

THE MSUNDUZI MUNICIPALITY

Credit Control & Debt Collection Policy



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PREAMBLE

WHEREAS Section 152 (1) (b) of the Constitution of the Republic of South Africa Act 108 of 1996 (*the Constitution*) provides that one of the objects of local government is to ensure that the provision of services to communities occurs in a sustainable manner;

AND WHEREAS Section 153 (a) of the Constitution provides that a municipality must structure its administration, budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community;

AND WHEREAS Section 195 (1) of the Constitution provides that the public administration must be governed by the democratic values and principles enshrined in the Constitution, including-

- The promotion of the efficient, economic and effective use of resources;
- The provision of services impartially, fairly, equitably and without bias; and
- The fact that people's needs must be responded to.

AND WHEREAS Section 4 (1) (c) of the Local Government: Municipal Systems Act 33 of 2000 (*the Systems Act*) provides that the Council of a municipality has the right to finance the affairs of the municipality by charging fees for services, imposing surcharges on fees, rates on property and, to the extent authorised by national legislation, other taxes, levies and duties;

AND WHEREAS Section 5 (1) (g), read with subsection (2) (b), of the Systems Act provides that members of the local community have the right to have access to municipal services which the municipality provides provided that, where applicable and subject to the policy for indigent debtors, pay promptly for services fees, surcharges on fees, other taxes, levies and duties imposed by the municipality;

AND WHEREAS Section 6 (2) (c), (e) and (f) of the Systems Act provides that the administration of a municipality must take measures to prevent corruption; give members of a local community full and accurate information about the level and standard of municipal services that they are entitled to receive; and inform the local community about how the municipality is managed, of the costs involved and the persons in charge;

AND WHEREAS Chapter 9, Sections 95, 96, 97, 98, 99 and 100, of the Systems Act provides for Customer Care Management, Debt Collection responsibility of the Municipality, contents of the policy, by-laws that give effect to the policy, Supervisory authority and Implementing authority.

The Msunduzi Municipality Council, at its meeting of 31 March 2006 adopted this policy to be known as “The Msunduzi Municipality Credit Control and Debt Collection Policy”.

2. DEFINITIONS

In this policy, unless the context indicates otherwise, the word or expression has the following meaning:

- 1.1 **“Accounting Officer”** The Municipal Manager appointed in terms of Section 82(1)(a) or (b) of the Municipal Structures Act, 1998 (Act No. 117 of 1998);
- 1.2 **“Actual consumption”** means the measured consumption of a consumer of a municipal service during a specified period;
- 1.3 **“Arrangements”** means a formal agreement entered into between the Council and a debtor where specific repayment parameters are agreed to.
- 1.4 **“Arrears”** means any amount due, owing and payable by a customer in respect of a municipal account not paid on the due date;
- 1.5 **“Average consumption”** means the deemed consumption of a customer of a municipal service during a specific period, which consumption is calculated by adding the recorded monthly average consumption and the current actual consumption and dividing the total by 2;
- 1.6 **“Bank guarantee”** refers to an undertaking by a registered financial institution whereby it guarantees a specified maximum amount to be paid if the principal debtor (“the consumer”) fails to pay;
- 1.7 **“Calculated amounts”** refers to the amounts calculated by the Chief Financial Officer, in consultation with the relevant technical departments, 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 reasons beyond the control of the Chief Financial Officer. This shall normally be based on the average consumption figures, if available, for the service rendered to the customer **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;
- 1.8 **“Chief Financial Officer”** refers to the person so designated in terms of Section 75(2)(a) of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003) or any person duly authorised to act on behalf of such person and shall have the same meaning as Strategic Executive Manager: Finance or City Treasurer ;
- 1.9 **“Consolidated account”** refers to one combined account for all municipal services, housing rents and installments, rates and basic charges payable, and “consolidated bill” has a corresponding meaning;
- 1.10 **“Consumer”** means a customer;
- 1.11 **“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 normally read on a monthly or other fixed interval basis;

- 1.12 “**Council**” refers to The Msunduzi 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 official to whom the Executive Committee has delegated any powers and duties with regard to this policy;
- 1.13 “**Councillor**” refers to any member of a municipal council;
- 1.14 “**Credit Control**” refers to all functions relating to the collection of monies owed by customers and users of municipal services.
- 1.15 “**Customer**” refers to any occupier of any premises to which Council has agreed to supply or is actually supplying services, or if there is no occupier, then the owner of the premises and includes any debtor of the municipality;
- 1.16 “**Defaulter**” refers to any customer who owes the Council arrear monies in respect of rates and / or service charges;
- 1.17 “**Deposit**” refers to a minimum sum of money specified by the Chief Financial Officer and payable by the consumer to the Municipality prior to occupation of the property or prior to the date on which services to the property are required;
- 1.18 “**Due date**” in the absence of any express agreement in relation thereto between the Council and the customer, refers to the date stipulated on the account and determined from time to time as the last date on which the account must be paid;
- 1.19 “**Equipment**” refers to any building or other structure, pipe, pump, wire, cable, meter, engine or any accessories;
- 1.20 “**Estimated consumption**” arises when no actual reading can be taken and is equivalent to the existing average consumption;
- 1.21 “**Existing customers**” refers to the customers who have already entered into an agreement for the supply of municipal services;
- 1.22 “**Financial year**” refers to the period starting from 1 July in a year to 30 June the next year;
- 1.23 “**Implementing Authority**” means the Municipal Manager or his nominee, acting in terms of Section 100 of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000);
- 1.24 “**Interest**” is a charge levied with the same legal priority as service fees and calculated at a rate determined by Council from time to time on all arrear monies;

