complaint must be accompanied by the payment of at least an amount equal to the average amount that was due and payable during the preceding three months.
- (5) The Municipality will register the query or complaint and provide the consumer with a reference number.
- (6) The Municipality shall:
  - a) investigate or cause the query or complaint to be investigated within 14 (fourteen) days after the query or complaint was registered; and
  - b) must inform the client, in writing, of the findings within 21 (twenty one) days after the 14 (fourteen) day period having lapsed as provided for in sub-section 5(a) hereof.

**24. Appeals against the finding of Municipality in respect of queries or complaints**

- 1) A consumer may appeal against a finding of the Municipality in terms of Section 62 of the Municipal Systems Act, Act 32 of 2000.

**Part 6: Arrears**

**25. Consolidated Arrears**

- (1) If one account is rendered for more than one municipal service provided all arrears due and payable by a consumer constitutes a consolidated debt and any payment made by a customer of an amount less than the total amount due will be allocated in reduction of the consolidated debt in the following order:
  - (a) Arrears
  - (b) Interest
  - (c) Instalments: dwelling
  - (d) Instalments: stand
  - (e) Sundries
  - (f) Additional: deposit
  - (g) Penalty on arrears
  - (h) Collection charges on arrears
  - (i) Water
  - (j) Sewerage
  - (k) VAT

**26. Final demand notice**

- (1) If a consumer fails to pay the amount/s due and payable on or before the final date for payment, the unpaid amount is in arrears and a final demand notice may be hand delivered or sent, per registered mail, to the most recent recorded address of the client, within 14 (fourteen) working days.
- (2) Failure to deliver or send a final demand notice within 14 (fourteen) working days does not relieve a consumer of paying such arrears.
- (3) In the case of a consumer contemplated in sub-section (1) hereof, such final demand shall be delivered to the consumer concerned at the premises to which the services are supplied by an officer appointed by the Municipality for that purpose, and delivery of the demand in the following manner shall be deemed to be proper delivery of the demand:
  - a) by delivery of the final demand to the consumer personally;
  - b) in the absence of the consumer after two consecutive attempts to serve the demand on him or her personally, by delivery of the final demand to a person apparently over the age of 16 (sixteen) years present at the premises;
  - c) in the absence of any person over the age of 16 (sixteen) years present at the premises after two consecutive attempts to serve the demand on such person, by affixing the demand to a prominent structure at the premises.
- (4) The Municipality shall appoint an officer conversant in the home language of a consumer who is illiterate or not able functionally to understand the purpose and consequences of a final demand to assist the consumer in responding to such demand, to defend such client if such consumer has a viable defence, and generally to ensure that the consumer is treated fairly and in accordance with the provisions of these by-laws and the Act, and such officer shall at all times act impartially in regard to such assistance and shall observe the confidentiality of any information imparted to him or her by the client unless authorised to disclose such information by the consumer.
- (5) The final demand notice must contain the following statements:
  - a) the amount in arrears and any interest payable;
  - b) that the consumer may conclude an agreement with the Municipality for payment of the arrear amount in instalments within 14 (fourteen) days of the date of the final demand notice;
  - c) that if no such agreement is entered into within the stated period, the water service will be limited and that legal action may be instituted against the client for the recovery of any amounts 30 (thirty) days in arrears;
  - d) proof of registration as an indigent consumer, in terms of the Municipality's indigent policy, must be submitted before the final date of the final demand notice.



**27. Interest**

- (1) Interest may be levied on all arrears at a rate prescribed by the Municipality from time to time and as reflected in Section 21(4) above.
- (2) The Municipal Council may differentiate between types of domestic consumers, types and levels of services, quantities of services, geographical areas and socio-economic areas in levying interest on arrears.

