

GOVAN MBEKI LOCAL MUNICIPALITY
CREDIT CONTROL AND DEBT COLLECTION BY-LAW

PREAMBLE

WHEREAS the Council has adopted a credit control and debt collection policy;

AND whereas the Council is required to adopt by-laws to give effect to that policy, its implementation and enforcement;

NOW therefore the Council adopted the following credit control and debt collection by-law:

TABLE OF CONTENTS

CHAPTER 1: DEFINITIONS AND MISCELLANEOUS PROVISIONS

1. Definitions
2. Signing of notices and documents
3. Authentication of documents
4. Full and final settlement of debt
5. Interest charges
6. *Prima facie* evidence

CHAPTER 2: DIFFERENTIATION

7. Power to differentiate
8. Conditions for differentiation

CHAPTER 3: POWER OF MUNICIPALITY TO RECOVER COSTS

9. Dishonoured payments
10. Cost of collection and service fees
11. Cost incurred in reminding debtors of overdue debts
12. Disconnection and reconnection fees
13. Consolidated accounts

CHAPTER 4: CONSUMER AGREEMENTS AND GENERAL TERMS AND CONDITIONS FOR THE PROVISION OF MUNICIPAL SERVICES

14. Provision of services to new customers
15. Provision of services to defaulters
16. General terms and conditions for the provision of services
17. New applications and deposits by existing customers
18. Notice of intention to terminate consumer agreement
19. Failure to comply with a request to enter into a consumer agreement or to make or supplement a deposit

CHAPTER 5: DEPOSITS AND GUARANTEES

20. Deposits
21. Guarantees

CHAPTER 6: FEES PAYABLE

22. Tariffs

CHAPTER 7: ACCOUNTS AND BILLING

23. Rendering of accounts
24. Payment of accounts
25. Arrangements to postpone the due date
26. Arrangements to pay overdue amounts in instalments

CHAPTER 8: COLLECTION OF OVERDUE AMOUNTS

27. Power to restrict or terminate supply of services
28. Municipality's right of access to premises

CHAPTER 9: SUPPORT OF THE POOR

29. Indigent consumers

CHAPTER 10: REPORTING

30. Contents of report

CHAPTER 11: PROPERTY RATES

31. Property rates payable by owners
32. Payment of rates on property in sectional title schemes
33. Method and time of payment of property rates
34. Rates accounts to be rendered
35. Recovery of overdue rates from tenants and occupiers
36. Recovery of rates from agents
37. Liability of company directors for payment of property rates
38. Disposal of municipality's property and payment of property rates
39. Property rates payable on municipal property

CHAPTER 12: GENERAL LEGAL PROVISIONS

40. Reporting of defaulters
41. Repeal of by-laws
42. Offences
43. Conflicting laws
44. Coming into operation
45. Short title

CHAPTER 1 DEFINITIONS AND MISCELLANEOUS PROVISIONS

Definitions

1. In this bylaw, any word or expression to which a meaning has been assigned in the Act shall bear the same meaning and unless the context indicates otherwise –

“**account**” means a statement issued by the municipality or a service provider on behalf of the municipality indicating a sum of money owed to municipality;

“**Act**” means the Local Government: Municipal Systems Act 2000 (Act No. 32 of 2000);

“authorised officer” means any person to whom a power or duty has been assigned or delegated in terms of this bylaws or any other applicable law;

“billing” means the process of preparing and issuing accounts;

“chief financial officer” means the person designated in terms of section 80(2)(a) of the MFMA as chief financial officer and includes any person acting in her or his stead;

“Council” means the municipal council of Govan Mbeki Local Municipality;

“credit control and debt collection” includes the functions relating to the assessment of the credit risk posed by a current or prospective customer, the determination of deposits to be paid by a current and prospective customer and the collection of any monies due and payable to the municipality;

“customer” means the occupier of any property to which the municipality has agreed to supply or is actually supplying services, or if there is no occupier, the owner of the property, and includes a rate-payer;

“customer care” means focusing on customers’ needs in a responsible and pro-active way to encourage payment of monies owed to the municipality and to create a positive and reciprocal relationship between persons liable for the payment of services and the municipality, and when applicable, a service provider, thereby limiting the need for enforcement of debt collection procedures, as far as practicably possible;