- 1.25 **“Meter audits”** refers to an investigation to verify the correctness of the consumption and supply of electricity and water;
- 1.26 **“Municipality”** when referred to as:
- (a) a corporate body, means a municipality as described in Section 2 of the Municipal Systems Act, 2000 (Act No. 32 of 2000);
 - (b) a geographic area means a municipal area determined in terms of the Local Government Municipal Demarcation Act, 1998 (Act No. 27 of 1998).
- 1.27 **“Municipal Manager”** means the person appointed as Municipal Manager in terms of Section 82 of the Local Government Municipal Structures Act, 1998, (Act No. 117 of 1998) and includes any person acting in that position or to whom authority has been delegated;
- 1.28 **“Municipal services”** refers to any services provided by the municipality or any authorised and contracted service provider, available or applied for, or provision made for any service, for which it is entitled to charge a fee or formulate a tariff, payable by a customer or user, thereof;
- 1.29 **“Normal office hours”** means the hours when the Chief Financial Officer’s offices are open to the public from Mondays to Fridays, excluding public holidays, Saturdays and Sundays;
- 1.30 **“Official”** refers to an employee of The Msunduzi Municipality
- 1.31 **“Occupier”** means any person who occupies any property or part thereof, without regard to the title under which he or she occupies the property,
- 1.32 **“Owner”** means:
- (a) The person in whom from time to time is vested the legal title to premises, which title is registered at the Deeds Office;
 - (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 premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
 - (c) In a case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of such premises with 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 a 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), a Trust, a Closed Corporation registered in terms of the Closed Corporations Act, 1984 (Act 69 of 1984) and 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;
- 1.33 **“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, 1927 (9 of 1927), or in terms of the Deed Registry Act, 1937 (47 of 1937); or
 - (b) A sectional plan registered in terms of the Sectional Titles Act, 1986 (95 of 1986), which is situated within the area of jurisdiction of the Council;
- 1.34 **“Rates”** refers to property rates on property situated in the municipal area, any other tax, duty or levy imposed by the municipality;
- 1.35 **“Service agreement”** refers to an agreement for the consumption of electricity and/or water and other services as determined from time to time;
- 1.36 **“Terminated account”** refers to:
- (a) 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; OR
 - (b) the final account for services if the customer has contravened the service provisions of this policy and attendant municipal bylaws;
- 1.37 **“Variable flow-restricting device”** refers to a device that is coupled to the water connection that allows the water supply to be restricted or closed;
- 1.38 **“Visitation fee”** refers to the fee charged for attendance and/or disconnection/reconnection of an electricity/water supply when the supply has been disconnected due to non-payment and/or tampering, or where access to disconnect/restrict has not been gained, which fee shall be
- 1.39 **“Voluntary garnishee order/emoluments order”** refers to a court order for the deduction of an amount of money from the salary or other income of a customer.

2. INTRODUCTION

- 2.1. The City Council cannot develop the local economy and provide acceptable services to its residents unless it receives payment, in full, of all bills raised for the services that it provides.
- 2.2. The municipality must develop, maintain and implement a credit control and debt collection policy that is consistent and complies with the relevant legislation.
- 2.3. In regard to payments expected from registered indigents and Council tariffs, this policy is to be read in conjunction with The Msunduzi Municipality Indigent Policy and The Msunduzi Municipality Tariff Policy.

3. OBJECTIVES

The objectives of the Credit Control and Debt Collection Policy are:

- 3.1 To define a framework within which the municipality can develop an effective procedure to bill and collect its revenues;
- 3.2 To ensure that all monies due and payable to the municipality are collected and used to deliver municipal services in the best interests of the community, residents and ratepayers and in a financially sustainable manner as prescribed by the Municipal Systems Act, 2000 (Act No. 32 of 2000), and other applicable legislation;
- 3.3 To maintain and implement a credit control and debt collection policy, which is consistent and complies with Section 97 of the Municipal Systems Act, 2000 (Act No. 32 of 2000).
- 3.4 To ensure that the municipality develops credit control procedures and mechanisms that are considered to be consistent, fair and effective to all its consumers.

4 UNDERLYING PRINCIPLES OF THIS POLICY

- 4.1 The administrative integrity of the municipality must be maintained at all times. The democratically elected councillors are responsible for policy-making, while it is the responsibility of the Councillors, Municipal Manager and all staff to ensure the execution of these policies.
- 4.2 This policy shall take effect and be enforceable from the date of approval thereof by Council.
- 4.3 The collection process must be cost-effective and enforcement of payment for services rendered must be prompt, consistent and effective.

- 4.4 Unauthorised consumption, connection and reconnection, the tampering with or theft of meters, service supply equipment and the reticulation network and any fraudulent activity in connection with the provision of municipal services will lead to disconnections and/or restrictions, penalties, loss of rights and criminal prosecutions.

5 ROLE AND RESPONSIBILITY OF MUNICIPAL MANAGER

- 5.1 In terms of Section 100 of the Municipal Systems Act, 2000 (Act No. 32 of 2000), the Municipal Manager is responsible for implementing the credit control and debt collection policy. In line with this, the Municipal Manager is to perform the following:
 - 5.2 install and maintain an appropriate accounting system.
 - 5.3 bill customers.
 - 5.4 demand payment on due dates.
 - 5.5 raise penalties and interest for defaulters.
 - 5.6 appropriate payments received.
 - 5.7 collect outstanding debt.
 - 5.8 provide different/alternate payment methods.
 - 5.9 determine credit control and debt collection measures.
 - 5.10 determine all relevant work procedures for, inter alia, public relations, arrangements, disconnection/reconnection of services, summonses, attachments of assets, sales in execution, write-off of debts, sundry debtors and legal processes.
 - 5.11 instruct attorneys to proceed with the legal process (i.e. attachment and sale in execution of assets, emolument attachment orders, etc.).
 - 5.12 appoint staff to execute Council's policy and by-laws.
 - 5.13 determine internal control procedures.
 - 5.14 monitor contracts with service providers in connection with credit control and debt collection.
 - 5.15 The Municipal Manager may delegate these responsibilities to the Chief Financial Officer. However, this delegation does not absolve the Municipal Manager from being held accountable for implementing this policy.
 - 5.16 The Municipal Manager is to report monthly to the Executive Committee, and quarterly to the Council, on the actions taken in terms of this policy, and on the payment levels for the periods concerned.

5.17 Although the Municipal Manager is held accountable for implementing this policy, it is the responsibility of all officials of the municipality to promote and support this credit control and debt collection policy.

