

MASILONYANA LOCAL MUNICIPALITY

BY-LAW NO 2 of 2007

CUSTOMER CARE, CREDIT CONTROL AND DEBT COLLECTION BY-LAWS

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The Municipality of Masilonyana hereby publishes the Customer Care, Credit Control and Debt Collection By-Laws set out in the Schedule attached hereto. These By-Laws have been adopted by the Municipal Council on 31 May 2007 and are promulgated by the municipality in terms of [section 156\(2\)](#) of the Constitution of the Republic of South Africa, 1996 and in accordance with [section 13\(a\)](#) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

SCHEDULE

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1. Definitions

For the purpose of this by-law any word or expressions to which a meaning has been assigned in the Act shall bear the same meaning in these by-laws and unless the context indicates otherwise -

“**Act**” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as amended from time to time;

“**apparatus**” includes a building, structure, pipe, pump, wire, cable, meter, machine or any fitting;

“**billing**” means proper formal notification on an account to persons liable for payments of amounts levied for assessment rates and other taxes by the municipality and the charges of the fees for municipal services and indicating the net accumulated balance of the account;

“**municipality**” the municipal council of the municipality of Masilonyana;

“credit control and debt collection” means the functions relating to the collection of all money that is due and payable to the municipality;

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

“customer management” means focusing on the client’s needs in a responsive and pro-active way to encourage payment and to create a positive and reciprocal relationship between persons liable for these payments and the municipality, and when applicable, a service provider, thereby limiting the need for enforcement;

“defaulter” means a person owing the municipality money in respect of taxes and/or municipal service charges not paid on the due date for payment;

“engineer” means a person in charge of the civil or electrical departments of the municipality;

“interest” constitutes a levy equal in legal priority to service levies equivalent to the prime banking rate applicable from time to time;

“municipal account” shall include levies or charges in respect of the following services and taxes:

- (a) electricity consumption,
- (b) water consumption,
- (c) refuse removal,
- (d) sewerage services,
- (e) rates and taxes,
- (f) interest, and
- (g) miscellaneous and sundry charges.

“municipal manager” means the person appointed by the Municipal Council as the Municipal Manager of the municipality in terms of [section 82](#) of the Local Government Structures Act, 1998 (Act 117 of 1998) and includes any person:

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated a power, function or duty in respect of such delegated power, function or duty;

“municipal services” those services, rates and taxes reflected on the municipal account for which payment is required to the municipality.

“chief financial officer” means a person appointed by the Council to manage the Council’s financial administration and includes the authorized delegate of the Chief Financial Officer;

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

“owner” means -

- (a) the person in whom the legal title to the premises is vested;
- (b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises 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 premises or a building thereon;
- (d) in the case of premises 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 95 of 1986), and without restricting the above 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 and includes the lawfully appointed agent of such a person;
- (f) any legal person including but not limited to:
 - (i) a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), Trust *inter vivos*, Trust *mortis causa*, a Closed Corporation registered in terms of the Closed Corporations Act, 1984 (Act 69 of 1984), a Voluntary Association.
 - (ii) any Department of State.
 - (iii) any Council or Board established in terms of any legislation applicable to the Republic of South Africa.
 - (iv) any Embassy or other foreign entity.

“policy document” means the approved customer care, credit control and debt collection policy of the Municipal Council as approved on, and as amended from time to time;

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

- (a) a general plan or diagram registered in terms of the Land Survey Act, 9 of 1927) or in terms of the Deeds Registry Act, 47 of 1937; or
- (b) a sectional plan registered in terms of the Sectional Titles Act, 95 of 1986, which is situated within the area of jurisdiction of the Council;