“debtor” means any person, including the State, who is indebted to the municipality;

“defaulter” means a person owing the municipality an overdue amount;

“due date” in relation to an account means the date stipulated on that account for its payment;

“employee” means a person in the employ of the municipality;

“equipment” includes a building, structure, pipe, pump, wire, cable, meter, machine and any fitting;

“guarantee” means an unconditional undertaking by a financial institution guaranteeing a specified maximum amount to be paid if the principal debtor fails to pay;

“habitual defaulter” means a debtor who fails on more than one occasion during any six month period to pay an amount owing to the municipality on or before the due date;

“interest” means an amount calculated on an overdue amount;

“MFMA” means the Local Government: Municipal Finance Management Act 2003 (Act No 56 of 2003);

“Municipal Manager” means the person appointed by the Council as the Municipal Manager and includes any person acting in her or his stead;

“**occupier**” means any person who occupies any property or part thereof, without regard to the title under which she or he so occupies the property concerned;

“**overdue**” in respect of an amount, means an amount that remains unpaid after the due date;

“**owner**” means—

- (a) the person in whom the legal title to the property is vested;
- (b) in a case where the person in whom the legal title is vested is insolvent or deceased or is under any form of legal disability whatsoever, the person in whom the administration of and control of such property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in any case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of such property or any improvements thereon;
- (d) in the case of a property for which a lease of 30 years or more has been entered into, the lessee thereof;
- (e) in relation to—
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act 1986 (Act No 95 of 1986), and without restriction, the developer or the body corporate in respect of the common property; or
 - (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed, including the lawfully appointed representative of such person;
- (f) any legal person including but not limited to:
 - (i) a company registered in terms of the Companies Act, 1973 (Act No 61 of 1973), trust *inter vivos*, trust *mortis causa*, a closed corporation registered in terms of the Close Corporations Act, 1984 (Act No 69 of 1984), an organisation registered in terms of the Non-profit Organisations Act 1997 (Act No 71 of 1998) and a voluntary association with a constitution;
 - (ii) an organ of state;
 - (iii) any council or board established in terms of any legislation applicable in the Republic of South Africa;
 - (iv) any Embassy or other property owned by the government of a foreign country;
- (g) owned by the municipality and which has been disposed of, but which has not been transferred to the person to whom it has been disposed of, from the date of the disposition concerned, such person; and

- (h) owned by or under the control or management of the municipality while held under a lease or any express or tacit extension thereof or under any other contract or under a servitude or right analogous thereto, the person so holding the immovable property;

“**property**” includes any piece of land, the external surface boundaries of which are delineated on—

- (a) a general plan or diagram registered in terms of the Land Survey Act 1997 (Act No 8 of 1997) or in terms of the Deeds Registries Act, 1937 (Act No 47 of 1937); or
- (b) a sectional plan registered in terms of the Sectional Titles Act 1986 (Act No 95 of 1986), which is situated within the Municipality;

“**Property Rates Act**” means the Local Government: Municipal Property Rates Act 2004 (Act No 6 of 2004); and

“**State**” means an organ of state as defined in section 239 of the Constitution of the Republic of South Africa 1996.

Signing of notices and documents

- 2. A notice or document issued by the municipality in terms of this by-law and signed by an authorised official shall -
 - (a) be deemed to be duly issued; and
 - (b) on its mere production be accepted by a court as evidence of that fact.

Authentication of documents

- 3(1) Every order, notice or other document requiring authentication by the municipality shall be deemed to be sufficiently authenticated if it is signed by an authorised officer.
- (2) Delivery of a copy of such document shall be deemed to be delivery of the original.

Full and final settlement of a debt

- 4(1) The chief financial officer may appropriate any monies received in respect of an account as she or he deems fit.
- (2) Where the amount due and payable to the Municipality indicated on an account has not been paid in full, any lesser amount tendered to and accepted by an employee shall not be deemed to be in full and final settlement of such an account notwithstanding the fact that such lesser payment was tendered and/or accepted in full and final settlement unless the chief financial officer has consented in writing before such lesser amount was tendered that it may be accepted as full and final settlement for the amount owing.

Interest charges

- 5(1) The chief financial officer shall charge and recover interest on overdue amounts.

