

CREDIT MANAGEMENT BYLAWS FOR NYANDENI MUNICIPALITY

1. DEFINITIONS

Unless the context otherwise indicates –

“Bank guarantee” means an unconditional undertaking by a financial institution to it guarantee a specified maximum amount to be paid if the principal debtor (“the consumer”) fails to pay,

“Calculated amounts” means the amounts calculated by the Director of Finance 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 consumer 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 consumer resides or carries on business;

“Chief Executive Officer” means the person appointed as Municipal Manager in terms of the Local Government: Municipal System Act, 2000, or any person acting in that capacity;

“Consolidated account” means any person to whom a service is or has been rendered by the Council and

“Consumer services” has a corresponding meaning;

“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 Nyandeni 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 office to whom the Council has delegated any powers and duties with regard to these bylaws;

“Director of finance” means the Head of the Department responsible for the Council’s financial affairs, and any person duly authorized by him or her to act on his or her behalf in the stated capacity.

“Due date” means in the absence of any express agreement between the Council and the consumer, the date stipulated on the account and determined by the Council from time to time as the last date on which the account may be paid;

“Existing consumers” mean consumers who have already entered into an agreement for the supply of municipal services;

“Financial year” means 1 July any year to 30 June at the following year,

“Legal costs” means legal costs on an attorney- own client scale;

“Meter audits” means an investigation to verifying the correctness of the consumption of electricity or water,

“Normal office hours” mean the hours when the offices of the Director of Finance are open to the public from Monday to Friday, exclusive public holidays;

“Owner” means –

- (a) The person in whom, from time to time, is vested legal title to the premise;

- (b) In a case where the person in whom legal title to the premises is vested is insolvent or dead, or is of legal disability whatsoever, the person in whom the administration 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 identify of such person, a person who is entitled to the benefit of the use of such premises or a building thereon ;
- (d) in case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereof, and
- (e) in a relation to {1} a piece of land delineated on section plan registered in terms of the Section Tittles Act, 1986 {Act No. 95 of 1986}, the developer or the body corporate in respect of common property; or {2} a section as defined in such Act, the person in whose name such section is registered under a section title deed and include the lawfully appointed agent of such a person;

“Property tax” means rates and/or charges according to the value of property, which may be based on tariff on the value of the land or improvement or both, and has the same meaning as assessment;

“Rebate” means a discount on any property tax or service charge determined by the Council from time to time;

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

“Require amount” means that the total calculated amount of the electricity/ water consumed during any period of tampering, as well as tempering fee:

“Service accounts” means accounts in respect of electricity and/or water consumption

“Service agreement” means an agreement for consumption of electricity and/or water;

“Tempering fee” means a fee charge for the illegal disconnection, adjustment or bypassing of a consumption meter or siphoning of a supply of electricity or water supply to an unlettered destination, which fee will determined annually during the budget process and will form part of the tariff of services charges

“Variable flow- restriction device” means the device that is coupled to the water connection that allows the water supply to be restricted or close, and;

“Voluntary garnishee order/emoluments order” means a court order for the deductions of an amount of money from the salary or other income of a consumer.

2. SERVICE AGREEMENT

- (1) Before being provided with electricity, water and other consumer services, every consumer must enter into a service agreement with the Council in which, inter alias, the consumer 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 .The consumer shall be liable for calculated amounts.

3. ACCOUNTS

- (1) The Council will bill inhabitants, property owner and property occupiers within this area for property tax and municipal services supplied to them by the Council at regular interval or prescribed laws.
- (2) The owner of the property is liable for refuse and sewerage charges.
- (3) The Council will post or hand –deliver to consolidate accounts to the respective consumers at the address notified by each consumer, to reach the consumer before the due date printed on account. Any change of address becomes effective only when notification of the change is received and acknowledge by the Council.
- (4) The consumer must playtime 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 consumer, and interest at the rate determined from time to time by the Council in the absence of any determination, as prescribed by law, will be charged from date upon which the amount of the account was due for payment.