2. Purpose of by-law

The purpose of this by-law is to give effect to the policy document and to ensure that the municipality’s customer care, credit control and debt collection actions are managed and

controlled in ways which take into account amongst other factors that -

- (a) customer care and management, and credit control and debt collection, are interrelated issues with debt collection as part of customer management;
- (b) the administrative integrity of the municipality requires that policy and execution are legally separate and must be implemented separately;
- (c) the communication of policies, the rights and responsibilities of role-players and systems of appeal, must be understandable, effective and regular;
- (d) there must be a legal relationship between the municipality and its customers and customer's debt must arise out of a legal framework and must be legally collectable;
- (e) municipal accounts should be accurate, timeously served and understandable;
- (f) the customer is entitled to an efficient, effective and reasonable access to pay points, and to a variety of reliable payment methods;
- (g) the customer is entitled to an efficient and reasonable response to appeals, and to suffer no disadvantage during the process of a reasonable appeal;
- (h) poor and indigent households are to be identified and supported, with appropriate policies and practices;
- (i) enforcement of payment by the municipality will be prompt, consistent, effective and humane;
- (j) fraud and criminality by customers will lead to loss of rights and penalties being imposed; incentives and disincentives can be used in collection procedures;
- (l) the collection process must be cost effective;
- (m) collection best practices will be pursued;
- (n) targets for performance in both customer service and debt collection will be set and strived for;
- (o) results will be regularly and efficiently reported to council and committees of council;
- (p) the municipality may not allow any of its elected Councillors to be in arrears with payment in respect of more than three months' services rendered by Council;

3. Communication and community participation

- (1) The political structures and the administration of the municipality shall encourage the involvement of local communities and local community organisations in:
 - (a) the matters of the municipality regarding customer care, credit control and debt collection; and
 - (b) the compiling of the annual budget as contemplated in the Act
- (2)
 - (a) A Civil Society Forum shall be established as an advisory committee contemplated

in [section 17](#)(4) of the Act, consisting of persons who are not councillors to advise the council on any customer care, credit control and debt collection matters.

(b) The municipality shall provide the secretariat for the Civil Society Forum.

(c) No remuneration is payable to members of the Civil Society Forum.

4. General provisions

(1) Signing of notices and documents

A notice or document issued by the municipality in terms of this by-law 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 of that fact.

(2) Authentication and service of documents

(a) Every order, notice or other document requiring authentication by the municipality shall be sufficiently authenticated, if signed by the municipal manager or the head of the relevant department that issued the notice or document, or by a duly authorised officer of the municipality; such authority being conferred by resolution of the council or by a by-law.

(b) Service of a copy of a document shall be deemed to be delivery of the original.

(c) Service of a notice or other document in terms of the by-laws, shall be done in terms of [sections 115](#)(1) and (2) of the Act.

(3) Partial payment and full and final settlement of an account

(a) The chief financial officer, in terms of [section 102](#) of the Act, may credit any payment received from a person in respect of any municipal services, as the chief financial officer deems fit, against any account of that person;

(b) Where the amount due and payable to the municipality has not been paid in full, any lesser amount tendered to and accepted by any municipal employee, except the chief financial officer or his or her fully authorised delegate, shall not be deemed to be in full and final settlement of such an amount.

(c) The provisions in section 3.3(a) above shall prevail notwithstanding the fact that such lesser payment was tendered and/or accepted in full settlement.

(d) The chief financial officer or his or her delegate shall consent to the acceptance of such a lesser amount in writing.

(4) Interest charges

The chief financial officer shall charge and recover interest in respect of any arrears due and payable to the municipality at a rate fixed from time to time by the council. The council or a duly authorised committee of council may consider an application for the waiver of payment of interest.

(5) *Prima facie* evidence

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 the chief financial officer, municipal staff member authorised thereto by the chief financial officer, shall upon mere production thereof be accepted by any court of law as prima facie evidence of the indebtedness.

5. Power of municipality to recover fees and costs

(1) Dishonoured payments

Where any payment made to the municipality by negotiable instrument is later dishonoured a bank or financial institution, the chief financial officer may levy costs and administration fees against the account of the defaulting debtor at the rate determined by council from time to time.

(2) Legal Fees

All legal costs, including attorney and own client costs incurred by the municipality in the recovery of amounts in arrears shall be levied by the chief financial officer against the arrears account of the debtor.

(3) Surcharge for cost to remind debtors of arrears

A surcharge may be levied against the account of a debtor at a rate determined by council from time to time in respect of any action taken in demanding payment from the debtor or reminding the debtor, by means of telephone, fax, e-mail, letter or otherwise, that payments are in arrears.

