

KWA SANI LOCAL MUNICIPALITY

The Council of Kwa Sani Local Municipality has in terms of Section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with Sections 11 and 98 of the Local Government : Municipal Systems Act, 2000, (Act No. 32 of 2000), made the following by-laws:

CREDIT MANAGEMENT BY-LAWS

1. DEFINITIONS

(1) Unless the context otherwise indicates -

"bank guarantee" means an unconditional undertaking by a financial institution whereby it guarantees a specified maximum amount to be paid if the principal debtor ("the customer") fails to pay;

"calculated amounts" means the amounts calculated by the Chief Financial Officer to be due to the Council by a consumer in respect of the supply of the applicable municipal services for any period during which the exact quantity of the supply cannot be determined accurately for any reason, and shall be based on the average consumption figures, if available, for the service rendered to the customer over the three months immediately prior to any such period commencing, or failing the availability of such data, on the average consumption figures applicable to one or more properties of similar size and nature in the area in which the customer resides or carries on business;

"Chief Financial Officer" means the Head of the Department responsible for the Council's financial affairs, and any person duly authorised by him or her to act on his behalf in the stated capacity;

"consolidated account" means one combined account for all municipal services, surcharges, property tax and basic charges payable;

"consumer" means a customer;

"conventional electricity and water meters" means electricity and/or water meters, as the case may be, which are used to determine the supply of electricity and water and which are read on a monthly or other fixed interval basis;

"Council" means the Kwa Sani Local Municipality and its successors in law, and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Executive Committee had delegated any powers and duties with regard to these by-laws;

"customer" means any person to whom a service is or has been rendered by the Council and "customer services" has a corresponding meaning;

"due date" means, in the absence of any express agreement in relation thereto between the Council and the customer, the date stipulated on the account and determined by the Council from time to time as the last date on which the account can be paid;

"existing customers" means customers who have already entered into an agreement for the supply of municipal services;

"financial year" means 1 July in any year to 30 June of the following year;

"meter audits" means an investigation to verify the correctness of the consumption and supply of electricity or water;

"Municipal Manager" means a person appointed in terms of section 82 of the Local Government : Municipal Structures Act, 1998 (Act No. 117 of 1998);

"normal office hours" means the hours when the Chief Financial Officer offices are open to the public from Mondays to Fridays, excluding public holidays;

"property tax" means rates and/or taxes charged according to the value of a property which may be based on a tariff on the value of the land or improvements or both, and has the same meaning as assessment rates;

"rebate" means a discount on any property tax or service charge determined by the Council from time to time;

"reconnection fee" means the fee charged to reconnection of electricity/water supply when the supply has been disconnected due to non-payment, which fee will be determined periodically by the Council and will form part of the municipal tariff of charges;

"required amount" means the total calculated amount of the electricity/water consumed during any period of tampering, as well as the tampering fee;

"service accounts" means accounts in respect of electricity and/or water consumption;

"service agreement" means an agreement for the consumption of electricity and/or water;

"tampering fee" means a fee charged for the illegal disconnection, adjustment or bypassing of a consumption meter or the siphoning of a supply of electricity or water supply to an unmetered destination, which fee will be determined annually during the budget process and will form part of the tariff of service charges;

"terminated account" means the final account for services after the customer has left the premises, whether or not the customer has given notice to terminate the supply of service;

"variable flow-restricting device" means a device that is coupled to the water connection that allows the water supply to be restricted or closed; and

"voluntary garnishee order/emoluments order" means a court order for the deduction of an amount of money from the salary or other income of a customer.

- (3) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

2. SERVICE AGREEMENT

- (1) Before being provided with electricity, water and or other customer services, every customer must enter into a service agreement with the Council in which, *inter alia*, the customer agrees that the electricity and/or water payment system may be used for the collection of arrears in respect of all service charges.
- (2) Where a consumer has failed to enter into a service agreement with the Council, water and/or electricity will be blocked, disconnected or restricted, as the circumstances may require, until such time as a service agreement has been entered into and the applicable deposits have been paid. Such consumer is liable for calculated amounts.

3. ACCOUNTS

- (1) The Council will bill the inhabitants of, and property owners and property occupiers within the area for property tax and municipal services supplied to them by the Council at regular intervals or as prescribed by law.
- (2) The owner of a property is liable for refuse and sewerage charges.
- (3) The Council will post or hand-deliver the consolidated accounts to the respective customers at the address notified by each customer, to reach the customers before the due date printed on the

account. Any change of address becomes effective only when notification of the change is received and acknowledged by the Council.