6 ROLE AND RESPONSIBILITY OF COUNCILLORS

6.1 To approve budgets consistent with the needs of communities, ratepayers and residents.

6.2 To impose rates and taxes and to determine service charges, fees and penalties to finance the budget.

6.3 To facilitate sufficient funds to give access to basic services for the poor.¹

6.4 To provide for a bad debt provision, in line with the payment record of the community, ratepayers and residents, as reflected in the financial statements of the municipality.²

6.5 To, together with the Chief Financial Officer, set an annual improvement target for debt collection (refer Section 9), in line with acceptable accounting ratios and the ability and performance of any appointed external service providers.³

6.6 To approve a reporting framework for credit control and debt collection.

6.7 To consider and approve by-laws to give effect to the Council's policy.

6.8 To revise the budget should Council's targets for credit control and debt collection not be met.

6.9 To take disciplinary and/or legal action against Councilors, officials and agents who do not execute Council policies and by-laws, or act improperly in terms of such policies.

6.10 To approve a list of suitably qualified service providers that will act on behalf of Council in all collection and legal matters relating to debt collection.

6.11 To provide sufficient capacity in the Municipality's Finance Business Unit for credit control and debt collection or, alternatively, to appoint service providers or debt collection agents to assist with the credit control and debt collection procedures.

6.12 To assist the Municipal Manager in the execution of his duties, if and when required.

6.13 To provide funds for the training of staff in connection with credit control and debt collection.

¹ Preferably, a portion of the equitable share should be set aside for this purpose.

² The bad debt provision should at least reflect the increase in debtors during the previous financial year.

³ A realistic target would be to improve on the previous year's result by approximately 3% - 5%.

- 6.14 In terms of Section 99 of the Municipal Systems Act, 2000 (Act No. 32 of 2000), the Executive Committee, is to monitor and supervise the application of this policy, and is to report to Council on the extent and success of the municipality's credit control actions.
- 6.15 In order to maintain the credibility of the municipality in the implementation of the present policy, Councillors, by adopting this policy, pledge that their own accounts will at no stage fall into arrears.

7 DUTIES AND FUNCTIONS OF WARD COUNCILORS

- 7.1 To adhere to and convey Council policies to residents and ratepayers.
- 7.2 To adhere to the Code of Conduct for Councillors.
- 7.3 The ward committees will act in terms of roles and functions as approved by Council.
- 7.4 The ward committees are encouraged to actively promote this policy, and to ensure, at the same time, that the municipality's customer service is of a standard acceptable to the community.

8 DUTIES AND FUNCTIONS OF COMMUNITIES, RATEPAYERS AND RESIDENTS

- 8.1 To fulfill certain responsibilities, as brought about by the privilege and or right to use and enjoy public facilities and municipal services.
- 8.2 To pay service fees, rates on property and other taxes, levies and duties imposed by the municipality on or before the due date for payment.
- 8.3 To observe the mechanisms and processes of the municipality in exercising their rights.
- 8.4 To allow municipal officials access to their property to execute municipal functions.
- 8.5 To comply with the by-laws and other legislation of the municipality.
- 8.6 To refrain from tampering with municipal services and property.

9 EXPECTED DEBTOR PAYMENT LEVELS

- 9.1 The municipality is to aim at ensuring that payment levels (i.e. the percentage level of income received from debtors) for the present and future financial years, in respect of all amounts due to the municipality, exclusive of the balance of the monthly accounts payable by registered indigents, are maintained at an annual average of at least 95%.
- 9.2 The long-term target is a debtor turnover ratio of 30 days, that is, debtors are expected to pay for services on average within one month of receiving accounts.

1. AREA OF APPLICATION

- 10.1 This policy shall apply and be enforceable throughout the entire area of jurisdiction of The Msunduzi Municipality
- 10.2 The Council reserves the right to differentiate between different categories of consumers, debtors, services or service standards when applying this policy. The Council will, on application of this policy, avoid discrimination as forbidden by the Constitution unless it is established that the discrimination is fair as allowed by the Constitution.

11 APPLICATION FOR SERVICES AND SERVICE AGREEMENTS

- 11.1 Before being provided with electricity, water and/or other customer services, and prior to taking occupation of premises, every customer shall enter into a service agreement with the Council in which, inter alia, the customer agrees that the electricity, water and/or other services, supplied by either Prepaid or Credit meter systems, may be used for credit control purposes to collect arrears in respect of all outstanding debt.
- 11.2 All consumers wishing to utilise municipal services must apply to enter into a service agreement.
- 11.3 The service agreement will be entered into prior to the provision of services and prior to the consumer taking occupation of the premises.
- 11.4 A new service agreement will only be entered into once all amounts owed by a consumer on other debtor accounts are settled in full.
- 11.5 A new service agreement will only be entered into on a property, once all outstanding amounts owed on the property are settled in full.
- 11.6 Where municipal services are used/consumed or made use of, and the owner, tenant, or occupants of a property, have not entered into nor completed an agreement for such services, the owner responsible for the payment of rates on the property will be billed for the metered consumption and all municipal service charges applicable to the property.

- 11.7 The service agreement shall indicate that transfer of a property may not be registered until the municipality issues a clearance certificate which reflects that all amounts due in connection with that property for municipal service fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate, have been fully paid. In addition to the above where the debt on a property exceeds two years and a clearance is issued, a letter of undertaking be provided to Council providing for full settlement of the outstanding debt on transfer.
- 11.8 Application forms are available at the municipal offices and the application process must occur at least ten (10) working days prior to taking occupation of the premises. This will ensure that services are available when occupation is taken. Failure to adhere to the timeframe may result in customers not having the services available when occupation is taken. Once the application has been approved, a service agreement will be entered into and services will commence.
- 11.9 The Municipality will render the first account after the first meter reading cycle following the date of signing the service agreement or as soon as is administratively possible.
- 11.10 Consumers who illegally consume services without a valid service agreement will be subject to disconnection and/or removal of the service and may have charges laid against them for theft and fraud.
- 11.11 The service agreement shall set out the conditions under which the services are provided and shall require the signatories thereto to accept the contents of the municipality's credit control and debt collection policy, as well as the provisions of the Municipal Systems Act, 2000 (Act No. 32 of 2000).
- (a) An undertaking by customers:
- That the electricity, water and/or other services supplied by either the Prepaid or Credit meter systems, may be used for credit control purposes to collect arrears in respect of all outstanding debt and shall include rates if the customer is the owner of the property;
 - That they are liable for the costs of collection, including any administration fees, penalties for late payment, legal costs, interest, disconnection fees and reconnection fees, and
 - That any alleged non-receipt of an account does not affect the customers liability for the account, nor stop the credit control process;
- (b) An undertaking by Council:
- That it will deliver accounts to customers.