(4) Limitation and disconnection fees

Where any service appears on the cut-off list because of it having to be limited or disconnected by the municipality as a result of non-compliance with these by-laws by the person liable for the payments, the chief financial officer shall levy and recover the standard limitation and disconnection fee as determined by the council from time to time.

(5) Debt Collection and Credit Control Measures

(a) The municipal manager and the chief financial officer may, in respect of accounts of the municipality, take any of the steps contemplated in [section 102\(1\)](#) of the Act within the framework of the council's customer care, debt collection and credit control policy and more specifically the steps described under "Disconnection Procedures" of the policy document.

(b) For purposes of subsection 5.(5)(a) the municipal manager shall not distinguish between any categories of consumer except that the account of an indigent consumer shall be handled in terms of the Indigent Policy for so long as the household continues to qualify for such status.

(6) Metering

(a) The municipality will endeavour, within practical and financial limits, to provide adequate meters to every paying consumer for all measurable services not making use of pre-payment.

(b) All meters will be read on a monthly basis, if at all possible.

- (c) Customers are entitled to request verification of meter readings and accuracy within reason, but may be held liable for the cost of testing the accuracy of meters.
 - (d) The municipality shall conduct an audit reading at least annually.
 - (e) Customers are to be informed of any meter replacements.
 - (f) Voluntary readings by customers are permitted, but final readings and audit readings are the responsibility of the municipality.
 - (g) Where any seal or meter, or any equipment used by the municipality for service rendering has been tampered with, or broken, or for any reason a meter is caused not to properly register the service used, the chief financial officer shall charge the customer residing on the premises for usage of the service in question based on the estimated average use of such service and based on the use during the corresponding period the previous year.
- (7) Pre-paid electricity supply
- (a) If electricity is bought on a prepaid basis, a portion or percentage of the amount tendered for the buying of pre-paid electricity supply can be used to offset and recover any outstanding amount in respect of services metered by conventional meters (electricity- or water). The larger the amount of the outstanding debt, the larger portion of the amount tendered for pre-paid electricity could be utilised to recover the outstanding debt.
 - (b) If pre-paid electricity is paid by cheque which is thereupon returned by the bank, the electricity supply may immediately be cut off and a reconnection fee shall be payable.
 - (c) If any moneys for municipal services are outstanding and due, the prepaid electricity supply of the debtor may be blocked off and the indebted account of the debtor can be credited with available funds.
- (8) Accounts and billing
- (a) The municipality will, as far as possible, provide an understandable and accurate account for municipal services, which account will consolidate all municipal service costs in respect of that premises.
 - (b) Accounts will be produced in accordance with the meter reading cycle and due dates are similarly linked.
 - (c) Accounts will be rendered monthly in cycles of approximately 30 days.
 - (d) As the municipality does not control delivery of accounts, it is the customer's responsibility to ensure timely payment in the event of an account not received.
 - (e) Settlement or due date is 15 days from the date of statement.
- (9) Payment facilities and methods, stop orders and debit orders
- (a) The municipality shall operate and maintain suitable banking and cash pay-point facilities. The municipality shall regularly consider the costs and benefits of such facilities; which facilities should be accessible to all users of municipal services.

- (b) The municipality will offer a range of payment options to customers, which will *inter alia*, include cash payments and can also include cheques, credit cards, electronic payments, debit and stop orders.
- (c) The chief financial officer may, at his discretion allocate a payment between service debts in respect of a debtor who has an overdue debt. The debtor may not specify that the payment be for a specific portion of the account.
- (d) A municipality may, with the consent of a customer, approach an employer to secure a debit- or stop order arrangement as contemplated in [section 103](#) of the Act.

(10) Enquiries, appeals and service complaints

- (a) If a customer is of the opinion that his or her municipal account is inaccurate, he or she may lodge an appeal in writing with the chief financial officer for recalculation of this account at the payment of a fee determined by the council.
- (b) In the interim, while the correctness of the municipal account is being investigated, the debtor must pay the average of the last three months account where the history of the account is available. Where no such history is available, the debtor is to pay an estimate provided by the chief financial officer before payment due date, until the matter is resolved.
- (c) Failure to make such interim payment or payments entitles the Municipality to disconnect or restrict the services to the premises.
- (d) The chief financial officer must investigate the complaint and inform the debtor within one month of the outcome of the investigation.
- (e) If the investigation confirms that the municipal account complained about was incorrect, the fee payable in terms of subsection 5.10.1 shall be credited to the account of the customer.