**28. Limitation or disconnection of municipal services**

- (1) The Municipality will, within 14 (fourteen) working days after the expiry of the 14 (fourteen) day period allowed for payment in terms of the final demand notice:
  - a) limit the provision of water services to the defaulting consumer; and
  - b) hand deliver or send per registered mail to the address recorded for service of the consumer, a discontinuation notice informing him, her or it that the provision of the service will be disconnected within 14 (fourteen) days of the date of the discontinuation notice, if:
    - i) no payment was received within the allowed period;
    - ii) no agreement was entered into for the payment of arrears instalments;
    - iii) no proof of registration as indigent was handed in within the 14 (fourteen) day period allowed; or
    - iv) no payment was received in accordance with an agreement for payment of arrears.
- (2) A discontinuation notice must contain:
  - a) the amount in arrears and any interest payable;
  - b) a statement that the consumer may conclude an agreement with the Municipality for payment of the arrear amount in instalments, within 14 (fourteen) days;
  - c) a statement that no proof of registration as indigent was furnished within the 14 (fourteen) day period allowed; or
  - d) a statement that no payment was received in accordance with an agreement for payment of arrears.

**29. Accounts 30 (thirty) days in arrears**

- (1) Where an account rendered to a consumer remains outstanding for more than 30 (thirty) days:
  - a) the defaulting consumer's name may be listed with a credit bureau or any other equivalent body as a defaulter, provided that the agreement for the provision of water services provided therefore; and
  - b) the defaulting consumer may be handed over to a debt collector or an attorney for collection.

- (2) A consumer will be liable for any administration fees, legal costs and other costs incurred in taking action for the recovery of arrears and any penalties, including the payment of a higher deposit and interest levied.
- (3) No action taken in terms of this section due to non-payment will be suspended or withdrawn, unless the arrears, any interest thereon, administration fees, additional charges, costs incurred in taking relevant action and any penalties, including the payment of a higher deposit, payable are paid in full.

### **30. General**

- (1) The Municipality will not be liable for any loss or damage suffered by a consumer due to his, her or its services being disconnected.
- (2) An agreement for payment of the arrear amount in instalments, entered into after the service was discontinued, will not result in the service being restored until the arrears, any interest thereon, administration fees, legal costs and other costs incurred in taking action and any penalties, including payment of a higher deposit and interest levied are paid in full.

## **Part 7: Agreement for the payment of arrears in instalments**

### **31. Agreements**

- 1) Only a consumer with positive proof of identity or a person authorised, in writing, by that consumer, or, if a consumer is illiterate, a person authorised by such consumer personally in the presence of an officer appointed by the Municipality as authorised for that purpose, will be allowed to enter into an agreement for the payment of arrears in instalments.
- 2) The amount due and payable by a consumer constitutes a consolidated debt and any payment made by a consumer of an amount less than the total amount due will be allocated in reduction of the consolidated debt in the following order:
  - i) towards payment of arrears;
  - ii) towards payment of interest;
  - iii) towards payment of the current account.
- 3) A consumer may be required to complete a debit order for the payment of arrears.
- 4) The agreement shall be as determined by the Municipality from time to time.

### **32. Duration of agreements**

- (1) No agreement for the payment of arrears will be longer than twenty-four months, unless the circumstances referred to in sub-section (5) below of this by-law prevail.

- (2) The Municipality may on an individual basis allow a longer period than 24 (twenty four) months for the payment of arrears if special circumstances prevail that, in the opinion of the Municipality, warrant such an extension and which the consumer reasonably could not prevent or avoid. The consumer must, on request by the Municipality, furnish documentary proof of any special circumstances.
- (3) The Municipality may, in exercising its discretion under sub-section (5) above of this by-law, take regard of a consumer's:
  - a) credit record;
  - b) consumption;
  - c) level of service;
  - d) previous breaches of agreements for the payment of arrears in instalments; and
  - e) any other relevant factor.

### **33. Failure to Honour Agreements**

- (1) If a consumer 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.
- (2) If a consumer fails to comply with an agreement for the payment of arrears in instalments entered into after receipt of a discontinuation notice, access to services may be discontinued without further notice or correspondence, in addition to any other actions taken against or that may be taken against such a client.
- (3) No consumer will be allowed to enter into an agreement for the payment of arrears in instalments if that consumer failed to honour a previous agreement for the payment of arrears in instalments entered into after the receipt of a discontinuation notice, except at the sole discretion of the Municipality.

### **34. Re-connection of services**

- (1) An agreement for payment of the arrears amount installments, entered into after municipal services were limited or disconnected, will not result in the services being restored until:
  - (a) the arrears, any interest thereon, recoverable administration fees, costs incurred in taking relevant action and any penalties, including payment of a higher deposit, are paid in full; or
  - (b) a written appeal by the consumer undertaking a timeous and full payment of arrear instalments and current accounts have been approved by the Municipality.
- (2) In addition to any payments referred to in sub-section (1), the consumer shall pay the standard re-connection fee as determined by the Municipality from time to time, prior to the reconnection of municipal services by the Municipality.
- (4) Municipal services shall be restored within seven(7) working days after a consumer have complied with the provisions of sub-sections (1) and (2) above.