- That if customers do not receive an account and have accordingly requested one, a statement will be supplied to them.
- 11.12 Where a signatory is not the owner of the property to which the services are to be provided, a letter from the owner indicating that the signatory is the lawful occupant of the property and where a lessor/lessee arrangement exists between the parties, a copy of such agreement shall be attached to the service agreement.
- 11.13 Where a consumer has failed to enter into a service agreement with the Council, water and/or electricity shall be restricted or disconnected, as the circumstances may require, until such time as a service agreement has been entered into and the applicable deposits have been paid. In such circumstances, the consumer will be held liable for any calculated amounts.

12 DEPOSITS AND GUARANTEES

- 12.1 Every customer, other than those who are the registered owners of the property, is to pay a deposit on application for the provision of municipal services before the municipality renders any service to the property. Deposits are payable when new customers sign service agreements and when existing customers move to a new supply address. All deposits shall be paid at least 10 (ten) days prior to occupation of the property or prior to the date on which the services are required, if not required on date of occupation. Failure to comply with this clause may result in a delay in the connection of services and the Council shall not be liable for any loss or prejudice suffered by a customer as a result thereof.
- 12.2 Subject to the provisions of clauses 12.3, 12.4 and 12.5 hereunder, the calculation for deposits shall be based on **two months' consumption** of metered services together with any charges for other municipal services, or a minimum amount specified by the Chief Financial Officer from time to time.
- 12.3 In determining the deposit described in Section 12.2, the Chief Financial Officer may differentiate between areas to give cognisance to differences in service standards and usage.
- 12.4 The Chief Financial Officer may re-assess customer deposits for new domestic, commercial and industrial customers three months after the initial deposit date and may, as a result of this reassessment, require an additional deposit from the customer.
- 12.5 The Chief Financial Officer may review deposits annually and, in the case of a customer's service being disconnected or restricted as a result of non-payment or tampering, may increase the deposit. Should the deposit be increased as a result of this review the customer must immediately make payment of the increased amount in line with the instruction from the Chief Financial Officer.

- 12.6 The outcome of the review contemplated in clause 12.5 shall be communicated to the customer in the event of any variation in the deposit arrangements being required.
- 12.7 Should a customer's services be disconnected twice during any twelve-month period due to non-payment, the customer's deposit shall be adjusted the following month to conform to Clause 12.5.
- 12.8 Bank guarantees are only permitted for businesses and only under circumstances as determined by Council from time to time.

13 ACCESS TO PROPERTY TO READ METERS

- 13.1 In terms of Section 101 of the Municipal Systems Act, 2000 (Act No. 32 of 2000), the occupier, owner or tenant of a property is to allow municipal officials or the municipality's authorised service providers access to read meters, install or repair meters as well as to, discontinue or restrict the provision of a service. The official is to have the proper authorisation and can only request access during reasonable hours.
- 13.2 If the municipality is unable to read any meter on any property because the meter has been rendered inaccessible, the municipality shall estimate the consumption of the service concerned and thereafter bill the account holder for the monetary value of such estimated consumption.
- 13.3 In the event that the Council continues to be unsuccessful in obtaining access to the property and, therefore, is unable to obtain an accurate meter reading, the Chief Financial Officer or his authorised representative may disconnect the supply via the Consumer Distribution Unit (CDU).

13.4 Voluntary readings:

- These will be permitted provided the municipality obtains any final reading should the consumer move to another supply address.
- Consumers may be liable for a fee to cover the costs of obtaining a reading if no advance warning is given and special arrangements are required to obtain a reading.
- The Municipality is entitled to make suitable adjustments to the readings should a consumer fail to ensure that a final reading is obtained.
- An audit reading during the normal reading cycles must be obtained at least once every 12 months. If a special audit reading becomes necessary this will be done at the cost of the consumer.
- The consumer may elect to supply voluntary readings subject to compliance with these rules. The Chief Financial Officer may, however, cancel the voluntary reading convenience if the consumer fails to render readings on two or more consecutive occasions.

14 ACCOUNTS, BILLING AND PAYMENT

14.1 The Council shall produce and post one consolidated monthly bill to consumers for services supplied or available (inter alia, electricity, water, refuse and sewerage charges) and for rates levied on property within the municipal area unless, for whatever reason, the rates account has not been consolidated with the services account in which case separate monthly accounts will be posted. These accounts will be produced in accordance with meter reading cycles at regular intervals or as prescribed by law. In the case of indigents where the net account after rebates amounts to zero, these will only be posted bi-annually and not on a monthly basis.

14.2 The account/invoice will reflect the following details:

- Consumer name;
- Consumer account number;
- Consumer postal address;
- Residence/Erf details to which the services have been supplied;
- The consumption or estimated consumption for each metered service within a specified period;
- The applicable service tariff;
- The monthly amount due on property rates and the total annual amount due;
- The valuation of the property;
- The amount due on any other service charges;
- The total amount due and payable;
- The amount in arrears, if any;
- The final date for payment (due date);
- The method, name and location of any municipal offices and authorised agents where payments may be made, and
- A notification that failure to settle the total amount due by due date will result in termination or restriction of services.

14.3 The Council shall undertake to post the consolidated account to the customer address, in South Africa, as specified by each customer. However, non-receipt of an account does not negate the responsibility of the customer to pay the amount owing by due date nor prevent interest charges and debt collection procedures. In the event of non-receipt of an account, the onus rests on the account holder to obtain a free copy of the most recent account, before the due date.

14.4 The consumer shall, in writing, notify the Council of any change of address, including an e-mail address, and contact details. Notwithstanding the fact that a consumer has not received an account as a result of his failing to notify the Council of his change of address or due to delays on the part of external service providers, the customer is nevertheless liable for payment of such account. Any change of address only becomes effective when the notification of the change is received and acknowledged by the Council.