(11) Incentives for prompt payment

- (a) The municipal council will, to encourage prompt payment and to reward good payers, regularly assess special incentives for prompt payment. Should such special incentives prove to be financially sustainable and of mutual benefit to the municipality and its customers, the municipality will extend such incentives.
- (b) Such special incentive schemes, if introduced, will be reflected in the annual budget as additional expenditure and must annually be reviewed together with the budget proposals.

6. SERVICE AGREEMENT AND GENERAL TERMS AND CONDITIONS FOR THE SUPPLY OF MUNICIPAL SERVICES

- (1) No services shall be supplied to new applicants, unless and until application has been made and a service agreement, in the prescribed form in the format, or as close as possible to the format as decided by council from time to time, has been entered into between the client and the municipality and a deposit paid in cash or with a bank-guaranteed cheque as security equal to an amount determined by council from time to time, has been paid in full.

- (2) No supply of services to defaulters shall be rendered unless and until application has been made and a service agreement, in the prescribed form in the format or as close as possible to the format, as decided by council from time to time, has been entered into and a deposit as security equal to an amount and in the form of either cash or a bank guaranteed cheque as determined by Council from time to time, has been paid in full.
- (3) The general terms and conditions of supply of municipal services set out in council's policy document, shall apply to the provision of municipal services to customers. A copy of the policy document shall be made available to each new applicant for municipal services.
- (4) The parties must give written notice to each other of the intention to terminate the service agreement.
- (5) Existing municipal customers may be required by the municipal manager to enter into new service agreements with the municipality and to deposit moneys as contemplated in subsection (1).
- (6) If a municipal customer of services fails or refuses to comply with a request to enter into a services agreement, or to make a deposit as contemplated in subsections (2) or (5), the supply of any municipal service may be terminated or limited to such customer until the agreement has been entered into and the deposit paid in full.
- (7) The service agreement signed by the customer and the municipality must include a clause in which the occupier of the premises give an authorised representative of the municipality access in terms of [section 101](#) of the Act at all reasonable hours to the premises in order to read, inspect, install or repair any meter or service connection for reticulation, or to disconnect, stop or restrict, or reconnect, the provision of any service. The customer will accept the cost of relocating a meter if satisfactory access to the meter is not possible.
- (8) The customer will acknowledge, in the customer agreement that the use of an agent by the customer in the transmission of payments to the municipality is at the risk of the customer including the transfer time of the payment
- (9) The service agreement shall contain a clause which provides that the chief financial officer may provide Credit Bureaus with the information relating to outstanding debtors as contemplated in [section 7](#) (3) of these By-laws.

7. Collection of arrears

- (1) Customer care, Credit Control and Debt Collection Policy

Council has adopted a written policy on customer care, credit control and debt collection, which provides for the following matters set out in [section 97](#) of the Act:

- (a) Credit control procedures and mechanisms;
- (b) Debt collection procedures and mechanisms;
- (c) Provision for indigent debtors that is consistent with its rates and tariff policy and any national policy on indigents;
- (d) Realistic targets consistent with:-

