

# **CAPRICORN DISTRICT MUNICIPALITY**



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

## **CAPRICORN DISTRICT MUNICIPALITY:**

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The Capricorn District Municipality in accordance with section 13(a) of the Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes the Draft Credit Control and Debt Collection By-law, 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 and agreements
4. Special agreements for municipal services
5. Change in the purpose for which municipal 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. Fixed charges for municipal 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 customers
14. Methods for determining amounts due and payable
15. Payment for municipal services provided
16. Full and final settlement of account
17. Responsibility for amounts due and payable
18. Dishonoured payments
19. Incentives 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 accounts
24. Appeals against finding of municipality in respect of queries and complaints

###### **Part 6: Arrears**

25. Consolidated Arrears
26. Arrears

27. Interest
28. Final demand notice
29. Limitation or disconnection of municipal services
30. Accounts 90 (ninety) days in arrears
31. General

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

32. Agreements
33. Additional costs, partial settlement and instalments
34. Duration of agreements
35. Failure to honour agreements
36. Re-connection of services

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

37. Qualification for registration
38. Application for registration
39. Approval for application
40. Conditions
41. Annual application
42. Subsidised services for indigent customers
43. Audits
44. De-registration

### **CHAPTER 4: EMERGENCY SITUATIONS**

45. Declarations of emergency situations

### **CHAPTER 5: UNAUTHORISED SERVICES**

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

### **CHAPTER 6: OFFENCES**

51. Offences

### **CHAPTER 7: DOCUMENTATION**

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

### **CHAPTER 8: GENERAL PROVISIONS**

56. Provision of information
57. Power of entry and inspection
58. Exemption
59. Indemnification from liability

- 60. Availability of by-laws
- 61. Conflict of law
- 62. Short Title and commencement

## **CHAPTER 1: DEFINITIONS AND APPLICATION**

### **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 specifying charges for municipal services e municipality, or any authorised and contracted service provider, and which account may include assessment rates levies.

**"Act"** means Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) as amended.

**"applicable charges"** means the rate (including assessment rates), charge, tariff or subsidy determined by the Municipal Council.

**"average consumption"** means the average consumption by a customer 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 customer 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 a municipal service or municipal 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 has been made.

**"Authorized 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 bylaws
- b) Any person to whom the municipal council has delegated the performance of certain rights, duties and obligations in respect of providing revenue services, or
- 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 customers on its behalf, to the extent authorised in such contract.

**"arrangement"** means a written agreement entered into between the municipality and the customer where specific repayment parameters are agreed to. Such arrangement does not constitute a credit facility envisaged in terms of Section 8(3) of the National Credit Act but is

deemed to be Incidental Credit as envisaged in terms of Section 4(6)(b) read with Section 5(2) and (3) of the National Credit Act.

**“customer”** means –

- a) the occupier of any premises to which the municipality has agreed to supply or is actually supplying municipal services, or if no occupier can be identified or located, then the owner of the premises and includes any customer of the municipality.
- b) any person, whether natural or juristic and includes, but is not limited to any local government body or like authority, a company or close corporation incorporated under any law, a body of persons whether incorporated or not, a statutory body, public entity body, voluntary association or trust.

**“domestic customer”** means a customer that occupies a dwelling, a structure or property primarily for residential purposes.

**“commercial customer”** means any customer other than domestic customers and indigent customers, including without limitation, business, industrial, government and institutional customers.

**“connection”** means the point at which a customer gains access to municipal services.

**“consolidated account”** means an account which is a consolidation of any separate accounts or service charges of a customer 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 customer who owes any arrears to the municipality.

**“due date” in relation to -**

- a) rates due in respect of any immovable property, means:-
  - (i) the seventh (7<sup>th</sup>) day of October of the financial year for which such rate is made, in the case where rates are levied on an annual basis.
  - (ii) the date for payment indicated on the account, in the case where rates are levied on a monthly basis, or
  - (iii) any other date determined by Council in terms of a public notice in the Provincial Gazette, and
- b) service charges due in respect of any immovable property, means the date for payment indicated on the account, provided that the due date for any service charges means the seventh (7<sup>th</sup>) day of October in the case where service charges are levied annually, and
- c) should such day fall on a Saturday, Sunday or public holiday the due date shall be the next working day.

**“emergency situation”** means any situation that if allowed to continue poses a substantial assessed risk to the financial viability or sustainability of the municipality or a specific municipal service.

**“equipment”** means a building or other structure, pipe, pump, wire, cable, meter, 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 a household, the age of the persons who are members of the household and any other relevant factors.