**Chapter 3: Provision of Municipal Services to Indigent Consumer****35. Qualification for registration**

- (1) A domestic consumer with a household:
  - (a) whose combined monthly gross income of its members over the age of 18 (eighteen) years old is less than an amount determined by the Municipal Council from time to time;
  - (b) owning not more than one property; and
  - (c) not having an income from letting a property or portion of a property;may apply for registration as an indigent consumer.

**36. Application for registration**

- (1) A domestic consumer wishing to qualify as an indigent consumer must complete the application form as approved by the Municipal Manager from time to time.
- (2) Any application in terms of sub-section (1) must be accompanied by:
  - (a) documentary evidence of income; or
  - (b) an affidavit declaring unemployment or income; and
  - (c) the consumer's latest municipal account in his or her possession; and
  - (d) a certified copy of the consumer's identity document; and
  - (e) the names and identity numbers of all occupants over the age of 18 (eighteen) years who are resident at the property.
- (3) A consumer applying for registration as an indigent customer shall be required to declare that all information provided in the application form and other documentation supplied with the application form is correct and that the declaration is understood by him or her.

**37. Approval of application**

- (1) The Municipality may send representatives to premises of domestic consumers applying for registration as indigent consumers to investigate whether the information provided is correct. The provisions of section 61 apply to such investigation.
- (2) The provisions of Part 5 of Chapter 2 shall mutatis mutandis apply in respect of a customer who feels aggrieved by a decision of the Municipality.
- (3) An application shall be approved for the period of the Municipality's financial year only.
- (4) An application approved during the Municipality's financial year shall only be valid for the remaining period of the Municipality's financial year.

**38. Conditions**

- (1) The Municipality may on approval of an application or at any time thereafter:
  - (a) install a pre-paid electricity meter for the indigent consumer where electricity is provided by the municipality; and
  - (b) limit the water supply services of an indigent consumer to basic water supply services.

**39. Annual application**

- (1) An indigent consumer must annually, before the end of the Municipality's financial year re-apply for re-registration as an indigent consumer for the forthcoming financial year, failing which the assistance will cease automatically.
- (2) An indigent consumer shall have no expectation of being regarded as an indigent consumer in any year that ensues or follows the year in which he or she was so registered. The municipality gives no guarantee of renewal.
- (3) The Municipality shall inform the applicant in writing within 14 (fourteen) working days of receipt of such application by the Municipality as to whether or not the application is approved. If it is not approved, the applicant shall be given reasons thereof.
- (4) The provisions of Part 5 of Chapter 2 shall mutatis mutandis apply in respect of a consumer who feels aggrieved by a decision of the Municipality in terms of sub-section (4).

**40. Subsidised services for indigent consumers**

- (1) The Municipal Council may annually, as part of its budgetary process, determine the municipal services and levels thereof that will be subsidised in respect of indigent consumers subject to principles of sustainability and affordability.
- (2) The Municipality must, on a determination in terms of sub-section (1), give public notice of such determination.
- (3) Public notice in terms of sub-section (2) must contain the following:
  - (a) The level or quantity of municipal services that will be subsidised;
  - (b) The level of subsidy;
  - (c) The method of calculating the subsidy;
  - (d) Any special terms and conditions that will apply to the subsidy, not provided for in these by-laws.
- (4) An indigent consumer shall be liable for the payment of any municipal services rendered by the Municipality or municipal services used or consumed in excess of the levels or quantities determined in sub-section (1).
- (5) The provisions of Chapter 2 shall mutatis mutandis apply to the amounts due and payable in terms of sub-section (4).