4. DEPOSIT

- (1) Deposits are to be determination by the Director of Finance, which determine is based on two and half times the average monthly account for the service in or on that property, either as factually determine or as calculated
- (2) in determining the deposit described in section 4{1}, the Director of Finance will differentiate between areas to give cognizance of differences in service standards and usage.
- (3) The Director of Finance may reassess consumer deposit for new commercial and industrial consumers three months after the initial deposit date, and may, as a result of this reassessment require an additional deposit from any such consumer.
- (4) The Director of Finance must review all deposit biennially or when a consumer's service is disconnected or blocked as result nonpayment. The outcome of this review will be communicated to the consumer in the event of any variation in the deposit arrangements being required. Should deposit mentioned in section 4 (2) or 4 (3) be found to be inadequate, the consumer will be allowed to make arrangement with the Director of Finance for the payment of the addition amount.
- (5) Consumer deposits are to be paid for all separate metered services.
- (6) Consumer deposits are to be paid in respect of water and electricity services only
- (7) Deposit must be paid on cash or by cheque .The Council will accept the bank guarantee in case where the deposit exceeds R2 000-00. The bank guarantee has to be hand – delivered during normal hours to the Director of Finance's offices
- (8) All deposits have to be paid at least 2 days prior to occupation. Failure to comply with this bylaw 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 may be required if a pre- payment meter is installed for the particular services.
- (10) Where new conventional electricity and/or water meters are installed for existing pre-payment consumers, these consumers may enter into an agreement with the Council to pay off, over a maximum period of 6 moths, the deposit levied.

5. DISCONNECTION FOR NON-PAYMENT

(1) General

The reconnection fee will be charged in cases of consumers who receive 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 Consumers

- (a) The Council may, at its discretion, issue final request notices or other reminders to consumers whose accounts are in arrears, prior to disconnection.
- (b) The Council may issue a final demand for payment of arrears in respect of all debtor account 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) Depending on the circumstances, the Council may disconnect services to consumers with conventional electricity meters in respect of which service accounts are in arrears after the due date. Should such consumers 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 Director of Finance.
- (b) As far as is practicable, 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 consumers with pre-paid meters unless the consumer's municipal account for the other services and property tax, if any, is paid full or satisfactory arrangements in terms of bylaw section 7 have been made with the Director Finance, 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 may restrict the water supply of consumers whose electricity supply has been blocked or disconnection 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 consumers who have offered a cheque as payment for municipal services if any such cheque is returned or dishonored by the Financial Institution on which it is drawn for any reason. The consumer'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 consumers without written authority from the Council's Credit Control Section.
- (i) Consumers whose supply of services have unlawfully reconnected will be regarded as having tampered with the meter or supply

(4) Water

- (a) The Council will serve a written notice on consumers with conventional water meters in respect of which municipal service account 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 Bylaws.
- (b) The water supply to consumers 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 consumers 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-retracting device to facilitate future reconnections and restriction. The full service will not be re-instated before the municipal services account is paid in full or satisfactory arrangements in terms of the Credit Management Policy have been made with the Director of Finance, and only for as long as the arrangements are honored.
- (d) The Council shall not be obliged to sell water to consumers 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 Director of Finance, and then only for as those arrangements are honored.
- (e) Where possible, all disconnected meters will be clearly marked to avoid restricted or disconnected meters being reported as faulty.
- (f) Standby plumbers, meter reader and contractors are not permitted to restore any services to consumers without written authorization from the Council Credit Control Section.
- (g) In cases where water leaks are discovered on the consumer's side of water meter and he or she does not act timorously 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 consumer.