- (4) The customer must pay, in full, the amount rendered on or before the due date. Failure to comply with this section will result in debt collection action being instituted against the customer, and interest at the rate determined from time to time by the Council or in the absence of any determination, as prescribed by law, will be charged from the date upon which the amount of the account was due for payment.

4. DEPOSITS

- (1) Deposits are to be determined by the Chief Financial Officer, which determination is based on two and a half times the average monthly account for the service in that property, either as factually determined or as a calculated amount.
- (2) In determining the deposit described in section 4(1), the Chief Financial Officer will differentiate between areas to give cognisance to differences in service standards and usage.
- (3) The Chief Financial Officer may reassess customer deposits for new commercial and industrial customers three months after the initial deposit date, and may, as a result of this reassessment require an additional deposit from any such customer.
- (4) The Chief Financial Officer must review all deposits biennially or when a customer's service is disconnected or blocked as a result of non-payment. The outcome of this review will be communicated to the customer in the event of any variation in the deposit arrangements being required. Should the deposit mentioned in section 4(2) or 4(3) be found to be inadequate, the customer will be allowed to make arrangements with the Chief Financial Officer for the payment of the additional amount.
- (5) Consumer deposits are to be paid for all separately metered services.
- (6) Consumer deposits are to be paid in respect of water and electricity services only.
- (7) Deposits must be paid in cash or by cheque. The Council will accept a bank guarantee in cases where the deposit exceeds R2 000.00. Such Bank Guarantee has to be hand-delivered during normal office hours to the Chief Financial Officer's offices at the Civic Centre.
- (8) All deposits have to be paid at least 2 days prior to occupation of the property or the date on which the services are required, if not required on date of occupation. Failure to comply with this by-law may cause a delay with the connection of services, and the Council will not be liable for any loss or prejudice that may result.
- (9) No service deposit is required if a pre-payment meter is installed for the particular service.
- (10) Where new conventional electricity and/or water meters are installed for existing prepayment customers, such customers may enter into a written agreement with the Council to pay off, over a maximum period of 6 months, the deposits levied.

5. DISCONNECTION FOR NON-PAYMENT

- (1) General

The reconnection fee will also be charged in cases of customers who receive other municipal services of any kind and who fall into arrears with their payment in respect of those services and whose water and/or electricity supply, whether prepayment or conventional, has been disconnected or restricted.
- (2) Notices to customers
 - (a) The Council will, at its discretion, issue final request notices or other reminders to customers whose accounts are in arrears, prior to disconnection.
 - (b) The Council will issue a final demand for payment of arrears in respect of all debtor accounts reflecting an amount outstanding for more than 30 days, after which the account will be referred for debt collection, in terms of section 10, in addition to the disconnection of the supply of services.

(3) Electricity

- (a) The Council will disconnect services to customers with conventional electricity meters in respect of which service accounts are in arrears after the due date. Should such customers wish to have their electricity reconnected, they will be charged the applicable reconnection fee and the service will not be reinstated before the account is paid in full or satisfactory arrangements in terms of section 7 have been made with the Chief Financial Officer.
- (b) The Council must disconnect the electricity supply before 13:00 on the day of disconnection. Reconnections will commence as soon as practically possible, but will only be done during normal working hours.
- (c) In the event of mass disconnections, the Council is not obliged to effect same-day reconnections.
- (d) The Council will not be obliged to sell electricity to customers with pre-paid meters unless the customer's municipal account for other services and property tax, if any, is paid in full or satisfactory arrangements in terms of by-law section 7 have been made with the Chief Financial Officer, and have been honoured.
- (e) All disconnected electricity meters must be clearly marked when the supply is disconnected for non-payment, in order to avoid disconnected meters being reported as faulty.
- (f) The Council will restrict the water supply of customers whose electricity supply has been blocked or disconnected for two months in succession and from whom no payment was received or with whom no satisfactory arrangements for payment of the outstanding amount have been concluded.
- (g) The Council shall be entitled to disconnect, block or restrict, as the case may be, at the earliest opportunity, the electricity and/or water supply of customers who have offered a cheque as payment for municipal services if any such cheque is returned or dishonoured by the financial institution on which it is drawn for any reason. The customer's account will be endorsed accordingly and no further cheque payments will be accepted.
- (h) Standby electricians, meter readers and contractors are not permitted to restore any service to customers without written authority from the Council's Credit Control Section.
- (i) Customers whose supply of services has been unlawfully reconnected will be regarded as having tampered with the meter or the supply, and the provisions of section 6 shall apply.