**“illegal connection”** means a connection to any system through which municipal services are provided that is not authorized or approved by the municipality.

**“indigent customer”** means a domestic customer qualifying and registered with the municipality as an indigent in accordance with the municipality’s indigent policy and the applicable 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 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 –

- a) the Capricorn District Municipality or its successor in title, or
- b) the Municipal Manager of the Capricorn District Municipality in respect of the performance of any function or exercise of any right, duty, obligation or function in terms of these by-laws, or
- c) an authorised agent of the Capricorn District Municipality.

**“Municipal Council”** means the municipal Council of Capricorn District Municipality as referred to in Section 157(1) of the Constitution, 1996 (Act No. 108 of 1996).

**“Municipal Manager”** means the person appointed by the municipal council as Municipal Manager in terms of Section 82 of the Local Government:- Structures Act, 1998, (Act 117 of 1998) and include any person acting in that position or to whom authority was delegated.

**“municipal services”** means those services provided by the municipality, such as, inter alia the supply of water, electricity, refuse removal, sewerage treatment, property rates and for which services charges are levied.

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

**“owner”** means:-

- a) the customer in whose name the property is legally vested.
- b) in the case where the customer in whose name the property is vested, is insolvent or deceased, or is disqualified in terms of any legal action, the person who is responsible for administration or control of the property as curator, trustee, executor, administrator, legal manager, liquidator, or any other legal representative.
- c) in the case where the Council are unable to establish the identity of such person, the person who are entitled to derive benefit from the property or any buildings thereon.

- d) in the case of a lease agreement in excess of 30 years was entered into, then the lessee.
- e) regarding:-
  - (i) a portion of land allotted on a sectional title plan and which is registered in terms of the Sectional Title Act, 1986 (Act 95 van 1986), without limiting it to the developer; or
  - (ii) managing body to the communal property.
  - (iii) a portion as defined in the Sectional Title Act, the person in whose name that portion is registered in terms of a "sectional title, including the legally appointed representative of such person.
- f) any legal entity including but not limited to :-
  - (i) a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), a trust inter vivos, trust mortis causa, a closed corporation registered in terms of the Close Corporation Act, 1984 (Act 69 of 1984), and any voluntary organization.
  - (ii) any provincial or national government department, local authority.
  - (iii) any Council or management body established in terms of any legal framework applicable to the Republic of South Africa, and
  - (iv) any embassy or other foreign entity.

**“person”** means any person whether natural or juristic and includes, but is not limited to any local government body or like authority, a company, close corporation incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust.

**“property”** means any portion of land, of which the boundaries are determined, within the jurisdiction of the municipality

**“public notice”** means publication in a appropriate media that may include one or more of the following:-

- (a) publication of a notice, in the official languages determined by the municipal Council:-
  - (i) in any local newspaper or newspapers circulating in the area of supply of the municipality, or
  - (ii) in the newspapers circulating in the area of the municipality determined by the municipal Council as a newspaper of record, or
  - (iii) by means of radio broadcasts covering the area of supply of the municipality, or
- (b) displaying a notice at appropriate offices and pay points of the municipality or its authorized agent, or
- (c) communication with customers though 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 an immovable property and includes any penalties, interest or surcharges levied or imposed in terms of this policy.

**“service delivery agreement”** means an agreement between the municipality and an institution or persons mentioned in Section 76(b) of the Local Government: Municipal Systems Act 32 of 2000.

**“shared consumption”** means the consumption of a customer of a municipal service during a specific period, which consumption is calculated by dividing the total metered consumption

of that municipal service within the supply zone within which consumer's premises is situated for the same period by the number of customers within that supply zone, during the same period.

**"subsidized service"** means a municipal service which is provided to a customer at an applicable rate which is less than the cost of actual providing the service provided to customers at no cost.

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

**"supervisory authority"** means the Executive Mayor of the municipality or his or her nominee, acting in terms of Section 99 of the Municipal Systems Act 32 of 2000.

**"supply zone"** means a area, determined by the municipality, within which all customers are provided with services from the same bulk supply 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.

**"unauthorized services"** means receipt, use or consumption of any municipal service which is not in terms of an agreement, or authorized 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, service charges, collection charges, arrears and interest which has or will accrue in respect of the fore mentioned.