14.5 Accounts must be paid in full on or before the due date as indicated on the

- account. Failure to comply with this section shall result in debt collection action (as contained in Section 27 of this policy) being instituted against the customer. Interest on arrears, at the rate determined from time to time by the Council or, in the absence of any determination, as prescribed by law, will accrue after due date if the account remains unpaid irrespective of the reason for non-payment (refer Section 18).
- 14.6 Bulk consumers may at the discretion of Council be notified of their unpaid accounts prior to the commencement of the debt collection process.
- 14.7 Payments for accounts must be received at a Municipal pay-point by close of business on or before the due date. In the case of any electronic payments the money must be received in the municipal bank account no later than the close of business on the due date. In the case of monies paid to agents, the money must be deposited with the agent prior to the close of business on due date and proof thereof may be required to validate any claims.
- 14.8 The following methods of payment and payment points can be used:
- Debit order payments, which forms are available from the municipal cash offices;
 - Cash and cheque payments can be made at the municipality's cash offices, any South African Post Office and their agencies, First National Bank and Easypay Outlets e.g. Pick & Pay, Checkers, etc.
 - VISA and MASTERCARD credit card payments can be made at the municipality's cash offices;
 - Electronic banking payments directly into the municipality's account;
 - Post;
- 14.9 The consumer acknowledges that any agent used for transmitting payments to the Municipality is at the risk and cost of the consumer. In addition the consumer must take into account the transfer time of the particular agent.
- 14.10 All payments and/or part-payments received by the Chief Financial Officer shall be allocated to services in the manner as contained in Section 20.

15 METERING OF CONSUMABLE SERVICES

- 15.1 The municipality may introduce various metering equipment for the measurement of service consumption and customers may be encouraged to convert to a system preferred by the municipality.
- 15.2 Customers who default (fail to pay by the due date) may be required by the municipality to convert to another metering system.
- 15.3 Meters (credit) will be read in monthly cycles, at regular intervals or as prescribed by Council. Should circumstances prevent such a reading, the

Municipality is entitled to continue with the procedure as laid down in Section 13 of this policy.

- 15.4 A consumer is responsible to ensure access to metering equipment and will be liable for any cost incurred to ensure access (such as relocating or disconnecting the meter) if satisfactory access is not possible.
- 15.5 Routine or special maintenance of metering equipment will be communicated to the consumer prior to being undertaken in order to establish a suitable time to perform such maintenance.

16 VALUATION OF PROPERTIES

- 16.1 All properties within the boundaries of the Msunduzi Municipality are to be valued in terms of the legislation applicable to the valuation of properties for the purpose of levying property rates.

17 PROPERTY RATES

- 17.1 In terms of the Council Rates Policy and in accordance with the Tariff of Charges Schedule, Property Rates will be raised and charged on a monthly basis and will be reflected on the Councils monthly bill.
- 17.2 All Property Rates not paid by due date will, in addition to any procedures as prescribed by law, be subject to credit control and debt collection procedures as stipulated in this policy.

18 INTEREST ON ARREARS AND OTHER PENALTY CHARGES

- 18.1 Interest shall be charged for a full month on all arrear amounts at the percentage determined by Council irrespective of when payment is made.
- 18.2 For purposes of determining arrear amounts, all amounts that are unpaid after due date, excluding interest, penalty charges previously raised including collection charges and Value Added Taxation, shall be taken into account.
- 18.3 The Chief Financial Officer will be entitled to raise the following charges in addition to the interest charge contemplated in clause 18.1:
- in the case of arrear rates, a collection charge equal to 10% will be raised on all arrear rates instalments, after the last working day of the second month succeeding the final date for payment of the twelfth monthly instalment.
 - charges for disconnection or restriction of services

- charges for reconnection or reinstatement of services
- charges for notices of default and other correspondence
- penalty charges for illegal reconnections
- penalty charges for dishonoured cheques

18.4 Other than those penalty charges prescribed by legislation, the value of each of these charges will be determined on an annual basis by Council when considering its annual budget and shall be contained in the Msunduzi Municipality Tariff Register.

19 AGREEMENTS AND ARRANGEMENTS FOR PAYMENT OF ARREAR ACCOUNTS

19.1 The Chief Financial Officer is authorised to enter into agreements with customers in arrears with their accounts and to grant customers extensions of time for settlement of the amounts due to Council.

19.2 Where a customer in arrears is a business or commercial concern, a minimum of 50% of the total overdue amount, as an initial payment, shall be paid, and the balance of the account shall be paid in equal installments over a maximum period of twelve months. Any future monthly current accounts shall be paid on or before the due dates for the month in question. In respect of business or commercial consumers who are in arrears, interest will be raised in terms of Section 18 of this policy.

19.3 Where a customer in arrears is a domestic consumer, 10% of the total overdue balance or the current account, whichever is the greater, as an initial payment, shall be paid, and the balance of the account shall be paid in equal installments over a maximum period of twelve months. Any future monthly accounts shall be paid on or before the due date. Consumers who honour their agreements and arrangements to pay, will not be charged interest from the date of the agreement on municipal service arrears, with the exception of rates arrears where statutory provisions may apply. Should they default on their credit extension for whatever reason, interest shall be raised from the date of default on the full outstanding debt in terms of Section 18 of this policy.

19.4 A consumer may be required to complete a debit order for the payment of arrears in terms of the agreement.

19.5 Should a customer breach the arrangement in any way, the balance of the arrear account, together with the balance of interest outstanding on the account, shall immediately become due and payable to the municipality.

19.6 A customer who fails to comply with any credit arrangement shall not be permitted to enter into any further arrangement or extension of time for payment and shall have his services terminated, however a customer who brings his credit arrangement up to date by an immediate payment shall have his services reconnected as soon as is practically possible.