(4) Water

- (a) The Council will serve a written notice on customers with conventional water meters in respect of which municipal service accounts are in arrears, stating its intention to restrict the water supply within a set number of days as contemplated in section 4 of the Water Services Act, 1997 (Act No. 108 of 1997) and/or the Water By-laws.
- (b) The water supply to customers with conventional water meters referred to in section 5(4)(a), will be restricted after the period of the notice issued in terms of section 5 has lapsed. Such customers will be charged the applicable reconnection fee.
- (c) In cases where water supply is to be restricted or disconnected, Council may install a variable flow-restricting device to facilitate future reconnections and restrictions. The full service will not be re-instated before the municipal service account is paid in full or satisfactory arrangements in terms of the Credit Management Policy have been made with the Chief Financial Officer, and only for as long as the arrangements are honoured.
- (d) The Council shall not be obliged to sell water to customers with pre-paid meters if their municipal services accounts are not paid in full or unless satisfactory arrangements in terms of section 7 have been made with the Chief Financial Officer, and then only for as long as those arrangements are honoured.
- (e) Where possible, all disconnected or restricted water meters will be clearly marked to avoid restricted or disconnected meters being reported as faulty.
- (f) Standby plumbers, meter readers and contractors are not permitted to restore any service to customers without written authorisation from the Council's Credit Control Section.

- (g) In cases where water leaks are discovered on the customer's side of the water meter and he or she does not act timeously to rectify the problem, a variable flow-restricting device will be installed to curb water losses and to limit the amount of water to be charged to the customer.

6. TAMPERING

- (1) Where an electrical or water supply is found to have been tampered with or the meter bypassed, the Council may, subject to these by-laws and other applicable legislation, isolate or disconnect the relevant supply, and charge the customer the applicable tampering fee, calculated amounts due as well as a reconnection fee in instances where the supply had been isolated and a connection fee in instances where the supply has been removed.
- (2) In instances where there is evidence of a discrepancy between the electricity consumption and purchase history of a specific property, transgressors will be dealt with in the following manner:
- (a) Subject to paragraph (b), supply will be isolated at point of supply in instances of a first offence and removed in instances of subsequent offences.
- (b) A written notification will be given to the customer, informing him or her of isolation or removal, as well as the fees due in respect of the tampering, reconnection/connection and the calculated amounts due.
- (c) The Council will only re-instate services after the amounts referred to in paragraph (b) have been paid.
- (3) In instances where physical tampering with the electricity supply is detected, transgressors will be dealt with in the following manner:
- (a) Supply will be isolated immediately in instances of a first offence and removed in instances of a second or subsequent offence.
- (b) A written notification will be given to the customer, informing him or her of the isolation or removal, as well as the fees due in respect of the tampering, reconnection/connection and the calculated amounts due.
- (c) The Council will only re-instate services after the amounts referred to in paragraph (b) have been paid.
- (4) In addition to the provisions of this by-law, the Council may enforce any other rights or exercise any power conferred upon it by the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), Water Services Act, 1997 (Act No. 108 of 1997), the Council's Water By-laws, the Electricity Act, 1987 (Act No. 41 of 1987), the Council's Electricity By-laws and any other applicable legislation.

7. AGREEMENTS AND ARRANGEMENTS WITH CONSUMERS IN ARREAR

- (1) The Chief Financial Officer or his delegate is authorised to enter into agreements with consumers in arrear with their accounts and to grant such persons extensions of time for payment.
- (2) The Chief Financial Officer may determine, on the merits of each case, the initial amount to be paid as part of such agreement, as well as the number of instalments over which the arrear amount must be paid off and the term over which payment is to be made. Such term may not exceed 24 months.
- (3) The Chief Financial Officer may, in exceptional cases and with the approval of the Municipal Manager, extend the period of repayment referred to in section 7(2).
- (4) In instances where the Chief Financial Officer is satisfied, at the time of making arrangements and after investigation, that a *bona fide* customer cannot reasonably afford the payment of services, such customer's details will be recorded and further legal steps against such customer will either be deferred or waived, as the Chief Financial Officer may decide.

