



MIDVAAL LOCAL MUNICIPALITY

REVENUE BY-LAWS, 2008

In terms of the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) and the provisions of section 75 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the Council of the Midvaal Local Municipality hereby enacts as follows:

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PART I: GENERAL

SECTION 1: OBJECTIVE OF BY-LAWS

- (a) These by-laws are formulated and gazetted to give proper effect to the local municipality's policies on:
- tariffs;
 - rates;
 - credit control and debt collection; and
 - indigency management.
- (b) These by-laws must be read in conjunction with the policies referred to, and within the applicable provisions of the following legislation:
- (i) Water Services Act No. 108 of 1997;
 - (ii) Local Government: Municipal Systems Act No. 32 of 2000;
 - (iii) Local Government: Municipal Finance Management Act No. 56 of 2003; and
 - (iv) Local Government: Municipal Property Rates Act No. 6 of 2004.
- (c) The relevant sections of the legislation referred to above are appended to:
- (i) Part 9 of the tariffs policy;
 - (ii) Part 7 of the rates policy; and
 - (iii) Part 24 of the credit control and debt collection policy.
- (d) Copies of these policies, with the relevant annexures setting out the legal requirements and legal framework within which the by-laws must operate, appear on the municipality's website (address provided) and are available free of charge on application to the Office of the Municipal Manager (address provided).

SECTION 2: DEFINITIONS

"Agent" in relation to the owner of a property, shall mean a person appointed by the owner of the property to receive rental or other payments in respect of the property on behalf of the owner, or to make payments in respect of the property on behalf of the owner.

"Agricultural purpose" in relation to the use of a property shall exclude the use of the property for the purpose of eco tourism or for trading or hunting of game.

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

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

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

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

“Councillor” shall mean a member of the council of the municipality.

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

“Financial year” shall mean the period starting from 1 July in any year and ending on 30 June on the following year.

“Integrated development plan” shall mean a plan formulated and approved as envisaged in Section 25 of the Municipal Systems Act 2000.

“Land reform beneficiary” in relation to a property, shall mean a person who acquired the property through the provision of Land and Assistance Act No. 126 of 1993 or the Restitution of Land Rights Act No. 22 of 1994, or who holds the property subject to the Communal Property Associations Act No. 29 of 1996, or who holds or acquires the property in terms of such other land tenure reform legislation as may be enacted.

“Local community” or “community”, in relation to the municipality, shall mean that body of persons comprising the residents of the municipality, the ratepayers of the municipality, any civic organisations and non-governmental, private sector or labour organisations or bodies involved in local affairs within the municipality, and visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality.

“Market value” in relation to a property shall mean the value of the property as determined in accordance with Section 46 of the Property Rates Act 2004.

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

“Municipality” or “municipal area” shall, where appropriate, mean the geographic area, determined in terms of the Local Government: Municipal Demarcation Act No. 27 of 1998 as the municipal area pertaining to the municipality.

“Municipal council” or “council” shall mean the municipal council as referred to in Section 157(1) of the Constitution.

“Municipal entity” shall mean (a) a company, co-operative, trust, fund or any other corporate entity established in terms of any applicable national or provincial legislation, and which operates under the ownership control of one or more municipalities; or (b) a service utility.

“Municipal manager” shall mean the person appointed in terms of Section 82 of the Municipal Structures Act, 1998.

“Multiple purposes” in relation to a property, shall mean the use of a property for more than one purpose.

“Municipal service” has the meaning assigned to it in terms of Section 1 of the Municipal Systems Act.

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

“Occupier” in relation to a property, shall mean a person in actual occupation of the property, whether or not that person has a right to occupy the property.