- 19.7 A customer who fails to comply with any arrangement of debt shall have his service agreement terminated, services disconnected/restricted, and his deposit and interest on any outstanding amounts set off against any arrear debt.
- 19.8 Only debtors with positive proof of identity or an authorised agent with a Power of Attorney shall be permitted to enter into an Acknowledgment of Debt agreement with the Council.
- 19.9 Where a debtor is a close corporation, trust, or a company, the person who signs an acknowledgment of debt on behalf of such close corporation, trust or company, shall produce written proof that he is authorised to sign such acknowledgment on behalf of all members and/or directors of the close corporation, trust, or the company.
- 19.10 An Acknowledgment of Debt agreement shall contain all arrangements for paying off arrear accounts, which may include interest. One copy of the agreement shall be handed to the customer and another filed with the Chief Financial Officer.
- 19.11 In instances where a customer is employed, the municipality may obtain a voluntary garnishee order or emoluments attachment order.
- 19.12 Where any debt has arisen as a result of the Council having applied an incorrect charge and/or tariff, the consumer may arrange to pay the debt over a maximum period equivalent to the period over which the incorrect charge was applied or over twelve months, whichever is the shorter.

20 ALLOCATION OF PAYMENTS AND PART-PAYMENTS

- 20.1 Receipt of the total outstanding monies will be allocated to the credit of the account in full. If a debtor pays only part of any amount due, the Chief Financial Officer shall allocate such payment as follows:
- firstly, to any unpaid interest raised on the account;
 - secondly, to any other sundry debtors (miscellaneous);
 - thirdly, to housing rents and installments;
 - fourthly, to any unpaid refuse collection charges;
 - fifthly, to any unpaid sewerage charges;
 - sixthly, to any unpaid water charges;
 - seventhly, to any other unpaid electricity charges; and
 - lastly, to any unpaid property rates.
- 20.2 A customer shall not be entitled to allocate any payment made to any portion of the total debt due to the Council.

21 DISHONoured AND OTHER UNACCEPTABLE CHEQUES/DEBIT ORDERS

- 21.1 Refusal by banks to honour payments by cheque or debit order is regarded as non- payment, upon which the relevant debtor is subject to credit control measures.
- 21.2 The Council shall, at the earliest opportunity, be entitled to disconnect or restrict, as the case may be, the electricity and/or water supply of a customer who has offered a cheque or debit order as payment for municipal services if such cheque or debit order is returned or dishonoured by the financial institution on which it is drawn as a result of a lack of funds or for any other reason.
- 21.3 A customer tendering a cheque or debit order referred to in Clause 21.2 shall be liable for all administration charges and bank fees as determined by Council as a result of such transaction.
- 21.4 Should a dishonoured cheque or debit order be received, the customer may be contacted telephonically with the request that a cash deposit equal in amount to that of the dishonoured cheque be made into the municipality's account within 24 hours.
- 21.5 Should any attempt to contact the customer fail, then the municipality shall immediately discontinue the supply of services to the premises.
- 21.6 In the event of the customer not having sufficient funds to settle the outstanding debt, the Municipality may open a case of fraud with the South African Police Service.
- 21.7 Dishonoured cheques are to be kept on file and will only be given to account holders on request if the account is paid up to date after the reversal of the dishonoured payment.
- 21.8 A customer who has offered three dishonoured cheques in any 12 month period will not be allowed to make further payments by cheque for a period of at least one year, although a bank guaranteed cheque may be accepted by the Chief Financial Officer.

22 QUERIES IN RESPECT OF ACCOUNTS

- 22.1 The enquiries counters at the municipality's service centres can be contacted for all account queries.
- 22.2 An enquiry clerk stationed at the municipality's service centres shall be available to assist consumers with account balance queries as well as the opening and closing of accounts.
- 22.3 Any resident or consumer who may feel aggrieved concerning his/her account may address a written grievance / appeal to the Chief Financial Officer.

- 22.4 The municipality endeavors to investigate any query and give feedback within fourteen working days of the receipt of the query.
- 22.5 Any query in respect of the amount due and payable on the consolidated bill must be lodged, in writing, at the municipality within 10 days of the consolidated bill date in order that it may be investigated. Should the query not be lodged within 10 days, the municipality cannot be bound to the provisions of clause 22.4.
- 22.6 A customer who has lodged an enquiry is not relieved of the responsibility to maintain regular payment on his account. In the event of an accountholder reasonably querying any item or items on the monthly municipal account, no action shall be taken against the accountholder provided the accountholder has paid, by due date, an amount equal to the monthly average monetary value of the three most recent un-queried accounts in respect of the service under query, as well as all un-queried balances on such account, and, provided further that, such query is made in writing by the accountholder or is recorded in writing by the Chief Financial Officer or his designate on behalf of the accountholder within 10 days of the consolidated bill date.
- 22.7 If a customer has received a response to a query but is still not convinced that the account is correct, the customer will still be liable for the full outstanding amount and will be subject to credit control action.

23 UNRESOLVED CUSTOMER QUERIES

- 23.1 Should a query remain unresolved after 14 working days have passed from the date the query was lodged, the customer is to notify the Section Head of the relevant section who will follow up and resolve the query.
- 23.2 Should the Section Head, as a result of the complexity of the case, be unable to resolve the query, it is to be referred to the Consolidated Billing Manager for resolution.

24 DISCONNECTIONS/RESTRICTIONS OF SERVICE

- 24.1 The Council shall disconnect/restrict services to consumers whose consolidated accounts remain unpaid after due date.
- 24.2 The municipality shall, prior to disconnection and/or restriction of services, not be obliged to issue any final demand notices or other reminders to customers whose accounts are unpaid after due date.
- 24.3 The municipal account shall reflect a warning message that shall be deemed to be proper and sufficient notice to the customer that his services may be disconnected or restricted unless payment is received on or before due date.