- (2) Interest shall be charged at a rate determined by council from time to time.

Prima facie evidence

6. In legal proceedings instituted by or against the municipality, a certificate reflecting the amount due and payable to the municipality, signed by an authorised officer shall upon mere production thereof be accepted by any court of law as *prima facie* evidence of the indebtedness to that amount.

**CHAPTER 2
DIFFERENTIATION**

Power to differentiate

7. The municipality's credit control and debt collection policy may differentiate between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other relevant matters.

Conditions for differentiation

8. Any differentiation intended in section 7 shall -
- (a) be upon such conditions as the Council may determine; and
 - (b) not amount to unfair discrimination.

**CHAPTER 3
POWER OF MUNICIPALITY TO RECOVER COSTS**

Dishonoured payments

- 9(1) Where any payment made to the municipality by negotiable instrument is later dishonoured by a bank, the chief financial officer shall reverse the payment in the debtor system and levy and recover all related costs against the account of the debtor.
- (2) Following successive dishonoured payments by a debtor, the chief financial officer may -
- (a) refuse to accept the relevant instrument in payment or partial payment of a debt owing by that debtor; and
 - (b) require the debtor concerned to make future payments to the Municipality in another manner as may be prescribed by the chief financial officer.

Cost of collection and service fees

10. A debtor shall be liable for all costs of legal process, including attorney and client costs, collection commission, interest, penalties, service discontinuation, restriction and

reconnection costs and costs associated with customer care or credit control, wherever applicable.

Cost incurred in reminding debtors of overdue debts

11. A charge determined by the Council shall be levied against an account in respect of any action taken in demanding payment from a debtor or reminding a debtor, whether by means of telephone, fax, e-mail, letter, SMS or otherwise, that her or his payments are overdue.

Disconnection and reconnection fees

- 12(1) Where any service appears on the list for disconnection or restriction as a result of the debtor concerned not complying with this bylaw, the chief financial officer shall levy and recover the disconnection or restriction fee as determined by the Council, irrespective of whether the service has been disconnected, restricted or terminated.
- (2) Where any service appears on the reconnection list to be reconnected, after the debtor concerned has paid the full overdue amount or made satisfactory arrangements for the payment thereof, or has applied for a new service, the chief financial officer shall levy and recover the reconnection fee, as determined by the Council.

Consolidated accounts

13. The chief financial officer may consolidate any separate accounts of the same debtor in respect of the same property in terms of section 102(1) of the Act.

CHAPTER 4 CONSUMER AGREEMENTS AND GENERAL TERMS AND CONDITIONS FOR THE PROVISION OF MUNICIPAL SERVICES

Provision of services to new customers

- 14(1) No services shall be supplied to a new applicant unless and until –
 - (a) application for such services has been made on the form prescribed by the municipality;
 - (b) a consumer agreement has been entered into between the applicant and the municipality; and
 - (c) the required deposit has been paid.
- (2) A copy of the application form, consumer agreement and general terms and conditions for the provision of municipal services, an extract of the credit control and debt collection policy and this by-law must –
 - (a) be available on the municipality's website; and

- (b) be given to every customer on request at such fee as may be prescribed by the Council.
- (3) An applicant shall authorise the municipality to make such enquiries with regard to her or his creditworthiness as may be reasonable. Should the chief financial officer, after having enquired into the applicant's creditworthiness be of the opinion that the applicant poses an unacceptable credit risk she or he may require the applicant to apply for the installation of prepaid meters in respect of metered services at the address where the services are required. If the applicant who poses an unacceptable credit risk is not the owner of the property concerned, the applicant shall furnish the chief financial officer with the owner's written consent that any credit metering equipment on the premises be replaced with prepaid meters.

Provision of services to defaulters

15. No services shall be rendered to a debtor who is in default at another address unless and until she or he has -
- (a) settled such debt in full; or
 - (b) made satisfactory arrangements for the payment of any overdue amounts.

General terms and conditions for the provision of services

- 16(1) The general terms and conditions set out in the following documentation shall apply to the provision of services to customers:
- (a) the credit control and debt collection policy;
 - (b) the consumer agreement;
 - (c) the application form for the rendering of services by the municipality; and
 - (d) this by-law.