- (i) generally recognised accounting practices and collection ratios; and
 - (ii) the estimates of income set in the budget less an acceptable provision for working capital reserves
 - (e) Interest on arrears;
 - (f) Extensions of time for payment of account;
 - (g) termination of services or the restriction of the provision of services when payments are in arrears;
 - (h) differentiation between categories of persons, clients, debtors and owners as the council may determine from time to time; and
 - (i) any other matters that may be prescribed by regulation in terms of [section 104](#) of the Act.
- (2) Power to restrict or disconnect supply of services
- (a) The municipal engineer may, on request by the municipal manager or the chief financial officer, limit, restrict or disconnect the supply of water and electricity in terms of the municipality's disconnection procedures, or discontinue or restrict any other municipal service to any premises whenever a user of any service:
 - (i) fails to make full payment on the due date or fails to make acceptable arrangements for the repayment of any amount for services, rates or taxes;
 - (ii) fails to comply with a condition of supply imposed by the municipality;
 - (iii) obstructs the efficient supply of electricity, water, gas or any other municipal services to another customer;
 - (iv) supplies such municipal service to a customer who is not entitled thereto or permits such service to continue;
 - (v) causes a situation, which in the opinion of the municipal engineer is dangerous, or a contravention of any relevant legislation;
 - (vi) in any way bridges, connects or reconnects the supply of previously disconnected services or uses without authority or commits theft in respect of municipal services;
 - (vii) is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act no 24 of 1936;
 - (viii) is subject to an administration order granted in terms of [section 74](#) of the Magistrates Court Act, 1944 (Act 32 of 1944) in respect of such user.
 - (b) On the written authority of the chief financial officer the municipal engineer or any duly appointed agent of the municipality shall reconnect or restore full levels of supply of any of the restricted or discontinued services only after the full amount outstanding, including the costs of such disconnection and reconnection, if any,

have been paid in full or any other arrangements have been made in line with the municipality's policy for the full payment thereof.

- (c) The right of the municipal engineer or any duly appointed agent of the municipality to restrict water supply to any premises or customer shall be subject to the provisions of [section 4](#) of the Water Services Act, 1997 (Act 108 of 1997).
- (d) The right of the municipality to restrict, disconnect or terminate any service due to non-payment for any other service or assessment rates shall be in respect of any service rendered by the municipality, and shall prevail notwithstanding the fact that payment has purportedly been made in respect of any specific service and shall prevail notwithstanding the fact that the person who entered into the agreement for supply of services with the municipality and the owner are different entities or persons, as the case may be.

(3) Municipality's right of access to premises

The municipality and an authorised service provider may exercise its right of access to premises in terms of [section 101](#) of the Act and the clause in the service agreement contemplated in [section 6\(7\)](#) of these by-laws, through the municipal manager, any head of department or any authorized member of staff or any duly appointed agent or service provider.

(4) Arrangements to pay outstanding and due amounts in consecutive instalments

- (a) The chief financial officer may enter into a written agreement with a debtor to repay any outstanding and due amounts to the municipality under the following conditions:
 - (i) the outstanding balance, costs and any interest thereon shall be paid in regular and consecutive monthly instalments;
 - (ii) the written agreement has to be approved and signed on behalf of the municipality by a duly authorised official.
- (b) Should any dispute arise as to the amount owing by an owner in respect of municipal services the owner shall notwithstanding such dispute proceed to make regular minimum payments based on the calculation of the average municipal account for the corresponding period during the previous year, prior to the arising of the dispute and taking into account interest and surcharges as well as the annual amendments of tariffs by the municipality.

(5) Reconnection of services

The Chief financial officer may authorise the reconnection of services or reinstatement of service delivery only after satisfactory payment or a satisfactory arrangement for payment of outstanding debt has been made according to the municipality's Customer care, Debt Collection and Credit Control Policy.

8. Indigent support and grants-in-aid

- (1) Indigent debtors who are legally occupying premises and legally using municipal services and who qualify for indigent support in terms of the municipality's Policy on Indigent Support, shall apply to the municipality in writing by completing, signing and submitting the form "*Application for Household Indigence Subsidy*",

- (2) The “*Conditions of Indigent Household Subsidy*” as determined by council from time to time shall be attached to or on the back of the Application for Household Indigence Subsidy, and shall apply to all successful applicants for household indigence subsidy.
- (3) A municipal staff member shall counter-sign the Application and attest that the consequences of the declaration made by the applicant were explained to him/her and he/she indicated that-

the contents of the declaration was understood;

and if the application is approved, the providing of subsidies will commence with the next cycle for the processing of municipal accounts;