“Owner” (a) in relation to a property referred to in paragraph (a) of the definition of “property”, shall mean a person in whose name ownership of the property is registered; (b) in relation to a right referred to in paragraph (b) of the definition of “property”, shall mean a person in whose name the right is registered; (c) in relation to a land tenure right referred to in paragraph (c) of the definition of “property”, shall mean a person in whose name the right is registered or to whom it was granted in terms of legislation; and (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of “property”, shall mean the organ of state which owns or controls that public service infrastructure as envisaged in the definition of “publicly controlled”, provided that a person mentioned below may for the purposes of the Property Rates Act 2004 be regarded by the municipality as the owner of a property in the following cases:

- (i) a trustee, in the case of a property in a trust, but excluding state trust land;
- (ii) an executor or administrator, in the case of a property in a deceased estate;
- (iii) a trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- (iv) a judicial manager, in the case of a property in the estate of a person under judicial management;
- (v) a curator, in the case of a property in the estate of a person under curatorship;
- (vi) a person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of a property that is registered in the name of the municipality and is leased by it; and
- (viii) a buyer, in the case of a property sold by the municipality and of which possession was given to the buyer pending registration of ownership in the name of such buyer.

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

“Person” shall include an organ of state, and an “organ of state” shall mean an organ of state as defined in Section 239 of the Constitution.

“Property” shall mean (a) immovable property registered in the name of a person, including in the case of a sectional title scheme a sectional title unit registered in the name of a person; (b) a right registered against immovable property in the name of the person, but excluding a mortgage bond registered against the property; (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; and (d) public service infrastructure.

“Public service infrastructure” shall mean publicly controlled infrastructure of the following kinds:

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

“Publicly controlled” shall mean owned by or otherwise under the control of an organ of state, including a public entity listed in the Public Finance Management Act No. 1 of 1999, a municipality, or a municipal entity.

“Rate” shall mean a municipal rate on property as envisaged in Section 229(1)(a) of the Constitution.

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

“Ratepayer” shall mean a person who is liable to the municipality for the payment of (a) rates on property in the municipality; (b) any other tax, duty or levy imposed by the municipality; and/or (c) fees for services provided either by the municipality or in terms of a service delivery agreement.

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

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

“Sectional Titles Act” shall mean the Sectional Titles Act No. 95 of 1986, and “sectional title scheme” shall mean a scheme defined in Section 1 of that Act; and “sectional title unit” shall mean a unit as defined in Section 1 of that Act.

“Specified public benefit activity” shall mean an activity listed in item 1 (welfare and humanitarian), item 2 (healthcare) and item 4 (education and development) of Part 1 of the ninth schedule to the Income Tax Act No. 58 of 1962.

“State trust land” shall mean land owned by the state and held in trust for persons communally inhabiting the land in terms of a traditional system of land tenure; over which land tenure rights have been registered or granted; or which is earmarked for disposal in terms of the Restitution of Land Rights Act No. 22 of 1994.

PART II: TARIFFS

SECTION 3: OBJECTIVE

In setting its annual tariffs the council shall at all times take due cognisance of the tariffs applicable elsewhere in the economic region, and of the impact which its own tariffs may have on local economic development.

SECTION 4: GENERAL PRINCIPLES

(a) Service tariffs imposed by the local municipality shall be viewed as user charges and shall not be viewed as taxes, and therefore the ability of the relevant consumer or user of the services to which such tariffs relate, shall not be considered as a relevant criterion (except in the case of the indigency relief measures approved by the municipality from time to time).

(b) The municipality shall ensure that its tariffs are uniformly and fairly applied throughout the municipal region.

(c) Tariffs for the four major services rendered by the municipality, namely:

electricity
water
sewerage (waste water)
refuse removal (solids waste),

shall as far as possible recover the expenses associated with the rendering of each service concerned, and – where feasible – generate a modest surplus as determined in each annual budget. Such surplus shall be applied in relief of property rates or for the future capital expansion of the service concerned, or both.

(d) The tariff which a particular consumer or user pays shall therefore be directly related to the standard of service received and the quantity of the particular service used or consumed.