8. ACKNOWLEDGEMENT OF DEBT

- (1) Only debtors with positive proof of identity or an authorised agent with a power of attorney will be allowed to complete an acknowledgement of debt agreement.

- (2) An acknowledgement of debt agreement must contain all arrangements for paying off arrear accounts. One copy of the document will be handed to the customer and another filed at the Council's Management Section.
- (3) A customer who has already been summonsed by the Council's attorneys may apply for credit facilities. However, all legal costs already incurred will be for his or her account and an initial payment of at least half of the total resultant outstanding debt will be required. The customer must also sign an acknowledgement of debt, which will include legal fees due.
- (4) Failure to honour the acknowledgement of debt agreement will lead to immediate blocking, disconnection or restriction of services without further notice, and the resumption of legal action.
- (5) In all instances where the customer in arrears is employed, the Council may obtain a voluntary garnishee order or emolument attachment order.

9. INTEREST ON ARREARS

- (1) Interest will be charged on service arrears at an interest rate as determined by the Council, or in the absence of any such determination, as prescribed by law.
- (2) Interest will be charged on arrear property tax as prescribed in the applicable legislation.

10. HAND-OVERS

- (1) The Council will issue a final demand in respect of all customer accounts reflecting an amount outstanding for longer than 30 days and, if such account still reflects an amount in arrears after 60 days, it will be handed over for collection by external debt collection specialists.
- (2) The Chief Financial Officer must investigate ways and means of assisting customers before attaching movable or immovable property.

11. CUSTOMER MAY NOT SELECTIVELY NOMINATE PAYMENT

A customer is not entitled to allocate any payment made to any portion of the total debt due. The allocation of payments will be made by the Chief Financial Officer.

12. TRANSFER OF PROPERTY

- (1) A certificate in terms of section 118 of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000) will only be issued upon payment of a deposit determined by the Chief Financial Officer in terms of subsection (2), provided that this subsection does not apply in instances referred to in section 118(4) of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000).
- (2) The amount of the deposit referred to in subsection (1) will be four (4) times the average of the municipal account for the three (3) months preceding the application for the certificate. In the absence of a three-month history, the deposit will be determined by the Chief Financial Officer.
- (3) Upon registration of transfer of the property, the account will be reconciled by the Chief Financial Officer and any excess amount refunded to the applicant.

13. AUTHORITY TO APPOINT DEBT COLLECTION SPECIALISTS

The Chief Financial Officer has the authority to appoint debt collection specialists and to enter into agreements with such agencies in terms of the Contingency Fee Act, 1997.

14. RELIEF MEASURES FOR PENSIONERS OR INDIGENT SUPPORT

- (1) The Council may grant a rebate on property tax to persons who own and occupy property if they submit a written request annually and they can prove to the satisfaction of the Chief Financial Officer that they comply with the following requirements:
 - (a) The applicant must be a ratepayer of 60 years or older or be a *bona fide* pensioner
OR
a ratepayer receiving a disability pension from the public or local government service or from a registered pension or provident fund
OR

on an indigent support scheme in terms of the Credit Control and Debt Collection By-laws.

- (b) The applicant must be the owner of the residential property in question and the property must be registered in his or her name (Bodies Corporate do not qualify).
 - (c) The total annual income of the applicant is not more than an amount pre-determined by the Council.
 - (d) The applicant must provide a sworn affidavit stating that -
 - (i) the declared income is the sole source of income to the pensioner;
 - (ii) his or her income does not exceed the amount in paragraph (c); and
 - (iii) he or she permanently occupies the residential property.
- (2) All applications must be submitted before a pre-determined date and no applications received after this date will be considered.
- (3) A new application must be made for each financial year.
- (4) The percentage rebate mentioned in subsection (1)(a), the maximum income limit mentioned in subsection (1)(c) and the closing date for applications mentioned in subsection (2), will be determined each year at the approval of the budget, and must be advertised afterwards.

15. REPEAL

The by-laws relating to Credit Management for the Kwa Sani Local Municipality, are hereby repealed and replaced by these by-laws, which are to become effective on promulgation hereof.