New applications and deposits by existing customers

17. The chief financial officer may at any time require an existing customer to -
- (a) enter into a new consumer agreement; and
 - (b) deposit monies as contemplated in section 20(1) or to supplement a deposit in terms of section 20(4); or
 - (c) submit a guarantee in lieu of such deposit.

Notice of intention to terminate consumer agreement

18. The municipality and customer must give written notice the one to the other of the intention to terminate a consumer agreement.

Failure to comply with a request to enter into a consumer agreement or to make or supplement a deposit

19. If a prospective or existing customer refuses or fails to comply with a request to enter into a consumer agreement or to make a deposit or to supply a guarantee or to supplement a deposit –
- (a) any service supplied to such customer may be terminated until the required agreement has been entered into or deposit paid in full or supplemented or guarantee furnished; and
 - (b) the customer shall be liable for the debt arising from services already used prior to the date of entering into the consumer agreement, payment or supplementation of the deposit or furnishing of the guarantee, cost incurred and any other further cost resulting from the collection of recovering such debt.

**CHAPTER 5
DEPOSITS AND GUARANTEES**

Deposits

- 20(1) A deposit is payable when –
- (a) a new customer applies for services to be provided to her or him; or
 - (b) an existing customer moves to a new supply address; and
 - (c) water and/or electricity consumed at the property concerned is measured by credit meter and the applicant does not choose to have these replaced with prepaid meters
- (2) A registered indigent person and the State shall not be required to pay a deposit, provided that –
- (a) a deposit paid by a person who is subsequently registered as indigent shall not be refunded for that reason; and
 - (b) an indigent person who is deregistered as such shall pay the required deposit within 30 days after having been notified in writing that her or his registration as an indigent person has been cancelled.
- (3) The amount of a consumer deposit shall be equivalent to an amount equal to two months consumption of services at the property where the services are required, or an amount determined by council from time to time, Whichever is the greater, provided that –
- (a) a non-citizen who does not own the property in respect of which the application for services is made, shall be required to pay a deposit equal to three months consumption of services; and

- (b) if enquiries regarding the creditworthiness of an applicant for services reveal that the applicant may pose an unacceptable credit risk, the Chief Financial Officer may require that the amount of the deposit shall be equal to three months consumption of services.
- (4) The chief financial officer shall as often as is necessary but at least once during a financial year -
 - (a) review existing deposits held by the municipality; and
 - (b) notify debtors whose deposits are materially lower than the amount contemplated in subsection (3) to supplement the difference.
- (5) A debt arising from subsection (4) shall be due and payable on the date stipulated in the notification.
- (6) The deposit paid by a debtor shall be refunded upon closing of the account when all outstanding monies due to the municipality have been paid in full. Any balance of a deposit a refund of which has not been claimed within one year after the closing of the account to which that deposit relates shall be forfeited to the municipality, provided that such forfeited sum shall be paid to the person who paid the deposit if she or he satisfies the chief financial officer as to her or his identity or another person who has satisfied the chief financial officer that she or he is entitled to have the payment made to her or him.
- (7) No interest shall be paid in respect of a consumer deposit held by the Municipality

Guarantees

- 21. The chief financial officer may authorise a debtor who conducts a business, industrial or commercial undertaking to furnish a guarantee in lieu of a deposit if the amount of the deposit payable as determined in section 20(3) in respect of the premises where such business, factory or commercial is conducted exceeds an amount determined by her or him.

CHAPTER 6 FEES PAYAYBLE

Tariffs

- 22. Tariffs are determined by the Council in terms of section 75A of the Act and any other legislation empowering the Council to determine rates, taxes, charges, tariffs or levies as set out in the municipality's tariff and rates policies and bylaws.

CHAPTER 7 ACCOUNTS AND BILLING

Rendering of accounts

- 23(1) Accounts shall be prepared and rendered in meter reading cycles and delivered to all customers, except registered indigent households, or when a service is rendered, as the case may be.
- (2) The first account after a consumer agreement was concluded shall be rendered after the first meter reading cycle following the date of signing the agreement.