(e) The municipality shall develop, approve and at least annually review an indigency support programme for the municipal area. This programme shall set out clearly the municipality's cost recovery policy in respect of the tariffs which it levies on registered indigents, and the implications of such policy for the tariffs which it imposes on other users and consumers in the municipal region.

(f) In line with the principles embodied in the Constitution and in other legislation pertaining to local government, the municipality may differentiate between different categories of users and consumers in regard to the tariffs which it levies. Such differentiation shall, however, at all times be reasonable, and shall be fully disclosed in each annual budget.

(g) The municipality's tariff policy shall be transparent, and the extent to which there is cross-subsidisation between categories of consumers or users shall be evident to all consumers or users of the service in question.

- (h) The municipality further undertakes to ensure that its tariffs shall be easily explainable and understood by all consumers and users affected by the tariff policy concerned.
- (i) The municipality also undertakes to render its services cost effectively in order to ensure the best possible cost of service delivery.
- (j) In the case of directly measurable services, namely electricity and water, the consumption of such services shall be properly metered by the municipality, and meters shall be read, wherever circumstances reasonably permit, on a monthly basis. The charges levied on consumers shall be proportionate to the quantity of the service which they consume.
- (k) In addition, the municipality shall levy monthly availability charges for the services concerned, and these charges shall be fixed for each type of property as determined in accordance with its appropriate policies. Generally, consumers of water and electricity shall therefore pay two charges: one, relatively minor, which is unrelated to the volume of consumption and is levied because of the availability of the service concerned; and another directly related to the consumption of the service in question.
- (l) In considering the costing of its water, electricity and sewerage services, the municipality shall take due cognisance of the high capital cost of establishing and expanding such services, and of the resultant high fixed costs, as opposed to variable costs of operating these services.

In adopting what is fundamentally a two-part tariff structure, namely a fixed availability charge coupled with a charge based on consumption, the municipality believes that it is properly attending to the demands which both future expansion and variable demand cycles and other fluctuations will make on service delivery.

- (m) The municipality's tariffs for electricity services will be determined to ensure that those consumers who are mainly responsible for peak demand, and therefore for the incurring by the municipality of the associated demand charges from Eskom, will have to bear the costs associated with these charges. To this end the municipality shall therefore install demand meters to measure the maximum demand of such consumers during certain periods. Such consumers shall therefore pay the relevant demand charge as well as a service charge directly related to their actual consumption of electricity during the relevant metering period.

SECTION 5: CALCULATION OF TARIFFS FOR MAJOR SERVICES

In order to determine the tariffs which must be charged for the supply of the four major services, the municipality shall identify all the costs of operation of the undertakings concerned, including specifically the following:

- (a) Cost of bulk purchases in the case of water and electricity.
- (b) Distribution costs.

- (c) Distribution losses in the case of electricity and water.
- (d) Depreciation expenses.
- (e) Maintenance of infrastructure and other fixed assets.
- (f) Administration and service costs, including:
 - (i) service charges levied by other departments such as finance, human resources and legal services;
 - (ii) reasonable general overheads, such as the costs associated with the office of the municipal manager;
 - (iii) adequate contributions to the provisions for bad debts and obsolescence of stock;
 - (iv) all other ordinary operating expenses associated with the service concerned including, in the case of the electricity service, the cost of providing street lighting in the municipal area (note: the costs of the democratic process in the municipality – that is, all expenses associated with the political structures of the municipality – shall form part of the expenses to be financed from property rates and general revenues, and shall not be included in the costing of the major services of the municipality).
- (g) The intended surplus to be generated for the financial year, such surplus to be applied:
 - (i) as an appropriation to capital reserves; and/or
 - (ii) generally in relief of rates and general services.
- (h) The cost of approved indigency relief measures.