 - (c) that if the statement is found to be untrue, he/she would automatically be disqualified from receiving any subsidy. He/she will be liable for the immediate repayment of any subsidy received and may have criminal proceedings instituted against him/her as the municipal manager may deem fit.
- (4) The chief financial officer shall ensure that regular and random local on-site audits are carried out by municipal officials or any other duly appointed agent to verify the information supplied by applicants on application forms. The verification of information supplied shall be done by municipal officials or any other duly appointed agent visiting the properties occupied by households receiving indigent support and by gathering the relevant information and completing the form “*Verification of Information Supplied*”.
- (5) Any applicant for a grant-in-aid from the municipality, shall obtain from the chief financial officer a certified letter reflecting the status of the applicant’s municipal debt, if any, and that the awarding of grants-in-aid will be subject to giving priority to payment of such debt or an arrangement to pay any arrear municipal account

9. Assessment rates

- (1) Amount due for assessment rates
 - (a) All assessment rates due by property owners are payable by a fixed date as determined by the municipality.
 - (b) Joint owners of property shall be jointly and severally liable for payment of assessment rates.
 - (c) Assessment rates may be levied as an annual single amount, or in equal monthly instalments.
 - (d) Payment of assessment rates may not be deferred beyond the fixed date by reason of an objection to the valuation roll.
- (2) Claim on rental for assessment rates in arrears

The municipal manager or his/her authorized representative may apply to court for the attachment of any rent, due in respect of rateable property, to recover in part or in full any amount outstanding in respect of assessment rates for a period longer than three months after the fixed date.
- (3) Liability of company directors, trustees or members of the body corporate for assessment

rates

Where a company, trust, close corporation or a body corporate in terms of the Sectional Titles Act, 1986 is responsible for the payment of any arrears amount to the municipality, the liability of such entity shall be extended to the directors, trustees or members thereof jointly and severally, as the case may be.

(4) Disposal of municipality's property and payment of assessment rates

- (a) The purchaser of municipal property is liable, on a pro-rata basis, for the payment of assessment rates on the property as from the date of registration in the name of the purchaser in respect of the financial year in which the purchaser becomes the new owner.
- (b) In the event that the municipality repossesses the property that was sold, any outstanding and due amount in respect of assessment rates shall be recovered from the purchaser.

(5) Assessment rates payable on municipal property

- (a) The lessee of municipal property is responsible for payment of any general assessment rates payable on the property for the duration of the lease, as if the lessee is the owner of such property.
- (b) The chief financial officer may elect to include the assessment rates in respect of municipal property in the rent payable by the lessee, instead of billing it separately as in the case of owners of properties.

(6) Rates and rebates

Properties used exclusively for residential purposes, qualify for a rebated rate determined annually by the municipality.

10. Relaxation, waiver, differentiation and arrangement for settlement

- (1) The municipality may differentiate between different categories of ratepayers, users of services, customers, debtors, taxes, services, service standards and other matters.
- (2) The municipality may, in a specific instance and for a particular owner or customer, relax or waive in writing the requirements of a provision of these by-laws.
- (3) Any such differentiation or relaxation shall be upon such conditions as it may deem fit to impose, if the Council is of the opinion that the application or operation of that provision in that instance would be unreasonable.
- (4)
 - (a) If a domestic household customer is financially able to pay but refuses or neglects to pay the municipal account and is willing to:
 - (i) sign an acknowledgement of debt;
 - (ii) sign a Consent to Judgment;
 - (iii) provide a garnishee order/emolument order/stop order (if the debtor is in employment);

- (iv) acknowledge that interest will be charged at the prescribed rate;
 - (v) pay the current portion of the account in cash; and
 - (vi) sign an acknowledgement that, if the arrangements being negotiated are later defaulted on, that no further arrangements will be possible and that disconnection of water and electricity will immediately follow as well as legal proceedings; the municipality may enter into an agreement which provides for an extended term of payment for such customer.
- (b) All non-residential customers must pay their accounts in full on due date and exception can only be considered on a case-by-case basis, after application from the individual customer. All such applications for arrangements of deferred payments from non-residential customers have to be considered by the Executive Committee of Council.

11. Reporting of defaulters

The municipal manager may in his/her discretion report any debtors who owe money to the municipality, to bodies such as credit bureau's that collate and retain such information. The information that would be included in such a report shall be the available personal information of the defaulter, or in the event of a legal person, the available statutory details, including information pertaining to the responsible officers of such legal person.