Payment of accounts

- 24(1) The debt payable, shall be paid not later than the close of business on the due date, failing which interest, legal and collection costs shall be levied on any overdue amount.
- (2) Payment, excluding payments made at the municipality's offices, such as bank deposits and electronic transfers directly deposited into the municipality's bank account, shall be deemed to have been received before close of business on the due date if the transaction is reflected on the municipality's bank statement on the due date.
- (3) Payments received by agents appointed to receive payments on behalf of the municipality shall be deemed to have been received before close of business on the last date of payment if such transactions are received by the municipality from the relevant agent before 12:00 on the first working day following the due date.
- (4) The fact that an account does not reach a debtor shall not exempt her or him from making a payment on or before the due date.
- (5) If the correctness of an account is queried, the debtor must pay the minimum fee, average consumption and property rates over the last three months until the dispute has been examined and settled.
- (6) If an account is not settled on the due date, the provisions of section 27 shall apply.
- (7) The tariff determined by the Council are due and payable by the debtor to whom a service is provided or, should she or he default on payment, by the owner of the property at which such services are provided.
- (8) Where property, or a portion thereof which is occupied separately, is separately serviced, the minimum fees as determined by the Council shall be payable by the occupier or, should she or he default on payment, by the owner in respect of such property or portion thereof that is occupied separately.

Arrangements to postpone the due date

- 25(1) A debtor may apply for a postponement of the due date. The chief financial officer may postpone the due date on application by a debtor if that debtor's account has been timely paid during the preceding six months. No postponement may be granted if –

- (a) the consumer agreement between the Municipality and the debtor has been concluded within three months prior to the application having been received;
 - (b) during the six months immediately preceding the application for postponement –
 - (i) the debtor has defaulted on the payment of her or his account; or
 - (ii) the debtor has offered payment by means of negotiable instrument that has been dishonoured by the bank on which it was drawn; or
 - (iii) a debit order held by the municipality was returned unpaid;
 - (c) the debtor is registered as indigent;
 - (d) the debtor has failed at any time to comply with an agreement between her or him and the municipality regarding the payment to the municipality of any overdue amounts; or
 - (e) another application for postponement of the due date by the same consumer has been granted during the past six months immediately preceding the application.
- (2) Debtors shall be notified of any overdue amounts prior to the commencement of the debt collection process.
- (3) The owner of any property may, if she or he is not the occupier thereof, request the municipality in writing to supply to her or him a duplicate of every account rendered in respect of a property she or he owns which is occupied by another person. The municipality shall provide a copy of every consumer account on receipt of the applicable fee to the owner of the property who has applied in writing to receive such copy.

Arrangements to pay overdue amounts in instalments

- 26(1) The chief financial officer may enter into a written agreement with a debtor to pay any overdue amounts under the following conditions:
- (a) the overdue amount, legal and collection costs and any interest shall be paid in regular and consecutive monthly instalments on or before the due date; and
 - (b) the debtor must maintain regular and full payment of her or his current account.
- (2) If a debtor fails or neglects to fulfil an agreement in terms of sub-section (1) -
- (a) the full outstanding balance, interest there-on and legal and collection cost shall be payable immediately; and
 - (b) chief financial officer shall take such steps which may be necessary to collect the outstanding balance, interest, legal and collection costs.

CHAPTER 8 COLLECTION OF OVERDUE AMOUNTS

Power to restrict or terminate supply of services

- 27(1) An authorised officer may, on request on the chief financial officer, restrict, disconnect or terminate the supply of water and electricity or water or electricity or discontinue any other service to any property whenever a debtor –
- (a) fails to –
 - (i) settle her or his account on or before the due date;
 - (ii) make acceptable arrangements for the repayment in instalments of overdue amounts;
 - (iii) apply for postponement of the due date;
 - (iv) make any payment in terms of an agreement with the municipality relating to the payment of overdue amounts; or
 - (v) comply with the conditions of the provision of services, as imposed by the Municipality;
 - (b) obstructs the effective supply of electricity, water or any other municipal service to another customer or allows such supply to be obstructed;
 - (c) supplies a municipal service to a party who is not entitled thereto;
 - (d) causes a situation, which in the opinion of an authorised officer, is dangerous or constitutes a contravention of any relevant legislation;
 - (e) in any way bridges the supply of previously disconnected services or allows such supply to be bridged;
 - (f) is placed under provisional sequestration, liquidation or judicial management, or has been declared insolvent in terms of the Insolvency Act 1936 (Act No 24 of 1936); or
 - (g) is subject to an administration order granted in terms of section 74 of the Magistrates Court Act 1944 (Act No 32 of 1944).
- (2) In addition to restricting, discontinuing, disconnecting or terminating any municipal service supplied to a debtor the chief financial officer may further institute the following mechanisms with the intention of proceeding against defaulters until any overdue amount is collected –
- (a) barring of prepayment services;
 - (b) allocating a portion of any payment for prepayment services to overdue amounts;
 - (c) insisting on pre-paid supply meters being installed at the cost of the debtor;