SECTION 6: STRUCTURE OF TARIFFS

- (a) The structure of Tariffs for the provision of water, electricity, refuse removal and sewerage services, as well as minor tariffs will be as determined from time to time, whether in the annual budget or otherwise as provided for in law.
- (b) The following charges and tariffs shall be considered as regulatory or punitive, and shall be determined as appropriate in each annual budget:
 - (i) fines for lost or overdue library books
 - (ii) advertising sign fees
 - (iii) pound fees
 - (iv) electricity, water: disconnection and reconnection fees
 - (v) penalty and other charges imposed in terms of the approved policy on credit control and debt collection
 - (vi) penalty charges for the submission of dishonoured, stale, post-dated or otherwise unacceptable cheques.
- (c) Market-related rentals shall be levied for the lease of municipal properties.
- (d) In the case of rentals for the use of municipal halls and premises, if the municipal manager is satisfied that the halls or premises are required for non-profit making

purposes and for the provision of a service to the community, the municipal manager may waive 50% of the applicable rental.

- (e) The municipal manager shall determine whether an indemnity or guarantee must in each instance be lodged for the rental of municipal halls, premises and sports fields, and in so determining shall be guided by the likelihood of the municipality's sustaining damages as a result of the use of the facilities concerned.

PART III: RATES

SECTION 7: OBJECTIVE

- (a) In developing and adopting this rates policy, the council has sought to give effect to the sentiments expressed in the preamble of the Property Rates Act, namely that:
 - (i) the Constitution enjoins local government to be developmental in nature, in addressing the service delivery priorities of our country and promoting the economic and financial viability of our municipalities;
 - (ii) there is a need to provide local government with access to a sufficient and buoyant source of revenue necessary to fulfill its developmental responsibilities;
 - (iii) revenues derived from property rates represent a critical source of income for municipalities to achieve their constitutional objectives, especially in areas neglected in the past because of racially discriminatory legislation and practices; and
 - (iv) it is essential that municipalities exercise their power to impose rates within a statutory framework which enhances certainty, uniformity and simplicity across the nation, and which takes account of historical imbalances and the burden of rates on the poor.
- (b) In applying its rates policy, the council shall adhere to all the requirements of the Property Rates Act 2004, including any regulations promulgated in terms of that Act.

SECTION 8: IMPOSITION OF RATES

- (a) The council shall as part of each annual operating budget component impose a rate in the rand on the market value of all rateable property as recorded in the municipality's valuation roll and supplementary valuation roll. Rateable property shall include any rights registered against such property, with the exception of a mortgage bond.
- (b) The council shall, in imposing the rate for each financial year, take proper cognisance of the aggregate burden of rates and service charges on representative property owners, in the various categories of property ownership, and of the extent to which this burden is or remains competitive with the comparable burden in other municipalities within the local economic region.

SECTION 9: REBATES ON RATES

- (a) In imposing the rate in the rand for each annual operating budget component, the council shall grant the rebates to the categories of properties and categories of owners in terms of the circumstances of a particular annual budget which the Council in its discretion deems appropriate.
- (b) In determining whether a property forms part of a particular category, the municipality shall have regard to the actual use to which the relevant property is put. In the case of vacant land not specifically included in any of the categories indicated below, the permitted use of the property shall determine into which category it falls.
- (c) Municipal properties shall include properties owned by municipal entities
- (d) Properties used for multiple purposes, as deemed relevant by the Council, shall be rated on the value assigned to each component, and shall receive the rebate applicable to such component. Where one component on average represents 90% or more of the property's actual use, such property shall be rated as though it were used for that use only.
- (e) The municipal manager shall ensure that the revenues forgone in respect of the foregoing rebates are appropriately disclosed in each annual operating budget component and in the annual financial statements and annual report, and that such rebates are also clearly indicated on the rates accounts submitted to each property owner.

SECTION 10: FREQUENCY OF PAYMENTS

Payments for rates shall be made monthly on or before the date specified in each monthly rate account.