12. Ombudsperson

- (1) The council may, if so provided in the budget, appoint an Ombudsperson.
- (2) Such Ombudsperson shall work under the direct control of the municipal manager.
- (3) The Ombudsperson's duties will be:
 - (a) to attend to complaints routed to his or her office by councillors, and
 - (b) to access information regarding these complaints to ensure redress or resolution thereof, and
 - (c) to suggest commendations on improvements of municipal structures or systems to Council as and when the Ombudsperson believes such changes to be necessary.

13. Business who tender to the municipality

- (1) When the municipality invites tenders for the provision of services or the delivery of goods, any potential contractors who submit tenders will be subject to a condition that consideration and evaluation of such tenders will necessitate that the tenderer obtains from the chief financial officer, a tax clearance certificate stating that all relevant municipal accounts owing by the tenderer or its directors, owners or partners have been paid, or that suitable arrangements (which include the right to set off in the event of non-compliance) have been made for payment of any arrears.
- (2) A municipal account, for the purposes of this situation, means any municipal service charge, tax or other fees, fines and penalties, due in terms of a contract or approved tariff or rate, which is outstanding after the due date normally appearing on the consolidated account or overdue in terms of the contract or any other due date that has passed.

- (3) All request for tenders must contain a condition allowing the chief financial officer to deduct moneys owing to the municipality from contract payments in terms of a reasonable arrangement with the debtor.

14. Reports by implementing authority to supervisory authority and to council

- (1) The municipal manager or a service provider acting as implementing authority, must at such intervals as provided for in the policy document, report to the executive committee as supervisory authority as contemplated in [section 100](#)(c) of the Act.
- (2) The executive committee must at such intervals as provided for in the policy document report to a meeting of the council as contemplated in [section 99](#)(c) of the Act.

15. Offences

- (1) Any person who -
 - (a) fails to give access to premises required by an officer or duly appointed agent in terms of these by-laws;
 - (b) obstructs or hinders an officer or duly appointed agent in the exercising of the powers or performance of functions or duties under these by-laws;
 - (c) tampers or interferes with municipal equipment or without authority uses municipal services;
 - (d) fails or refuses to give an officer or duly appointed agent such information as may reasonably be required for the purpose of exercising the powers or functions under these by-laws or gives such an officer or agent false or misleading information, knowing it to be false or misleading;
 - (e) contravenes or fails to comply with a provision of these by-laws;
 - (f) 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 period not exceeding six months or community service or a fine not exceeding R20 000-00, or a combination of the aforementioned.

16. Confliction of laws

- (1) When interpreting a provision of these by-laws, any reasonable interpretation which is consistent with the purpose of the Local Government: Municipal Systems Act, 2000, as set out in [Chapter 9](#), on Credit Control and Debt Collection and the purpose of this by-law as stated in [section 2](#), must be preferred over any alternative interpretation which is inconsistent with that purpose.
- (2) If there is any conflict between this by-law and any other by-laws of the Council, this by-law will prevail.

17. Availability of policy and by-law

- (1) A copy of the policy document and of this by-law shall be included by the municipality

in the municipal code as required in terms of section 15 of the Act in respect of by-laws.

- (2) The municipality or its authorised agents or service providers shall take reasonable steps to inform customers of the contents of the policy document and of these by-laws.
- (3) A copy of the policy document and of this by-law shall be available for inspection at the municipal offices or at the offices of its authorised agent service provider at all reasonable times.
- (4) A copy of the policy document and of this by-law shall be given to each councillor after being elected as councillor.
- (5) A copy of the policy document and of this by-law may be obtained against payment of an amount as determined by the municipal council from the municipality or its authorised agent or service provider.

18. Repeal and short title

- (1) The provisions of any by-laws relating to the control of credit or debt collection by the municipality are hereby repealed insofar as they relate to matters provided for in this by-law.
- (2) This by-law is called the Customer Care, Credit Control and Debt Collection By-law, 2007 and shall come into operation after the publication thereof in the *government gazette*.