- (d) emolument attachment orders on defaulters' salaries;
 - (e) withholding of rates clearance certificates under certain conditions;
 - (f) litigation, including the attachment and sale of goods or immovable property;
 - (g) withholding payments of grants-in-aid;
 - (h) withholding payment of contracts;
 - (i) deducting the full amount owing in respect of services provided by the municipality to an employee, from the monthly salary of that employee;
 - (j) any other method authorised by the Council from time to time,
- (3) An authorised officer may reconnect or restore full levels of supply of any of the restricted or discontinued services on the instruction of the chief financial officer after the full overdue amount, including interest, legal, connection, disconnection and reconnection cost, if any, have been paid in full or satisfactory arrangements for its payment have been made.
- (4) The right of the municipality and the authority of an authorised officer to restrict, terminate or discontinue –
- (a) the supply of water to any premises or customer is subject to the provisions of section 4 of the Water Services Act 1997 (Act No 108 of 1997), this by-law and the consumer agreement entered into between the customer and the municipality;
 - (b) the provision of electricity to any consumer or property is subject to the provisions of section 22(5) of the Electricity Regulation Act 2006 (Act No 4 of 2006), this by-law and the consumer agreement entered into between the customer and the municipality.
- (5) The right of the municipality to restrict, disconnect or terminate any services due to non-payment for any other service or assessment rates shall be valid in respect of any service rendered by the municipality, and shall also prevail notwithstanding the fact that payment has purportedly been made in respect of any specific service, notwithstanding the fact that the person who entered into the consumer agreement with the municipality and the owner are different entities or persons, as the case may be.

Municipality's right of access to premises

28. The municipality may exercise its right of access to premises in terms of section 101 of the Act through its authorised officers after the written authority has been presented to the occupier of such premises.

CHAPTER 9 SUPPORT OF THE POOR

Indigent customers

- 29(1) The head of any household which qualifies for support in terms of the municipality's indigent support policy may in writing apply to be registered as indigent by completing, signing and submitting the prescribed application form. A completed application form shall, together with such further documents as may be required be handed in at any office of the municipality.
- (2) The conditions for participation in the indigent support scheme, as determined by Council from time to time, shall be attached to the application form issued to a person who wishes to register as indigent.
- (3) An authorised officer shall counter-sign the application and attest that the consequences of the declaration made by the applicant were properly explained to her or him and that she or he indicated that -
- (a) the contents of the declaration was understood; and
 - (b) if the statement were found to be untrue, she or he would automatically be disqualified from receiving any subsidy and would also be liable for the immediate repayment of any subsidy received and may have criminal proceedings instituted against her or him.
- (4) The chief financial officer shall -
- (a) institute all reasonable measures, including such measures as the Council may prescribe, to ensure that the information disclosed in an application for participation in the municipality's indigent support scheme are true and correct; and
 - (b) ensure that regular random on site audits are conducted to verify that households that participate in the municipality's indigent support scheme qualify for participation.

CHAPTER 10 REPORTING

Contents of report

- 30(1) The chief financial officer shall, within 10 working days after the end of each month, submit a written report to the Municipal Manager in suitable format regarding debt collection. This report shall contain particulars on –
- (a) revenue raised per source during the past month;
 - (b) revenue collected per source during the year to date;
 - (c) an explanation of any material variances between –
 - (i) the amounts raised and the amounts actually collected; and