SECTION 11: CORRECTION OF ERRORS AND OMISSIONS

- (a) Where the rates levied on a particular property have been incorrectly determined, whether because of an error or omission on the part of the municipality or false information provided by the property owner concerned or a contravention of the permitted use to which the property concerned may be put, the rates payable shall be appropriately adjusted for the period extending from the date on which the error or omission is detected back to the date on which rates were first levied in terms of the current valuation roll, but a period not longer than 12 months.
- (b) In addition, where the error occurred because of false information provided by the property owner or as a result of a contravention of the permitted use of the property concerned, interest on the unpaid portion of the adjusted rates payable shall be levied at the maximum rate permitted by prevailing legislation.

SECTION 12: FREQUENCY OF VALUATIONS

The municipality shall prepare a new valuation roll every 4 (four) years and supplementary valuation rolls every 6 (six) months.

PART IV: CREDIT CONTROL AND DEBT COLLECTION

SECTION 13: OBJECTIVE CONSTITUTIONAL OBLIGATIONS

The council of the municipality, in adopting this policy on credit control and debt collection, recognises its constitutional obligations to develop the local economy and to provide acceptable services to its residents. It simultaneously acknowledges that it cannot fulfill these constitutional obligations unless it exacts payment for the services which it provides and for the taxes which it legitimately levies – in full from those residents who can afford to pay, and in accordance with its indigency relief measures for those who have registered as indigents in terms of the council's approved indigency management policy.

SECTION 14: NOTICE OF DEFAULT AND INTENDED TERMINATION OR RESTRICTION OF SERVICES

Within 7 (seven) calendar days after each monthly due date for payment of municipal accounts for property rates and/or service charges, the municipal manager shall dispatch to every defaulting accountholder, that is, every accountholder who as at the date of the notice has not paid the monthly account in full or has not made an acceptable arrangement with the municipal manager for partial or late payment, a notice stating that unless full payment is received or an acceptable arrangement made with the municipal manager for partial or late payment, the municipal electricity or water supply or both such supplies to the property to which the account in arrears relates shall be terminated or restricted 14 (fourteen) calendar days after the date of the notice concerned.

SECTION 15: RECONNECTION OR REINSTATEMENT OF TERMINATED OR RESTRICTED SERVICES

- (a) Services to defaulting accountholders terminated or restricted in terms of Section 19 above shall be reconnected or reinstated by the municipal manager only when all the following conditions have been met:
- (i) the arrear account has been paid in full, including the interest raised on such account; or an acceptable arrangement has been made with the municipal manager for the payment of the arrear account, including the interest raised on such account;
 - (ii) the charge(s) for the notice sent in terms of Section 19 above and for the reconnection or reinstatement of the terminated or restricted service(s), as determined by the council from time to time, have been paid in full;
 - (iii) a service contract has been entered into with the municipality, as contemplated in Section 26 below; and
 - (iv) a cash deposit has been lodged with the municipal manager in compliance with Section 27, such deposit to be newly determined on the basis of currently prevailing consumption and usage of services in respect of the property concerned or, if insufficient data is available in regard to such consumption, of

the currently prevailing consumption and usage of services in respect of a comparable property.

- (b) In the case of consumers using prepaid meters, but who have fallen into arrears with the remainder of their obligations to the municipality, no prepaid purchases shall be accepted until the outstanding arrears have been settled or an acceptable arrangement made for the payment of the arrear account, as contemplated above: such arrangement may entail the limitation of the amount of prepaid services which may be purchased until the arrears or a stated percentage of the arrears has been settled.

SECTION 16: PERIODS FOR RECONNECTIONS OR REINSTATEMENTS

The municipal manager shall reconnect or reinstate terminated or restricted services within 3 (three) working days after the date on which the conditions set out in Section 20 above have been met, unless the municipal manager is unable to do so because of circumstances beyond the control of the municipality.