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

### **Part 1: Application for Municipal Services**

#### **3. Application for Services and Agreements.**

- (1) A customer 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 application form.
- (2) By completing the prescribed application form for the provision of municipal services the customer of services enters into an agreement with the municipality. Such agreement does not constitute a credit facility envisaged in terms of Section 8(3) of the National Credit Act (NCA) but shall be incidental credit as envisaged in terms of Section 4(6)(b) of the NCA, to which the NCA will only apply to the extent as stipulated in Section 5 of the NCA.
- (3) If, at the commencement of these by-laws 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 sub-section (7) exists, and



- b) The level of service provided to the customer is the level of service elected, until such time as the customer enters into an agreement in terms of sub-section (2).
- (4) The municipality must on application for the provision of municipal services inform the applicant of the then available levels of services and the then applicable tariffs and or charges associated with each level of service.
- (5) The municipality is only obliged to provide a specific level of service requested by the applicant if the service is currently being provided and if the municipality has the resources and capacity to provide such a level of service.
- (6) The customer may at any time apply to alter the level of service elected in terms of the agreement entered into, in which event the municipality may approve such application if it has the capacity and resources to provide such requested level of service and that any costs and expenditure associated with altering the level of service is paid for by the customer.
- (7) An application for services submitted by a customer and approved by the municipality shall constitute an agreement between the municipality and the customer, and such agreement shall take effect on the date referred to or stipulated in such agreement.
- (8) Existing customers may be required to complete application forms from time to time, as determined by the Municipal Manager.
- (9) In completing an application form for municipal services the municipality will take reasonable measures to ensure that the document and the process interaction with the owner, customer or any other person making such an application are understood by the owner, customer or any other person and advise him or her of the option to register as an indigent customer.
- (10) It is the customer's responsibility to ensure that the postal address and other contact details are correct and in the case of any changes the municipality must be notified in writing.
- (11) In cases of illiterate or similarly disadvantaged persons, the municipality must take reasonable steps to ensure that the person is aware of and understands the content of the application form and shall assist him or her in completing such form.
- (12) Municipal services rendered to a customer are subject to the provisions of the by-laws, any applicable by-law s and the conditions contained in the agreement.
- (13) The municipality may undertake and 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, and categorize 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 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) Any new application for the provision of municipal services must be made by the registered owner of an immovable property.
- (17) The municipality will only entertain an application for the provision of municipal services from existing tenants of a property, or any existing customer who is not the owner of the property with the permission of the owner of the property. Such permission from the owner must be in writing and the services to the tenant or occupier will be terminated should the permission be revoked by the owner. Existing tenants of a property will be requested over a period of time to obtain the permission of the owner in order to maintain their existing service agreement.
- (18) 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.
- (19) 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. In terms of Section 102(3) of the Municipal Systems Act the municipality must provide an owner of a property in its jurisdiction with copies of accounts sent to the occupier of the property for municipal services supplied to such a property if the owner requests such accounts in writing from the municipality.
- (20) An agent with a proxy may open an account in the name of the owner.
- (21) 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.
- (22) 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.
- (23) 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.
- (24) 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 Municipal Services**

- (1) The municipality may enter into a special agreement for the provision of municipal services with an applicant –

- a) within the area of supply, if the service applied for necessitates the imposition of conditions not contained in the prescribed form or these by-laws,
- b) receives subsidised services, or
- c) if the premises to receive such services are situated outside the area of supply, provided that the municipality having jurisdiction over the premises has no objection to such special agreement. The obligation is on the customer to advise the municipality having jurisdiction of such special agreement.

## **5. Change in the purpose for which municipal service are used**

- (1) Where the purpose for the extent to which any municipal service used is changed the onus and obligation is on the customer 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 written 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 the infrastructure and the details of all measuring devices that are installed.
- (2) A property developer who fails to comply with the provisions of the 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**

- (1) All applicable charges payable in respect of municipal services, including but not limited to the payment to the payment of connection charges, fixed charges additional charges or interest must be set by the municipal council in accordance with –
  - a) its Rates and Tariff policy,
  - b) any by-laws in respect thereof, and
  - c) any regulations in terms of national or provincial legislation.

- (2) Applicable charges may differ between different categories of customers, users of services and levels of services, quantities of services, infrastructure requirements and geographic areas.

## **9. Fixed charges for Municipal Services**

8. The municipal council may, in addition to the tariffs or charges prescribed for municipal services actually provided, levy a monthly fixed charge, annual fixed charge or a single and final fixed charge where municipal services are available, whether or not services are consumed or not.