6. TEMPERING

- (1) When an electrical or water supply is found to have been tampered with or the meter bypassed, the Council may, subject to these bylaws and other applicable legislation, isolate or disconnect the relevant supply, and the consumer shall pay the applicable tampering fee, calculated amount due 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 instance where there is evidence of a discrepancy the electricity or water consumption and purchase history of a specific property, transgressors will be dealt with in the following manner:
 - (j) Subject to paragraph {ii}, supply will be isolated at point of supply in instances of a first offence and removed in instances of subsequent offences.
 - (ii) A written notification will be given to the consumer, informing him or her of isolation or removal, as well as the fees due in respect of the tampering, reconnection/connection and the calculated amount due.
 - (iii) The Council will only re-instate services after the amount referred to in paragraph (ii) have been paid.
- (3) In instance where physical tampering with the electricity or water supply is detected, transgressors will be dealt with in the following manner.
 - (i) Supply will be isolated immediately in instance of a first offence and removed in instance of a second or subsequent offence.

- (ii) A written notification will be given to the consumer, 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.
 - (iii) The Council will only re-instate services after the amounts referred to in paragraph {ii} have been paid.
- (4) In addition to the previous of this bylaw, 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 }, the Council's Water Bylaws, the Electricity Act 1987{Act No.41 of 1987}, the Councils Electricity Bylaws and any other applicable legislation.

7. AGREEMENTS AND ARRANGEMENTS WITH CONSUMER IN ARREAR

- (1) The Director of Finance or his delegate is authorized to enter into agreements with consumers in arrear with their accounts and to grant such persons of time for payment.
- (2) The Director of Finance 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 installments 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 Director of Finance 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 instance where the Director of Finance is satisfied, at the time of making arrangement and after investigation that a bona fide consumer can not be reasonably afford the payment of services, such as consumers details will be recorded and father legal steps against such consumer will either be deferred or waived, as the Director of Finance may decide.

8. ACKNOWLEDGEMENT OF DEBT

- (1) Only debtors with positive proof of identity or an authorized agent with the power of attorney will be allow to complete an acknowledgement of debt agreement.
- (2) An acknowledge of debt agreement must contain all the arrangements for paying off arrears accounts. One copy of the document will be handed to the consumer and other filed at the Council Credit Management Section.
- (3) A consumer who has already been served with summons or other legal process by the Council's attorney may apply for credit facilities. However, all legal cost 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 require. The consumer must also sign an acknowledgment 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 consumers 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 determined by resolution of the Council, or at an interest rate as determined by resolution of the Council, or in the absence of any such determination, as prescribed by law.

- (2) Interest will be charged on arrear property tax as in the applicable legislation.

10. HAND-OVER

The Council will issue a final demand in respect of all consumers accounts reflecting an amount outstanding for longer than 30 days and, if such account still reflecting an amount in arrears after 60 days, it will be handed over for collection by the appropriate Council department or to external debt collection specialists.

Although not obligated, the Director of Finance should, where possible, investigate ways and means of assisting consumers before attaching movable property.

11. CONSUMER MAY NOT SELECTIVELY NOMINATE PAYMENT

A consumer is not entitled to allocate any payment to any portion of the total debt due. The allocation of payments will be made at the sole discretion of the Director of Finance.

12. AUTHORITY TO APPOINT DEBT COLLECTION SPECIALISTS

The Director of Finance has the authority to appoint debt collection specialists and to enter into agreements with such agencies in terms of Contingency Fee Act, 1997 if necessary.

13. RELIEF MEASURES FOR PENSIONERS

- (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 satisfaction of the Director of Finance that they comply with the following requirements;
- (a) The applicant must be a ratepayer of 60 years or older to 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.
 - (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 must 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) Anew application must be made for each financial year.
- (4) The percentage rebate mentioned in paragraph (1) (a), the maximum income limit mentioned in paragraph (1) (c) and the closing date for applications mentioned in paragraph (2) will, will be determined each year at the approval of the budget an must be advertised within 30 days thereafter

14. CONFLICT OF LAWS

If there is any conflict between these by laws and any other by laws of the council, these by laws will prevail.