- 24.4 In the event that full payment of the consolidated account, including any accumulated arrears, is not received by close of business on due date, the electricity supply and thereafter the water supply may be disconnected/restricted, unless a formal arrangement for an extension of payment, in terms of Section 19, has been approved by the Chief Financial Officer or his authorised representative.
- 24.5 Even though a customer may have concluded satisfactory credit arrangements in terms of Section 19, the Council is not obliged to effect a reconnection of services on the day that payment is received or the agreement has been signed, but will, unless unable to do so because of circumstances beyond the control of the municipality, endeavour to do so within three (3) working days in terms of Section 26 read in conjunction with Section 25.
- 24.6 Where a customer's services are disconnected, or where access to disconnect services has not been obtained, the customer shall be charged a visitation fee, as determined by the Council, which shall be paid prior to the services being reconnected.
- 24.7 Where a customer's account and/or service agreement has been terminated or is in arrears and no credit arrangement has been entered into, the Council may, at the customer's cost, proceed to collect such amount as is outstanding and due in terms of the procedures for debt collection contained in Section 27 of this policy.
- 24.8 Where a customer or owner's account is in arrears and no credit arrangement for the settlement of any outstanding debt has been entered into, and, whether the services to the property have been disconnected / restricted or not, the Council may, regardless of whether the service agreement is terminated or not, implement the procedures for debt collection as set out in Section 27 of this policy, if such action is deemed by the Chief Financial Officer to be in the best interests of the Council.
- 24.9 Should the Chief Financial Officer be of the opinion that the termination of services, in respect of which the account is in arrear, could result in the endangerment of the life of any person, the Chief Financial Officer may appropriately restrict rather than terminate the services in question.

25 RECONNECTION/REINSTATEMENT OF TERMINATED/RESTRICTED SERVICES

- 25.1 Services which have been terminated or restricted shall be reconnected or reinstated by the municipality only when all the following conditions have been met:
- the arrear account has been paid in full, including the interest raised on such account; or an acceptable arrangement has been entered into with the municipality for the payment of the arrear account,

including the interest raised on such account; or a query, as contemplated in Section 22, has been resolved and arrangements for payment as approved by the Chief Financial Officer have been concluded;

- a revised/existing service agreement has been entered into/reinstated with the municipality, as contemplated in Section 11 of this policy; and
- a suitable cash deposit, as determined by the Chief Financial Officer in terms of Section 12, has been paid to the municipality.

25.2 Where consumers using prepaid meters have arrear amounts in respect of other services rendered by the municipality the Council shall allocate fifteen (15) percent of any future prepaid purchases to arrear amounts until such time as the arrears have been brought up to date.

26 PERIOD FOR RECONNECTION OR REINSTATEMENT

26.1 The municipality shall endeavour to reconnect or reinstate terminated or restricted services within 3 (three) working days after the date on which the conditions set out in Section 25 of this policy have been met, unless unable to do so because of circumstances beyond the control of the municipality.

27 PROCEDURE FOR DEBT COLLECTION AND WRITE OFF

Where consumer accounts are in arrears, the Chief Financial Officer is authorised to institute the following procedures with the intention of proceeding until the debt is collected or written off:

27.1 Immediately after due date, disconnect and/or restrict all water and/or electricity services for all overdue amounts relating to rates, service charges or any charges for services rendered by the municipality in terms of the procedures laid down in Section 24 of this policy;

27.2 Thirty days after the due date:

- Tracing action may be authorized and instituted if the whereabouts of the debtor is unknown.

27.3 Sixty days (or any earlier period if the Chief Financial Officer deems that it is in the best interest of the Council) after the due date, and where an account rendered to a customer remains outstanding, the following action may be taken:

- All arrear amounts shall be handed over to the Council's debt collection agents.
- The collection agents will then make use of normal debt collection procedures including a call centre approach and legal processes to collect the amounts owed to Council

- If necessary, the sale in execution of such property to recover arrear property rates and service charges will be instituted (if the accountholder is also the owner of the property).
 - All legal expenses incurred by the municipality shall be for the account of the defaulting customer.
- 27.4 The Chief Financial Officer may insist that a consumer, who is utilising a credit meter, convert from that credit metered supply to a prepayment supply. The cost of such a conversion is to be borne by the consumer.
- 27.5 The Chief Financial Officer may allocate up to fifteen (15) percent of any payment for prepayment services to arrear debt.
- 27.6 The Chief Financial Officer may order that emolument attachment or garnishee orders be instituted on debtors' salaries.
- 27.7 The Chief Financial Officer may withhold rates clearance certificates in terms of Section 118 of the Municipal Systems Act, 2000 (Act No. 32 of 2000) and Section 30 of this policy.
- 27.8 The Chief Financial Officer may withhold payments of grants-in-aid to consumers whose accounts are in arrears.
- 27.9 The Chief Financial Officer may withhold payment to suppliers whose accounts are in arrears in terms of the Supply Chain Management policy.
- 27.10 The Chief Financial Officer may withhold/reject the approval of building plans relating to improvements on properties if there are arrears on that property.
- 27.11 Whenever all the legal avenues and procedures listed above have been exhausted, or it becomes uneconomical to proceed further, the arrear amounts should be classified as irrecoverable and should be written off.
- 27.12 The Chief Financial Officer, in terms of the Council's financial regulations, has authority to write off individual irrecoverable debts in amounts not exceeding R 10 000.
- 27.13 The Executive Committee, in terms of its delegated authority, is authorised to write off individual irrecoverable debts in amounts exceeding R 10 000.
- 27.14 The Chief Financial Officer shall as soon as possible after 30 June each year, or more regularly if requested by Council to do so, present to the Council a report indicating the amount of the arrears that have been written off during the financial year, together with the reasons for the write off.
- 27.15 The Chief Financial Officer may write off debts if he is satisfied that:

- All reasonable steps have been taken to recover the debt and the debt is considered to be irrecoverable, or
- He/she is convinced that recovery of the debt would be uneconomical

27.16 Any debtors whose amounts are written off may be listed with the Credit Bureau and may not be permitted to enter into future service contracts with the Council.

28 ILLEGAL TAMPERING AND/OR THEFT OF SERVICES

The Municipality does not condone theft and fraud of municipal services and will monitor the service networks for signs of tampering or irregularities. Furthermore,

28.1 Water and electricity metering and connection equipment remain the property of the municipality and anyone involved in instances of tampering, damaging or theft thereof will be liable for criminal prosecution.

28.2 With regard to electricity services, if tampering of any nature or theft of such services is identified, the electricity supply to the property may be discontinued by the removal of the meter and the cable and the water supply may be restricted. In addition, the customer's service agreement with the Council may be cancelled and the customer's deposit may be offset against any amounts owed to the Council.