## **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) Public notice in terms of sub-section (1) must contain at least the following details applicable to a specific subsidy –
  - a) The domestic customers that 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 9.1 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 to the municipality and if such funding is insufficient the services may be funded from revenue raised through rates, fees and charges in respect of municipal services.
- (6) Subsidized 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 which is below a determined amount, and according to further specified criteria as determined by the 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 the budget. As such, the subsidy can only be credited to the qualifying customers' accounts until the amount received by the Municipality from National Government for this purpose has been exhausted, whereupon no further credits will be made, or the level of the 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 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 a customer.
- (6) An indigent customer 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 customer may at any time request de-registration.
- (8) A register of indigent customers 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 own client costs incurred in the recovery of amounts in arrears shall be against the arrears account of the customer, and
  - b) The average costs incurred relating to any action taken in demanding payment from the customer or reminding the customer, by means of telephone, fax, email, letter or otherwise.

## **Part 3: Payment**

### **13. Payment of deposits and the Screening of Customer**

- (1) The municipal council may, from time to time, determine different deposits for different categories of customers, users of services, debtors, services and service standards, provided that the deposits may not be more than three times the monetary value of the most recent monthly municipal service rendered, including rates and taxes, to the premises for which an application is made. A minimum deposit of the equivalent of one month's average consumption will be required.
- (2) A customer must on application for the provision of municipal services and before the municipality will provide such services, 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 annually review a deposit paid in terms of sub-section (2) and in accordance with such review -
  - a) require that an additional amount be deposited by the customer where the deposit is less than the most recent deposit determined by the municipal council, or
  - b) refund to the customer such amount as may be held by the municipality where the deposit is in excess of the most recent deposit determined by the municipal council.
  - c) 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.
- (4) If a customer is in arrears, the municipality may require that the customer –
  - a) pay a deposit if that customer was not previously required to pay a deposit, if the municipal council has determined a deposit; and
  - b) pay an additional deposit where the deposit paid by that customer is less than the most recent deposit determined by the municipal council.
- (5) Subject to sub-section (6), the deposit shall not be regarded as being in payment or part payment of an account.
- (6) If an account is in arrears, the deposit will be applied in payment or part payment of the arrears.
- (7) No interest shall be payable by the municipality on any deposit held.
- (8) The deposit, if any, is refundable to the customer on settlement of all arrears on termination of the agreement. A deposit shall be forfeited to the municipality if it has not been claimed by the customer within 12 (twelve) months of termination of the agreement.
- (9) 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.
- (10) 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, endeavour, within available financial and human resources, to meter all customer connections and read all metered customer connections on a regular basis.
- (2) If a service is not measured, a municipality 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 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 customer 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 debt adjustment. Estimates are limited to a maximum period of 3 months.

- (4) Where water supply services are provided through communal water services networks (standpipes), the amount due and payable by customers gaining access to water supply services through the 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 is not reasonably possible or cost effective to meter all customer 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 not possible,
  - b) calculating the estimated consumption.
- (6) The municipality must inform customers 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) Customers 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.
- (8) Customers will on request be informed in writing of a meter replacement.

## **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 date 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 as 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 the accepted by the Municipality shall not be 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**

16.1 Notwithstanding the provisions of any other sections of these by-laws, the owner of 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 customer and the municipality after taking reasonable measures to recover any amounts due and payable by the customer 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 a 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 customer.
  - 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 customers that pay accounts on a regular basis.

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

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

## **Part 4: Accounts**

### **21. Accounts**

- (1) Accounts will be rendered monthly to customers at the address last recorded with the municipality.
- (2) Failure by the customer to receive or accept an account does not relieve a customer of the obligation to pay any amount that may be due and payable.
- (3) The municipality must, if it is reasonably possible to do so, issue a duplicate account to a customer on request.
- (4) Accounts must be paid not later than the last date for payment specified on such an account.



- (5) Accounts for municipal services provided will –
- a) reflect at least –
    - (i) the services rendered;
    - (ii) the consumption of metered services or average, shared or estimated consumption;
    - (iii) the period addressed in the account;
    - (iv) the applicable charges;
    - (v) any subsidies;
    - (vi) the amount due(excluding value added tax payable)
    - (vii) value added tax;
    - (viii) the adjustment, if any, to metered consumption which has been previously estimated.
    - (ix) any arrears;
    - (x) the interest payable on any arrears;
    - (xi) the final date of payment;
    - (xii) the methods, places and approved agents where payment may be made; and
  - b) state that -
    - (i) the customer may conclude an agreement at the municipality's offices, with the municipality for payment of the arrears amount instalments before the final date for payment;
    - (ii) if no such agreement is entered into, the municipality will limit or disconnect the services, subject to section 29(1), after sending a final demand notice in terms of section 25 and 28 to the customer;
    - (iii) legal action may be instituted against any customer for the recovery of any amount 60 (sixty) days in arrears;
    - (iv) the account may be ceded to a debt collector for collection; and
    - (v) proof of registration, as an indigent customer, in terms of the municipality's indigent policy, which may form part of the municipality's credit control and debt collection policy, must be handed in at the offices of the municipality before the final date of payment.