**41. Existing arrears of indigent customers on approval of application**

- (1) Arrears accumulated in respect of the municipal accounts of consumers prior to registration as indigent consumers will be suspended for the period that a customer remains registered as an indigent consumer, and interest shall not accumulate in respect of such arrears during such a suspension.
- (2) Arrears suspended in terms of sub-section (1) shall become due and shall be paid by the consumer in monthly instalments to be determined by the Municipality, on de-registration as an indigent consumer in accordance with section 46 and interest will be payable in respect thereof.
- (3) Notwithstanding the provisions of sub-section (2), arrears suspended for a period of 2 (two) years or longer shall not be recovered from a customer on de-registration, subject to the provisions of sub-section (4).
- (4) Arrears not recovered due to the provisions of sub-section (2) shall remain a charge against the property of the indigent consumer for a period of five (5) years after the consumer was first registered as an indigent consumer and shall become due and payable when the property is sold, irrespective of the fact that the consumer is no longer registered as an indigent consumer at the time that the property is sold. A clearance certificate in respect of the property shall only be issued by the Municipality when such arrears have been settled in full.

**42. Audits**

- (1) The Municipality may undertake regular random audits to:
  - (a) verify the information provided by indigent consumers;
  - (b) record any changes in the circumstances of indigent consumers; and
  - (c) make recommendations on the de-registration of the indigent consumers.

**43. De-registration**

- (1) Any consumer who intentionally or negligently provides or has provided false information in the application form or any other documentation and information in connection with application:
  - (a) shall automatically, without notice, be de-registered as and indigent consumer from the date on which the municipality obtains evidence that such information is false; and
  - (b) shall be held liable for the payment of all services received, in addition to any other legal action the municipality may take against such a consumer.
- (2) An indigent consumer shall automatically be de-registered if an application in accordance with section 41 is not made or if such application is not approved.
- (3) And indigent consumer may at any time request de-registration.
- (4) The provisions of Part 5 of Chapter 2 shall mutatis mutandis apply in respect of a

consumer feeling aggrieved by de-registration in terms of sub-section (3).

## **Chapter 4: Emergency Situations**

### **44. Declaration of emergency situations**

- (1) The Municipal Council may at any time at the request of the Municipality declare by public notice, a supply zone an emergency situation in respect of a municipal service or more than one municipal service if, in its opinion, a significant risk to the financial viability or sustainability of the Municipality or a specific municipal service exist and that no other reasonable measures can be taken to avoid or limit the risk, provided that the Municipality has submitted a report that contains at least:
  - (a) details of all measures taken by it to avoid or limit the risk;
  - (b) an assessment of why the measures taken by it to avoid or limit the risk have been unsuccessful;
  - (c) details of the proposed measures taken by it to avoid or limit the risk;
  - (d) an assessment of the impact or potential impact of the proposed measures on individual customers within the relevant supply zone, including, but not limited to health and access to basic service implications;
  - (e) details of the education and communication measures to be taken prior to the implementation of the proposed measures;
  - (f) the duration of the proposed measures to be taken; and
  - (g) details of the reasonable measures to be taken to ensure equitable access by each household in the supply zone to that municipal service.
- (2) A public notice in terms of sub-section (1) must contain at least the following details applicable to a specific emergency situation:
  - (a) The reasons for the declaration;
  - (b) The customers and supply zone that will be affected by the declaration;
  - (c) The type, level and quantity of the municipal service that will be provided;
  - (d) The duration of the declaration;
  - (e) The method of implementing the declaration;
  - (f) Specific measure or precautions to be taken by affected customers; and
  - (g) Special relief that may be granted to individual consumers on application to the Municipality.
- (3) In the event of a declaration of a supply zone as an emergency area in accordance with subsections (1) and (2), the municipal service to that supply zone may be limited to basic municipal services per household as determined by the municipality from time to time, provided that at no time may the municipal service provided by the Municipality to that supply zone be less than the collective quantity and quality of basic municipal services per household in that supply zone.
- (4) The Municipality must on a monthly basis submit a status report to the Municipal Council that contain at least the following details:
  - (a) Any improvement in the information on which the declaration was based;
  - (b) The impact of the proposed measures on individual customers within the relevant supply zone, including but not limited to, health and access to basic

- services implications; and
  - (c) Special relief granted to individual consumers.
- (5) The Municipal Council must change the declaration of an emergency area by public notice:
- (a) If any of the information on which the declaration was based improves to the extent that the risk referred to in sub-section (1) is avoided or limited;
  - (b) If, in its opinion, undue hardship is endured by the consumers affected by the declaration;
  - (c) On expiry of the duration specified in terms of sub-sections (1) and (2).
- (6) The Municipality may again request the Municipal Council to declare a supply zone an emergency area on a change of a declaration in terms of sub-section (3) if, in the Municipality's opinion, it is required.
- (7) The provisions of sub-sections (1) to (4) apply to a request in terms of sub-section (6).