SECTION 17: ILLEGAL RECONNECTIONS

- (a) The municipal manager shall, as soon as it comes to the notice of the municipal manager that any terminated or restricted service has been irregularly reconnected or reinstated, report such action to the South African Police Service, disconnect or restrict such service(s), and not reconnect or reinstate such service(s) until the arrear account, including the interest raised on such account, the charges for the notice sent in terms of Section 19 above and the charges for both the original and subsequent reconnection or reinstatement of the service(s) and the revised deposit have been paid in full, together with such penalty as may be determined by the council from time to time.
- (b) In addition, all metered consumption since the date of the illegal reconnection, or the estimated consumption if a reliable meter reading is not possible, shall also be paid full before any reconnection or reinstatement is considered.

SECTION 18: RESTRICTION OF SERVICES

If the municipal manager is of the opinion that the termination of services, in the case of a particular property in respect of which the account is in arrear, is not in the best interests of the community – specifically because of the potential endangerment of the life of any person, whether resident in or outside the property concerned – the municipal manager may appropriately restrict rather than terminate the services in question.

SECTION 19: SERVICES NOT RECONNECTED OR REINSTATED AFTER FOUR WEEKS

- (a) If services have been terminated or restricted in the case of a property in respect of which the account is in arrear, and the accountholder has not paid such arrears, including the interest raised on such account, or made an acceptable arrangement with the municipal manager for the payment of the arrear account, including the interest raised on such account, within a period of 28 (twenty eight) calendar days after the date of termination or restriction of the service(s) concerned, the municipal manager shall forthwith hand such account over for collection and such further action as is deemed necessary to the municipality's attorneys or any debt collecting agency appointed by the council.
- (b) Such further action shall include if necessary the sale in execution of such property to recover arrear property rates and service charges (if the accountholder is also the owner of the property).
- (c) All legal expenses incurred by the municipality shall be for the account of the defaulting accountholder.

SECTION 20: ARRANGEMENTS FOR PAYMENT OF ARREAR ACCOUNTS

- (a) Allowing defaulting accountholders to make arrangements for the payment of arrear accounts shall be at the discretion of the municipal manager.
- (b) Each defaulting accountholder shall be allowed a maximum period of 3 (three) months within which to pay an arrear account, together with the interest raised on such account, and it shall be a condition for the conclusion of any arrangement that the accountholder is bound to pay every current municipal account in full and on time during the period over which such arrangement extends.
- (c) If an accountholder breaches any material term of an arrangement, the balance of the arrear account, together with the balance of interest raised on such account, shall immediately become due and payable to the municipality, and if the accountholder defaults on such payment, the municipal manager shall terminate or restrict services to the property in question and shall forthwith hand such account over for collection as envisaged in Section 24 above.
- (d) An accountholder who has breached an arrangement as set out above shall not be allowed to make any further arrangements for the payment of arrear accounts, but shall be proceeded against, after the dispatch of the initial notice of default as envisaged in Section 19 above and failure by the accountholder to pay the arrear account, together with interest raised on such arrears as required in terms of such notice, as though such accountholder had breached a material term of an arrangement.

SECTION 21: SERVICE CONTRACT

- (a) A service contract shall henceforth be entered into with the municipality for each property to which the municipality is expected to provide electricity and water services:
 - (i) electricity (Consumer)
 - (ii) water (Consumer)
 - (iii) refuse collection (Owner of property – levied with assessment rates)
 - (iv) sewerage. (Owner of property – levied with assessment rates)
- (b) Such contract shall set out the conditions on which services are provided and shall require the signatory to note the contents of the municipality's credit control and debt collection policy, a copy of which shall be provided to such signatory, as well as the provision of the Municipal Systems Act in regard to the municipality's right of access to property.
- (c) 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 that the signatory is the lawful occupant of the property shall be attached to the service contract.
- (d) Current consumers and users of the municipality's services who have not entered in a service contract as envisaged above, must do so within 2 (two) years from the date on which the by-laws to implement the present policy are published, and failure to do so shall be considered as a default equivalent to non-payment in terms of Section 19 above.