## **22. Consolidated debt**

- (1) If one account is rendered for more than one municipal service provided, the amount due and payable by a customer constitutes consolidated debt. The municipality may consolidate separate municipal accounts, or portions thereof, of a customer into a single consolidated account.
- (2) The municipality will, at its discretion, allocate a payment between service debts and a customer may not specify the allocation of payment.
- (3) 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:-
  - c) Arrears;
  - d) Interest;
  - e) Sundries;
  - f) Additional – deposit;
  - g) Penalty on arrears;
  - h) Collection charges on arrears;
  - i) Water
  - j) Sewerage;
  - k) VAT on vatiable services which will be the proportionate amount for the applicable services.

- (4) A customer 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, Complaints and Appeals**

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

- (1) A customer may lodge a query or complaint in respect of the accuracy of an amount due and payable in respect of a specific municipal service as reflected on the account rendered.
- (2) A query or complaint must be lodged with the municipality in writing before the due date for payment of the account.
- (3) In the case of illiterate or similarly disadvantaged customers the municipality must assist such a customer in lodging his or her complaint in writing and must take reasonable steps to ensure that the query or complaint is reflected correctly.
- (4) A query or complaint must be accompanied by a payment constituting the amount due and payable in respect of the amount, minus the amount in respect of which the a query or complaint is lodged. An amount equal to the average consumption of the municipal service is payable in respect of the amount for which a query or complaint is lodged.
- (5) The municipality will register the query or complaint and provide the customer with a reference number.
- (6) The municipality
  - a) shall 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 customer, in writing, of its finding within 21 (Twenty one) days after the query or complaint was registered.

### **24. Appeals against finding of municipality in respect of queries or complaints**

- (1) A customer may appeal against a finding of the municipality in terms of section 23 in writing.
- (2) An appeal and request in terms of sub-section 24.1 must be made in writing and lodged with the municipality within 21 (twenty-one) days after the customer became aware of the finding referred to in section 23 and must
  - a) set out the reasons for the appeal; and
  - b) be accompanied by a deposit and determined by the municipal council, if the municipality requires a deposit to be made.
- (3) The municipality may on appeal by a customer instruct him, her or it to pay the full amount appealed against.
- (4) The customer is liable for all the amounts, other than that appealed against, falling due and payable during the adjudication of the appeal.
- (5) An appeal must be decided by the municipality within 21 (twenty-one) days after an appeal was lodged and the customer must be informed of the outcome in writing, as soon as is reasonably possible thereafter.

- (6) If the municipality decides to reject the query or complaint the customer must pay any amounts found to be due and payable in terms of the decision within 14 (fourteen) days of being informed of the outcome of the appeal.
- (7) The municipality may condone the late lodging of appeals or other procedural irregularities.
- (8) If it is alleged in an appeal that a measuring device is inaccurate, the device must be subjected to a standard industry test as determined by the municipality, to establish its accuracy. The customer must be informed of the estimated cost of such a test prior to such test being undertaken.
- (9) If the outcome of any test shows that a measuring device is
  - a) within a prescribed range of accuracy, the customer will be liable for the cost of such a test and any other amount outstanding. Such costs will be debited against the customer's account;
  - b) outside a prescribed range of accuracy, the municipality will be liable for the costs of such tests and the customer must be informed of the amount of any credit to which he, she or it is entitled as a consequence of any inaccuracy.
- (10) A deposit referred to in sub-section (2)(b), shall be
  - a) retained by the municipality if the measuring device is found not to be defective;
  - b) refunded to the applicant to the extent that it exceeds the amount payable in respect of quantity determined in accordance with section 12(b), if the measuring device is found in terms of those sub-sections to be defective.
- (11) In addition to sub-section 24(9) and 23(10) the municipality must if the measuring device is found defective
  - a) repair the measuring device or install another device which is in good working order, without charge to the customer, unless the costs thereof are recoverable from the customer in terms of these or any other by-law of the municipality; and
  - b) determine the quantity of municipal services for which the customer will be charged in lieu of the quantity measured by the defective measuring device by taking as basis for such determination, and as the municipality may decide-
    - (i) the quantity representing the average monthly consumption of the customer during the three months preceding the month in respect of which the measurement is disputed and adjusting such quantity in accordance with the degree of error found in the reading of the defective meter or measuring device;
    - (ii) the average consumption of the customer during the succeeding three meter periods after the defective meter or measuring device has been repaired or replaced; or
    - (iii) the consumption of services on the premises recorded for the corresponding period in the previous year.