## **Chapter 5: Unauthorised Services**

### **45. Unauthorised services**

- (1) No person may gain access to municipal services unless it is in terms of an agreement entered into with the Municipality for the rendering of those services.
- (2) The Municipality may, irrespective of any other action it may take against such person in terms of these by by-laws, by written notice order a person who is using unauthorised services to:
- (a) Apply for such services in terms of sections (1) and (2);
  - (b) Undertake such work as may be necessary to ensure that the customer installation through which access was gained complies with the provisions of these or any other relevant by-laws.

### **46. Interference with infrastructure for the provision of municipal services**

- (1) No person other than the Municipality shall manage, operate or maintain infrastructure through which municipal services are provided.
- (2) No person other than the Municipality shall effect a connection to infrastructure through which municipal services are provided.

### **47. Obstruction of access to infrastructure for the provision of municipal services**

- (1) No person shall prevent or restrict physical access to infrastructure through which municipal services are provided.
- (2) If a person contravenes sub-section (1), the Municipality may:
- (a) By written notice require such person to restore access at his or her own



expense within a specified period; or

- (b) If it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such person.

#### **48. Illegal re-connection**

- (1) A consumer whose access to municipal services has been restricted or disconnected, who intentionally unlawfully re-connects or allows another person to re-connect services or who intentionally or negligently interferes with infrastructure through which municipal services are provided, shall immediately be disconnected.
- (2) A person who re-connects to municipal services in the circumstances referred to in subsection (1) shall be liable to pay for any services that he, she or it may have utilised or consumed in breach of these by-laws, notwithstanding any other actions that may be taken against such person.
- (3) The consumption will be estimated based on the average consumption of services to the specific area within which the unauthorised connection was made.

#### **49. Immediate disconnections**

- (1) The provision of municipal services may immediately be disconnected by the Municipality if any person unlawfully and intentionally or negligently interferes with infrastructure through which municipal services are provided.

### **Chapter 6: Offences**

#### **50. Offences**

- (1) Any person who:
- (a) obstructs or hinders the Municipality in exercising of the powers of performance of functions or duties under these by-laws;
  - (b) contravenes or fails to comply with a provision of these by-laws other than a provision relating to payment for municipal services;
  - (c) fails to comply with the terms of a notice served upon him/her in terms of these by-laws;
- shall be guilty of an offence and liable upon conviction to a fine not exceeding R10 000 (ten thousand rand) or a period of imprisonment or community service not exceeding 6 (six) months, or a combination of the aforementioned, and, in the event of a continued offence to a further fine of R4 000 (four thousand rand) for every day during the continuance of such offence.

### **Chapter 7: Documentation**

#### **51. Signing of notices and documents**

- (1) A notice or document issued by the Municipality in terms of these by-laws and signed by a staff member of the Municipality shall be deemed to be duly issued and must on its mere production be accepted by a court as prima facie evidence.

**52. Notices and Documents**

- (1) Any notice or other document that is served on an owner, customer or any other person in terms of these by-laws is regarded as having been served:
  - (a) if it has been delivered to that person personally;
  - (b) when it has been left at the person's village, place of residence, or business or employment in the Republic with a person apparently over the age of sixteen years;
  - (c) when it has been posted by registered mail or certified mail to that person's last known residential address or business address in the Republic and an acknowledgement of posting thereof from the postal service is obtained;
  - (d) if that person's address in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates.
- (2) When any notice or other document must be authorised or served on the owner, occupier or holder of any property it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and is not necessarily the name of that person
- (3) In the case where compliance with a notice is required within a specified number of working days, such a period shall be deemed to commence on the date of delivery or sending of such notice

**53. Authentication of documents**

- (1) Every order, notice or other document requiring authentication by the Municipality shall be sufficiently authenticated. If signed by the Municipal Manager or by a duly authorised person of the Municipality, such authority being conferred by resolution of the Municipality, written agreement or by a by-law.