- (ii) the amounts raised and the project revenue to be raised in terms of the approved cash flow projection;
 - (d) any remedial or corrective steps taken or to be taken to ensure that projected revenue remain within the municipality's approved budget;
 - (e) a projection of the municipality's revenue and expenditure for the rest of the financial year, and any revisions from initial projections;
 - (f) growth in, or reduction of, arrears debt;
 - (g) the number of consumer accounts not paid by the due date;
 - (h) the number of consumers notified of the fact that their consumer accounts were in arrears;
 - (i) the number of premises to which services have been discontinued or restricted;
 - (j) the number of accounts in respect of which the purchasing of electricity coupons have been stopped;
 - (k) the number of premises to which services were previously discontinued or restricted or in respect of which the purchasing of electricity coupons have previously been stopped that has not been reconnected or reinstated; and
 - (l) the number of consumers who has made arrangements for the payment of arrears amounts owing to the municipality.
- (2) The amounts reflected in the statement must in each case be compared with the corresponding amounts budgeted for in the municipality's approved budget.
 - (3) The Municipal Manager shall as often as necessary submit a report to the Speaker regarding the level of payment of service charges and rates owing by councillors in terms of item 12A of Schedule 1 to the Act.
 - (4) Whenever, in the opinion of the chief financial officer, a material under collection of revenue is likely during a current financial year, she or he shall forthwith, in writing, report the matter to the Municipal Manager. A report in terms of this subsection shall state the steps to be taken to prevent or rectify any impending shortfalls.
 - (5) The Municipal Manager shall submit any report in terms of this section, together with her or his comment and recommendations, to the Executive Mayor.
 - (6) The Executive Mayor shall, at intervals of three months, report to the Council in terms of section 99(c) of the Act.

CHAPTER 11 PROPERTY RATES

Property rates payable by owners

- 31(1) The property rate levied by the municipality on a property shall be paid by the owner of the property.
- (2) Joint owners of a property are, subject to subsection (3), jointly and severally liable for the amount due for rates on that property.
- (3) A chief financial officer shall, in respect of agricultural property that is owned by more than one owner in undivided shares where the holding of such undivided shares was allowed before the commencement of the Subdivision of Agricultural Land Act 1970 (Act No 70 of 1970), consider whether in the particular circumstances it would be more appropriate for the municipality to-
- (a) hold any one of the joint owners in terms of subsection (2) liable for all rates levied in respect of the agricultural property concerned; or
 - (b) hold any joint owner only liable for that portion of the rates levied on the property that represents that joint owner's undivided share in the agricultural property.

Payment of rates on property in sectional title schemes

- 32(1) The property rate levied by the municipality on a sectional title unit is payable by the owner of the unit.
- (2) The municipality shall not recover the rate on a sectional title unit, or any part of such rate, from the body corporate controlling a sectional title scheme, except when the body corporate is the owner of any specific sectional title unit.
- (3) A body corporate controlling a sectional title scheme may not apportion and collect rates from the owners of the sectional title units in the scheme.

Method and time of payment of property rates

- 33(1) The municipality may recover a rate-
- (a) on a monthly basis or less often; or
 - (b) annually, as may be agreed to with the owner of the property.
- (2) If a rate is payable -
- (a) in a single amount annually it must be paid on or before a date determined by the municipality; and
 - (b) in instalments it must be paid on or before a date in each period determined by the municipality.

Rates accounts to be rendered

- 34(1) The municipality shall furnish each person liable for the payment of property rates with a written account specifying-

- (a) the amount due for rates payable;
 - (b) the date on or before which the amount is payable;
 - (c) how the amount was calculated;
 - (d) the market value of the property;
 - (e) if the property is subject to any compulsory phasing-in discount in terms of section 21 of the Property Rates Act, the amount of the discount; and
 - (f) if the property is subject to any additional rate in terms of section 22 of the Property Rates Act, the amount due for additional rates.
- (2) A person is liable for payment of a rate whether or not that person has received a written account in terms of subsection (1). If a person has not received a written account, that person must make the necessary inquiries from the municipality.
- (3) The furnishing of accounts for rates in terms of this section is subject to section 102 of the Act read with section 13 of this bylaw.