## **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 customer 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 debit in the following order

- a) Arrears;
- b) Interest;
- c) Instalments – dwelling;
- d) Instalments – stand;
- e) Sundries;
- f) Additional – deposit;
- g) Rates;
- h) Penalty on arrears;
- i) Collection charges on arrears;
- j) Refuse removal;
- k) Water;
- l) Sewerage;
- m) VAT on vatable services which will be the proportionate amount for the applicable services.

## **26. Arrears**

- (1) If a consumer fails to pay the account on or before the due date, a final demand notice may be:
  - a) hand delivered or sent by registered post to the most recent recorded address of the customer; or
  - b) sent per MMS, SMS or other applicable cellular technology, or
  - c) sent per e-mail, or
  - d) with any other form of telecommunication to customers within 2 (two) working days of the arrears having accrued.
- (2) Failure to deliver or send a final demand notice within 2 (two) working days does not relieve a customer from paying arrear

## **27. Interest**

- (1) Interest may be levied on arrears at the prevailing prime interest rate or at the rate prescribed by the municipal council from time to time.
- (2) The municipal council may differentiate between types of domestic customers, types and levels of services, quantities of services, geographical arrears and socio-economic arrear in levying interest on arrears.

## **28. Final Demand Notice**

- (1) The final demand notice must contain the following statements
  - a) the amount in arrears and any interest payable;
  - b) that the customer can conclude an agreement with the municipality for payment of the arrears in instalment within 3 (three) working days of the date of the final demand notice;
  - c) that if not such agreement is entered into within the stated period that specified municipal services will be limited or disconnected
  - d) that legal action maybe instituted against any customer for the recovery of any amount 40(forty) days in arrears; that the account may be handed over to the debt collector for collection;
  - e) that proof of registration, as an indigent customer, in terms of these by-laws must be handed in at the offices of the municipality before the final date of the final demand notice.

- (2) The municipality must in deciding which municipal service or municipal services to be specified for limitation or disconnection:
  - a) consider the potential socio-economic and health implication of the limitation or disconnection may have on the consumer; and
  - b) a domestic customers' right to access to basic municipal services as identified in the municipal council's credit control and debt collection policy

## **29. Limitation or disconnection of municipal services**

- (1) The municipality may, immediately on the expiry of the 3 (three) working day period allowed payment in terms of the final demand notice limit or disconnect the municipal services provided that a domestic customers' access to basic water supply services and sanitation services may not be disconnected.
- (2) The municipality may only limit a domestic customer's access to basic water supply services by –
  - a) reducing water pressure; or
  - b) limiting the availability of water to a specified period or periods during a day.
- (3) The costs associated with the limitation or disconnection of municipal services shall be for the cost of the customer and shall be included in the arrears amount due and payable by the customer.

## **30. Accounts 60 (Sixty) days in arrears**

- (1) Where an account rendered to a customer remains outstanding for more than 60 (Sixty days) the municipality may:-
  - a) institute legal action against a customer for the recovery of the arrears; and
  - b) cede the customer's account to a debt collector for collection.
- (2) A customer will be liable for recoverable administration fees, costs incurred in taking action for the recovery of arrears and any penalties, including the payment of a higher deposit, as may be determined by the municipal council from time to time.

## **31. General**

- (1) No action taken in terms of this section because of non-payment will be suspended or withdrawn, unless the arrears, any interest thereon, recoverable administration fees, additional charges, costs incurred in taking relevant action and any penalties, including the payment of higher deposit, payable are paid in full.
- (2) The municipality will not be liable for any loss or damage suffered by a customer due to municipal services being limited or disconnected.

## **Part 7: Agreement for the Payment of Arrears in instalments**

### **32. Agreements**

- (1) The following agreements for the payment of arrears in instalments may be entered into—an Acknowledgement of Debt;
  - a) a Consent to Judgement; or
  - b) an Emolument attachment order.