28.3 If the restricted water supply is tampered with or any variable flow-restricting device removed, the water supply may be discontinued, the service connection removed and the customer's service agreement with the Council may be cancelled. The customer's deposit may be offset against any amounts owed to the Council.

28.4 Once Council becomes aware that any terminated or restricted service has been irregularly reconnected or reinstated, the necessary action to remedy the situation will be implemented which could include the Municipal Manager reporting such action to the South African Police Service.

28.5 All outstanding amounts including, all metered consumption since the date of the illegal reconnection, or the estimated consumption, if a reliable meter reading is not possible, shall be paid in full together with the required deposit, before any reconnection/reinstatement, and new services agreement are considered. However, the receipt of payment will not necessarily impact on nor prejudice any legal or criminal proceedings against the customer.

29 UNOCCUPIED PREMISES

29.1 When a consumer terminates a consumption account and no new owner registers, the property is deemed to be unoccupied.

29.2 Whenever water and/or electricity consumption is recorded at a property that is deemed to be unoccupied effort will be made to establish the identity

of the person responsible for that consumption, failing which an appropriate bill will be raised and forwarded to the owner of the property for payment. Should payment not be received then the registered owner of the property is liable for the services consumed.

30 CLEARANCE CERTIFICATES

- 30.1 Before any property can be transferred from one owner to another, all amounts owing to the municipality for the preceding two years on the property must be settled. Only after settlement, will the Municipality issue a certificate stating that all outstanding debts have been settled. No property transfer can take place without such a certificate. In addition to the above where the debt on a property exceeds two years and a clearance is issued, a letter of undertaking is to be provided to Council providing for full settlement of the outstanding debt on transfer.
- 30.2 The Municipality requires a payment in advance equal to four months average consumption of all relevant services prior to the issuing of such a clearance certificate in order to allow for any consumption that may take place during the time taken for the transfer to go through.
- 30.3 The Municipality shall, wherever possible, issue a clearance certificate within ten working days of such request once all outstanding debts and administration fees have been paid in full.
- 30.4 The above provisions do not apply in the case of transfers from National Government, Provincial Government or another municipality of residential property where the provisions of Section 118 of the Municipal Systems Act are applicable.

31 MUNICIPAL STAFF

- 31.1 Any member of staff of the Council and any Councillor may not be in arrears with the Council for rates and/or service charges for a period longer than three months, and the Council will deduct any outstanding amounts from the salary or allowance of such member of staff or Councilor after this period, in accordance with item 10 of Schedule 2 of the Municipal Systems Act, 2000 (Act No. 32 of 2000).

32 REPORTING AND PERFORMANCE MANAGEMENT

- 32.1 The Chief Financial Officer shall report monthly to the Municipal Manager in a suitable format to enable the Municipal Manager to report to the Executive Committee as supervisory authority in terms of Section 99 of the Municipal Systems Act, 2000 (Act No.32 of 2000), read with section 100(c).
- 32.2 If, in the opinion of the Chief Financial Officer, Council will not achieve cash receipt income equivalent to the income projected in the annual budget as approved by Council, the Chief Financial Officer will report this with motivation to the Municipal Manager who will immediately move for a revision of the budget according to realistically realisable income levels.
- 32.3 The Executive Committee shall, at intervals of 3 months, report to Council as contemplated in Section 99(c) of the Municipal Systems Act.

33 COMMUNICATION OF POLICY TO CONSUMERS

- 33.1 The municipality will, at its own cost, publish the Credit Control and Debt Collection Policy in the local media. The Chief Financial Officer operating under delegated authority will publish the policy on whatever basis is to the Council's best advantage. A copy of the policy will be posted on the municipality's website and hardcopies will be made available on request at the service centers. Any amendments may be communicated on the website and in a newsletter from time to time.
- 33.2 Councilors must, from time to time, address ward committees on the contents of the policy and any amendments thereto.

34 BY-LAWS TO BE ADOPTED

- 34.1 By-laws shall be adopted to give effect to the Council's credit control and debt collection policy.
- 34.2 The by-laws are to comply with the requirements of the Municipal Systems Act, 2000 (Act No. 32 of 2000), the Water Services Act, 1997 (Act No. 108 of 1997), the Electricity Act, 1987 (Act No. 41 of 1987) and the Municipal Finance Management Act, 2003 (Act No. 56 of 2003).
- 34.3 The by-laws deal severely with defaulters, and their application requires a considerable degree of commitment from the Municipal Manager and his or her administration, as well as from the municipality's political structures. For the by-laws to ensure the avoidance of financial misfortunes for the municipality, and to lead to sustained financial stability, their application will have to receive the constant attention of all the municipality's key role-players and decision makers. If the by-laws are not constantly and consistently applied, from month to month and from year-to-year, the municipality's political and administrative credibility will be severely impaired, and it may not be able to ensure financial sustainability in the long run.
- 34.4 Although the by-laws envisage even the termination of basic services for defaulting account holders this will not in itself, no matter how harsh it may seem to those councillors and officials who are disposed to greater leniency, prevent the accumulation of arrears. The monthly billing for property rates, sewerage charges and refuse removal fees will continue in respect of defaulting account holders, even though their consumption of electricity and water may have been terminated or restricted. The termination or restriction of services must therefore be seen merely as a vital first step in the credit control programme, and the commitment by the municipality to follow up such actions with the full force of the law at the municipality's disposal is an essential further step if the accumulation of debts is to be meaningfully curtailed.

35 ENFORCEMENT OF OTHER LEGISLATION

- 35.1 In addition to the credit control and debt collection provisions contained in this policy and the published by-laws relating hereto, the Council may enforce any other rights or exercise any power conferred upon it by the Municipal Systems Act, 2000 (No. 32 of 2000), the Water Services Act, 1997 (Act No. 108 of 1997), the Property Rates Act, 2004 (Act No. 6 of 2004) and the Municipal Finance Management Act, 2003 (Act No. 56 of 2003).
- 35.2 In the event of an inconsistency between the provisions of these and any other by-laws, the provisions of these by-laws shall prevail.