Recovery of overdue rates from tenants and occupiers

- 35(1) If an amount due for rates levied in respect of a property is unpaid after the date determined in terms of section 33(2), the chief financial officer may, after written notice has been served on the tenant or occupier recover the amount in whole or in part from a tenant or occupier of the property, despite any contractual obligation to the contrary on the tenant or occupier.
- (2) The amount that may be recovered in terms of sub-section (1) is limited to the amount of the rent or other money due and payable, but not yet paid, by the tenant or occupier to the owner of the property.
- (3) The tenant or occupier must set off any amount the municipality recovers from her or him in terms of sub-section (1) against any money she or he owes to the owner.
- (4) The tenant or occupier of a property must, on request by the chief financial officer, furnish the municipality with a written statement specifying all payments she or he must make to the owner of the property for rent or other money payable in respect of the property during a period determined by the chief financial officer.

Recovery of rates from agents

- 36(1) The chief financial officer may in her or his sole discretion and after she or he has served written notice on the agent, despite the Estate Agents Affairs Act 1976 (Act No 112 of 1976), recover the amount due for rates on a property in whole or in part from the agent of the owner.

- (2) The amount that may be recovered in terms of subsection (1) is limited to the amount of any rent or other money received by the agent on behalf of the owner, less any commission due to the agent.
- (3) The agent must, on request by the chief financial officer, furnish the municipality with a written statement specifying all payments for rent on the property and any other money received by the agent on behalf of the owner during a period determined by the chief financial officer.

Liability of company directors for payment of property rates

37. Where a legal person other than a natural person is responsible for the payment of any overdue property rates to the municipality, the liability for the payment of such amounts shall be extended to the directors, trustees or members of the body corporate jointly and/or severally, as the case may be.

Disposal of municipality's property and payment of property rates

- 38(1) The purchaser of Municipal property is *pro rata* liable for the payment of property rates on the property as from the date of the signing of the purchase agreement.
- (2) In the event that the Municipality repossesses the property, any amount in respect of property rates overdue on the date of repossession shall be recovered from the purchaser.

Property rates payable on municipal property

- 39(1) The lessee of municipal property is responsible for payment of any property rates payable on the property for the duration of the lease, as if the lessee were the owner of such property.
- (2) The chief financial officer may include the property rates in respect of municipal property in the rent payable by the lessee, instead of billing it separately.

CHAPTER 12 GENERAL LEGAL PROVISIONS

Reporting of defaulters

40. The chief financial officer may in her or his discretion report any debtors who owe the municipality overdue amounts to credit bureaux. The information included in such a report shall be the available personal information of the debtor, or in the event of a legal person, the available statutory details, including information pertaining to the responsible officer of such legal person.

Repeal of by-laws

41. The provisions of any by-law of the municipality relating to the control of credit and debt collection are hereby repealed insofar as they deal with matters that are regulated in this by-law and those provisions are in conflict with any provision contained in this by-law.

Offences

42(1) Any person who—

- (a) fails to give access to any property required by an authorised officer in terms of this by-law;
- (b) obstructs or hinders an authorised officer in exercising her or his powers, performing her or his functions or discharging her or his duties under this by-law;
- (c) without the permission of an authorised officer uses or interferes with municipal equipment or wastes any services supplied;
- (d) tampers with or breaks any seal on a meter or on any equipment of the municipality or in any way causes a meter not to properly register the services used or allows such tampering, breakage or action that causes a meter not to register properly;
- (e) fails or refuses to give an authorised officer such information as may reasonably be required for any lawful this by-law or gives such an officer false or misleading information, knowing it to be false or misleading;
- (f) contravenes or fails to comply with a provision of this by-law;
- (g) fails to comply with the terms of a notice served upon her or him in terms of this by-law;

shall be guilty of an offence and liable upon conviction for community service for a period not exceeding six months or a fine not exceeding R 20 000 or a combination of such community services and fine.

- (2) Any person convicted for contravening subsection (1)(d), shall be charged for usage of the service concerned, estimated by the chief financial officer based on the estimated average usage of such service, as well as for the cost of the repair or replacement of the service.

Conflicting laws

43(1) When interpreting a provision of this by-law, any reasonable interpretation which is consistent with the purposes of the Act on customer care, credit control and debt collection shall be preferred over any alternative interpretation that is inconsistent with the purposes of the Act.

- (2) If there is any conflict between the provisions of this by-law and any other by-law of the municipality, these by-laws shall prevail.

Coming into operation

44. This by-law shall come into effect on the date of promulgation thereof.

Short title

45. These by-laws shall be called the Credit Control and Debt Collection By-laws, 2010.