SECTION 22: PAYMENT OF DEPOSITS

Whenever a service contract is entered into in terms of Section 26 above, the signatory shall lodge a cash deposit with the municipality, such deposit to be determined as follows:

- (a) in the case of the signatory's being the registered owner or spouse of the registered owner of the property concerned, an amount equal to one quarter of the aggregate monetary value of the relevant service(s) provided to the property over the immediately preceding 12 (twelve) month period, or – where no such information is available – one quarter of the aggregate monetary value of the relevant service(s) provided to a comparable property over the immediately preceding 12 (twelve) month period;
- (b) in the case of the signatory's not being the registered owner or spouse of the registered owner of the property concerned, an amount equal to one third of the aggregate monetary value of the relevant service(s) as determined above.

SECTION 23: ALLOCATION OF PART-PAYMENTS AND APPROPRIATION OF DEPOSITS

- (a) If an accountholder pays only part of any municipal account due, the municipal manager or nominee shall allocate such payment in terms of his/her discretion as permitted in law.

- (b) The sequence of allocation decided in terms of (a) above shall be followed notwithstanding any instructions to the contrary given by the accountholder.
- (c) In the event of an accountholder's defaulting on the payment of an arrear account, as contemplated in Section 22, 24 and 25 above, the municipal manager shall forthwith appropriate as much of such deposit as is necessary to defray any costs incurred by the municipality and the arrear amount owing to the municipality in the same sequence that is applicable to the allocation of part payments, as contemplated above.

SECTION 24: QUERIES BY ACCOUNTHOLDERS

- (a) In the event of an accountholder in the view of the municipal manager reasonably querying any item or items on the monthly municipal account, no action shall be taken against the accountholder as contemplated in Section 19 above, provided
 - (i) the accountholder has paid by due date an amount equal to the monthly average monetary value of the three most recent unqueried accounts in respect of the service under query,
 - (ii) all unqueried balances on such account, and
 - (iii) such query is made in writing by the accountholder or is recorded in writing by the municipal manager on behalf of the accountholder on or before the due date for the payment of the relevant account.
- (b) Any query raised by an accountholder in the circumstances contemplated in Section 30 below shall not constitute a reasonable query for the purposes of the sub-section (a) above.

SECTION 25: INABILITY TO READ METERS

- (a) If the municipality is unable to read any meter on any property because the meter has been rendered inaccessible through any act or omission of the accountholder or owner of the property concerned, the municipal manager shall estimate the consumption of the service concerned by determining the monthly average of the metered consumption recorded on the three most recent accounts in respect of which meter readings were obtained, and thereafter bill the accountholder for the monetary value of such estimated consumption plus a provisional surcharge of 10% of such value for the first month in which the metered reading could not be obtained, escalating to 20% in the second month, 30% in the third month, and so on by 10 percentage points for each subsequent month, until the meter is again rendered accessible.
- (b) The accountholder shall be liable for the initial payment of such surcharge(s) as though the surcharge were part of the service charge concerned, but the municipal manager shall reverse such surcharge(s) against the first account for which a meter reading is again obtained.

SECTION 26: DISHONoured AND OTHER UNACCEPTABLE CHEQUES

If an accountholder tenders a cheque which is subsequently dishonoured by or is found to be unacceptable to the accountholder's or the municipality's bankers, the municipal manager shall – in addition to taking the steps contemplated in these by-laws against defaulting accountholders – charge such accountholder the penalty charge for unacceptable cheques, as determined by the council from time to time, and such charge shall rank equally with the costs and expenses incurred by the municipality for purposes of determining the sequence of allocations and appropriations contemplated in Section 28 above.