- (2) 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 for that purpose, will be allowed to enter into an agreement for the payment of arrears in instalments.
- (3) No customer will be allowed to enter into an agreement for the payment of arrears in instalments where that customer failed to honour a previous agreement for the payment of arrears in instalments, unless the Municipality, in its sole discretion, permits the customer to do so.
- (4) A copy of the agreement shall be made available to the customer.
- (5) An agreement for the payment of arrears in instalments shall not be entered into unless and until a customer has paid his, her or its current account.

### **33. Additional costs, partial settlement and instalments**

- (1) The costs associated with entering into agreements for the payment of arrears in instalments and the limitation or disconnection of municipal services in accordance with section 29 shall be included in the arrears amount due and payable by the customer.
- (2) The municipality must in determining the amount payable by the customer on entering into an agreement for the payment of arrears in instalments and the instalments payable in respect of any arrear amount take the following factors into account –
  - a) the credit record of the customer;
  - b) the arrear amount;
  - c) the level of consumption of municipal services;
  - d) the level of service provided to the customer;
  - e) previous breaches of agreements for the payment of arrears in instalments; and
  - f) any other relevant factors.
- (3) In the event that a customer proves to the municipality that he or she or it is unable to pay the amount referred to in section 31(5) on entering into an agreement for the payment of arrears in instalments, the municipality may, after taking into account the factors referred to in sub-section 33(1), -
  - a) extend the payment thereof to the end of the month in which the customer enters into such an agreement; or
  - b) include it in the amount payable in terms of the agreement.
- (4) The municipality may, after taking into account the factors referred to in sub-section (2), require a customer to pay an additional amount on entering into an agreement for the payment of arrears, in addition to the current account, representing a percentage of the arrear amount.
- (5) The municipality may, when a customer enters into an agreement or any time thereafter–
  - a) install a pre-payment meter; or
  - b) limit the municipal services to basic municipal services.

### **34. Duration of Agreements**

- (1) The municipality may, in deciding on the duration of the agreement for the payment of arrears has regard to a customer's –
  - a) credit record;

- b) arrears amount;
- c) gross income;
- d) level of consumption of municipal services;
- e) level of service provided;
- f) previous breaches of agreements for the payment of arrears in instalments;
- g) affordability and
- h) any other relevant factors.

(2) No agreement/arrangement entered into after 1 July 2012 for the payment of arrears shall provide for the payment of arrears over a period in excess of 24 (twenty-four) months.

### **35. 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 may –
- a) limit or disconnect the municipal services specified in the final demand notice sent to the customer in accordance with section 29;
  - b) institute legal action for the recovery of the arrears; and
  - c) hand the customer 's account over to a debt collector or an attorney for collection.

### **36. Re-connection of Services**

- (1) An agreement for payment of the arrears amount in instalments, 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 customer 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 customer 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.
- (3) Municipal services shall be restored within (3) seven working days after a customer have compiled with the provisions of sub-sections (1) and (2).

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

### **37. Qualification for registration**

- (1) A domestic customer with a household –
- a) whose combined monthly gross income of its members over the age of 18 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 customer.

### **38. Application for registration**

- (1) A domestic customer wishing to qualify as an indigent customer must complete the application form entitled "Application for Registration as Indigent Customer"
- (2) Any application in terms of sub-section (1) must be –accompanied by –
  - a) documentary evidence of income, such as a letter from the customer's employer, a salary advice, a pension card, unemployment insurance fund card; or
  - b) an affidavit declaring unemployment or income; and
  - c) the customer's latest municipal account in his or her possession; and
  - d) a certified copy of the customer's identity document; and
  - e) the names and identify numbers of all occupants over the age of 18 years who are resident at the property.
- (3) A customer applying for registration as an indigent customer shall be required to declare that all information provided in the application form and other documentation and information explained to the customer and that the customer indicated that the contents of the declaration were understood.

### **39. Approval of application**

- (1) The municipality may send representatives to premises of domestic customers applying for registration as indigent customers to investigate whether the information provided prior to approval of an application is correct. The provisions of section 61 apply to such an investigation.
- (2) The provisions of Part 5 of Chapter 2 shall mutatis mutandis apply in respect of a customer that 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.

### **40. Conditions**

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

### **41. Annual application**

- (1) An indigent customer must annually, before the end of the municipality's financial year re-apply for re-registration as an indigent customer for the forthcoming financial year, failing which the assistance will cease automatically.
- (2) An indigent customer shall have no expectation of being regarded as an indigent customer in any year that ensues or follows a 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 customer that feels aggrieved by a decision of the municipality in terms of sub-section (4).