**54. Prima facie evidence**

- (1) In legal proceedings by or on behalf of the Municipality, a certificate reflecting the amount due and payable to the municipality, under the hand of the Municipal Manager, or suitably qualified staff member authorised by the Municipal Manager or the manager of the Municipality's authorised agent, shall upon mere production thereof be accepted by any court of law as prima facie evidence of the indebtedness.

**Chapter 8: General Provisions****55. Provision of information**

- (1) An owner, occupier, customer or person within the area of supply of the Municipality must provide the municipality with accurate information.

**56. Power of entry and inspection**

- (1) The Municipality may enter and inspect any premises for any purpose connected with the implementation or enforcement of these by-laws, at all reasonable times,

after having given reasonable written notice to the occupier of the premises of the intention to do so, where appropriate.

- (2) The owner and or occupier of the property must allow an authorised representative of the Municipality access at all reasonable hours to the property in order to read, inspect, install or repair any metering device or service connection for reticulation, or to disconnect, stop or restrict, or reconnect, the provision of any service. If a customer fails to comply, the Municipality or its authorised representative may:
  - (a) by written notice require such customer to restore access at his/her own expense within a specified period;
  - (b) if it is the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such customer.
- (3) The property owner may be held responsible for the cost of relocating a metering device if satisfactory access is not possible or if the access to the metering device is denied to the Municipality.
- (4) Any entry and inspection must be conducted in conformity with the requirements of the Constitution of South Africa Act No.108 of 1996, and other law, in particular with strict regard to decency and order, respect for a person's dignity, freedom and security and personal privacy.
- (5) The Municipality may be accompanied by an interpreter and any other person reasonably required to assist the authorised official in conducting the inspection.
- (6) A person representing the municipality must, on request provide his or her identification.

#### **57. Exemption**

- (1) The Municipality may, in writing, exempt an owner, consumer, and any other person or category of owners, consumers, ratepayers, users of services complying with a provision of these by-laws, subject to any conditions it may impose. If it is of the opinion that the application or operation of that provision would be unreasonable, provided that the Municipality shall not grant exemption from any section of these by-laws that may result in:
  - (a) wastage of excessive consumption of municipal services;
  - (b) evasion or avoidance of water restrictions;
  - (c) significant negative effects on public health, safety or the environment;
  - (d) non-payment for services;
  - (e) the Act, or any regulations made in terms thereof, is not complied with.
- (2) The Municipality may at any time, giving notice of at least thirty days, withdraw any exemption given in terms of sub-section (1).

**58. Indemnification from liability**

- (1) Neither employees of the municipality nor any person, body or organization or corporation acting on behalf of the municipality, is liable for any damage arising from any omission or act done in good faith in the course of his or her duties

**59. Availability of by-laws**

- (1) A copy of these by-laws shall be included in the Municipality's Municipal Code as required in terms of legislation.
- (2) The Municipality shall take reasonable steps to inform customers of the contents of this by-law.
- (3) A copy of these by-laws shall be available for inspection at the offices of the Municipality at all reasonable times.
- (4) A copy of these by-laws may be obtained against payment as decided by the Municipality from time to time.

**60. Conflict of law**

- (1) When interpreting a provision of these by-laws, any reasonable interpretation which is consistent with the purpose of the Act as set out in Chapter 9, must be preferred over any alternative interpretation which is inconsistent with that purpose.
- (2) If there is any conflict between these by-laws and any other by-laws of the Council, these by-laws shall prevail.

**61. Repeal of existing municipal credit control and debt collection by-laws**

- (1) The provisions of any by-laws relating to credit control and debt collection by the Municipality are hereby repealed insofar as they relate to matters provided for in these by-laws, provided that such provisions shall be deemed not have been repealed in respect of any such by-laws which has not been repealed and which is not repugnant to these by-laws on the basis as determined by the relevant by-laws.

**62. Short Title and commencement**

- (1) These by-laws are called the Credit Control and Debt Collection By-Laws of the Joe Gqabi District Municipality.
- (2) These by-laws will commence on publication thereof in the Provincial Gazette.
- (3) The municipality may, by notice in the Provincial Gazette, determine that provisions of these by-laws, listed in the notice, does not apply in certain areas within its area of jurisdiction listed in the notice from a date specified in the notice.
- (4) Until any notice contemplated in sub-section (2) is issued, these by-laws are binding.