SECTION 27: INTEREST ON ARREARS AND OTHER PENALTY CHARGES

- (a) Interest shall be charged on all arrear accounts at the prevailing overdraft rate offered to the municipality by the municipality's bankers plus 2 (two) percentage points.
- (b) If the municipality uses more than one banking institution it shall for purposes of determining the interest on arrear accounts apply the overdraft rate offered by the institution with which its primary bank account is placed.
- (c) Interest shall be calculated on a daily basis. For purposes of determining arrear amounts, all amounts unpaid including interest previously raised and penalty charges, but excluding value added tax, shall be taken into account.
- (d) In considering each annual budget the council shall review the adequacy of its interest charges, and shall determine the following for the financial year concerned:
 - (i) charges for disconnection or restriction of services (Section 19)
 - (ii) charges for reconnection or reinstatement of services (Section 20)
 - (iii) charges for notices of default (Section 19)
 - (iv) penalty charges for illegal reconnections (Section 22)
 - (v) penalty charges for dishonoured and unacceptable cheques (Section 31).

SECTION 28: INDIGENCY MANAGEMENT

In regard to the payments expected from registered indigents, and the credit control and debt collection actions contemplated in respect of such residents, this part of the by-laws must be read in conjunction with the by-laws on indigency management.

SECTION 29: ARREARS WHICH HAVE ARISEN PRIOR TO THE ADOPTION OF THE PRESENT POLICY

- (a) The council shall separately consider arrears which arose prior to the adoption of the present by-laws, and shall advise accountholders of their respective obligations in regard to such arrears.
- (b) In determining such obligations, the council shall have regard to the quantum of such arrears, to the period over which the default occurred, and to whether the accountholder concerned has registered as an indigent in terms of the municipality's by-laws on indigency management.

- (c) The council shall further consider an incentive scheme to encourage accountholders to settle all or a stated percentage of these arrears.

PART V: INDIGENCY MANAGEMENT

SECTION 30: OBJECTIVE

Because of the level of unemployment and subsequent poverty in the municipal area, there are households which are unable to pay for normal municipal services. The municipality therefore adopts its indigency management policy and attendant by-laws to ensure that these households have access to at least basic municipal services, and is guided in the formulation of this policy and by-laws by the national government's policy in this regard.

SECTION 31: WHO QUALIFIES FOR INDIGENT SUPPORT

The criteria for qualification for indigent support and the process to be followed will be as determined by Council in terms of Council's Indigent Policy.

SECTION 32: NON-COMPLIANCE OF HOUSEHOLDS REGISTERED AS INDIGENT

- (a) When a property owner or accountholder who has registered as an indigent fails to comply with any arrangements or conditions which are in the view of the municipal manager materially relevant to the receipt of indigency relief, such person will forfeit his or her status as a registered indigent with immediate effect, and will thereafter be treated as an ordinary residential property owner or accountholder for the financial year concerned.
- (b) The onus is on each registered indigent to advise the municipal manager of such failure to comply.
- (c)
 - (i) if any household in receipt of indigency relief falls into arrears in respect of any amounts due by it to the municipality, the property owner or accountholder concerned must make immediate arrangements with the municipal manager to pay off these arrears owing within a reasonable time determined by the municipal manager in terms of the municipality's credit control and debt collection by-laws.
 - (ii) If these arrangements are not made, no subsidies will be paid or free services provided, and services may be terminated in terms of the municipality's credit control and debt collection by-laws.
- (d) The relief to indigents may be withdrawn at the discretion of the municipal manager if:
 - (i) a registered indigent who qualifies for such relief fails to keep to the terms of the policy agreement; or
 - (ii) any tampering with the installations of the municipality is detected.

- (e)
 - (i) If a registered indigent is found to have provided fraudulent information to the municipality in regard to any material condition for registration as an indigent, such person shall immediately be removed from the register of indigents, and shall be liable to repay to the municipality with immediate effect all indigency relief received from the date of such fraudulent registration.
 - (ii) Moreover, such person may not again be considered for indigency relief for a period extending for 5 (five) years beyond the financial year in which the misdemeanour is detected.
- (f) Indigency relief will not apply in respect of property owners owning more than one property, whether in or outside the municipal area.