#### **42. Subsidised services for indigent customers**

- (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 customers 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 42(2) must contain at least the following –
  - a) the level or quantity of municipal service that will be subsidised;
  - b) the level of subsidy;
  - c) the method of calculating the subsidy; and
  - 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).

#### **43. Existing arrears of indigent customers on approval of application**

- (1) Arrears accumulated in respect of the municipal accounts of customers prior to registration as indigent customers will be suspended for the period that a customer remains registered as an indigent customer, and interest shall not accumulate in respect of such arrears during such a suspension.
- (2) Arrears suspended in terms of sub-section 43(1) shall become due and shall be paid by the customer in monthly instalments to be determined by the municipality, on de-registration as an indigent customer in accordance with section 46 and interest will be payable in respect thereof.
- (3) Notwithstanding the provisions of sub-section 43(2) arrears suspended for a period of two (2) years or longer shall not be recovered from a customer on de-registration, subject to the provisions of sub-section 43(4).
- (4) Arrears not recovered due to the provisions of sub-section 43(2) shall remain a charge against the property of the indigent customer for a period of 5 (five) years after the customer was first registered as an indigent customer and shall become due and payable when the property is sold, irrespective of the fact that the customer is no longer registered as an indigent customer 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.

#### **44. Audits**

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

#### **45. De-registration**

- (1) Any customer who intentionally or negligently provides or has provided false information in the application form or any other documentation and information in connection with the application –
  - a) shall automatically, without notice, be de-registered as an indigent customer 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 actions the municipality may take against such a customer.
- (2) An indigent customer shall automatically be de-registered if an application in accordance with section 41 is not made or if such application is not approved.
- (3) An indigent customer may at any time request de-registration.
- (4) The provisions of Part 5 of Chapter 2 shall mutatis mutandis apply in respect of a customer feeling aggrieved by de-registration in terms of sub-section 45(3).

### **CHAPTER 4: EMERGENCY SITUATIONS**

#### **46. 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 contain 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 has been unsuccessful.
  - c) Details of the proposed measures to be 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) Public notice in terms of sub-section 46(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 sub-sections 46(1) and 46(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 customers
- (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 are endured by the customers affected by the declaration;
  - c) On expiry of the duration specified in terms of sub-section (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: UNAUTHORIZED SERVICES**

### **47. Unauthorized 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-laws by written notice order a person who is using unauthorized services to –
  - a) Apply for such services in terms of sections 1 and 2; and
  - 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.

### **48. 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

#### **49. 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.

#### **50. Illegal re-connection**

- (1) A customer whose access to municipal services have 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
- (3) shall be liable to pay for any services that he, she or it may have utilized or consumed in breach of these by-laws, notwithstanding any other actions that may be taken against such person.
- (4) The consumption will be estimated based on the average consumption of services to the specific area within which the unauthorized connection was made.

#### **51. 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**

#### **52. Offences**

- (1) Any person who –
  - a) Obstructs or hinders the municipality in the 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, 000.00 (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, 000.00 (four thousand Rand) for every day during the continuance of such offence.

## **CHAPTER 7: DOCUMENTATION**

### **53. 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.

### **54. 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 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 served on that person's agent or representative in the Republic in the manner provided in subsections (a) – (c); or
  - e) If that person's address and agent or representative 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 period shall be deemed to commence on the date of delivery or sending of such notice.

### **55. 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.

### **56. 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**

### **57. Provision of Information**

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

## **58. 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 property must allow an authorized 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 any 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.

## **59. Exemption**

- (1) The municipality may, in writing exempt an owner, customer, any other person or category of owners, customers, ratepayers, users of services from 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) the wastage or excessive consumption of municipal services;
  - b) the evasion or avoidance of water restrictions
  - c) significant negative effects on public health, safety or the environment
  - d) the non-payment for services
  - e) the Act, or any regulations made in terms thereof, is not complied with.
- (2) The municipality at any time after giving written notice of at least thirty days withdraw any exemption given in terms of sub-section (1).

## **60. Indemnification from liability**

- (1) Neither employees of the municipality nor any person, body or organisation 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.

#### **61. 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 the by-laws.
- (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 the by-laws may be obtained against payment of R100, 00 from the municipality.

#### **62. 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 on Credit Control and Debt Collection, 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 will prevail.

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

- (1) The provisions of any by-laws relating to credit and debt collection by the municipality are hereby repealed insofar as they relate to matter 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.

#### **64. Short Title and commencement**

- (1) These by-laws are called the Credit Control and debt Collection by-laws of the Capricorn 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 64(2) is issued, these By-laws are binding.