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PROVINCIAL NOTICES

The following Provincial Notice is published for general information.

ADV. B. GERBER,
DIRECTOR-GENERAL

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ADV. B. GERBER,
DIREKTEUR-GENERAAL

Provinsiale-gebou,
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Kaapstad.

14 June 2013

HESSEQUA LOCAL MUNICIPALITY**CREDIT CONTROL AND DEBT
COLLECTION BY-LAW**

(FINAL FOR IMPLEMENTATION ON 1 JULY 2013)

**TO REGULATE CUSTOMER CARE MANAGEMENT,
CREDIT CONTROL AND DEBT COLLECTION POLICIES**

28 MAY 2013

HESSEQUA LOCAL MUNICIPALITY
 BY-LAW TO REGULATE CUSTOMER CARE MANAGEMENT, CREDIT CONTROL AND DEBT
 COLLECTION - 2013/14 FINANCIAL YEAR – FINAL FOR IMPLEMENTATION ON 1 JULY 2013
 (28 MAY 2013)



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HESSEQUA LOCAL MUNICIPALITY
PRINCIPLES AND BY-LAW ON CREDIT CONTROL AND DEBT COLLECTION

DOCUMENT AND VERSION CONTROL

Version:

Date:

Summary: This document describes the Principles and By-law on Credit Control and Debt Collection that will be applicable to the Hessequa Municipality, with effect from 01 July 2013.

Municipal Manager: J Jacobs

Executive Mayor: E Nel

Date: 2013/05/28

Date: 2013/05/28

1. 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 4 (1) (c) of the Local Government: Municipal Systems Act 32 of 2000, as amended (*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 customers, pay promptly for services fees, surcharges on fees, other taxes, levies and duties imposed by the Municipality;

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, respectively.

Now therefore the Municipal Council of Hessequa Municipality adopts the following By-law regarding Customer Care, Credit Control and Debt Collection.

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1.1 Scope Of The By-law

- (a) This By-law applies to all administrations within the defined boundaries of the Hessequa Municipality and all customers of these administrations.
- (b) The Credit Control and Debt Collection By-law, as approved by Council, has been enshrined in a Municipal By-law in terms of the Systems Act and such By-law will be binding on the public, officials and Councilors of the Local Municipality of Hessequa and no interference in the process will be permitted.
- (c) The By-law is applicable until such time as it is reviewed and any revisions to the By-law approved by Council.
- (d) All acts performed in terms of the above approved By-law, will not be invalidated due to the timing differences between approval and promulgation.
- (e) All acts performed as mentioned in the previous paragraph will be ratified with the promulgation of the Municipal By-law.

1.2. Objective Of The By-law

The objective of this By-law is to:-

- (a) Focus on all outstanding debt as raised on the customer's account.
- (b) Provide for a uniform credit control, debt collection and indigent Policy throughout the Hessequa Municipality.
- (c) Facilitate implementation of this By-law throughout the Hessequa Municipality.
- (d) Promote a culture of good payment habits amongst Hessequa Municipality customers and instill a sense of responsibility towards the payment of municipal accounts and reduction of municipal debt.
- (e) To ensure that the Council of Hessequa Municipality uses innovative, cost effective, efficient and appropriate methods to collect as much of the debt in the shortest possible time without any interference in the process.
- (f) To ensure that Hessequa Municipality effectively and efficiently deal with defaulters in accordance with the terms and conditions of this By-law.

2. DEFINITIONS

In this By-law any word or expression to which a meaning has been assigned in the Local Government: Municipal Systems Act has that meaning, unless the context indicates otherwise-

"Accommodation" means accommodation in an accommodation establishment, a room, dwelling/ house or second dwelling unit, self-catering room, self-catering apartment or free standing building let to transient guests consisting of three or more lettable units.

"Accommodation Establishments" – consists of one or more of the following lettable types of accommodation, consisting of three or more lettable units –

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- (a) "Camping" (informal temporary accommodation in a unique environment) is defined by a property used for erection of tents or other temporary structures for temporary accommodation for visitors or holiday-makers, which includes ablution, cooking and other facilities that are reasonably and ordinarily related to camping, for use of such visitors, and includes a caravan park, whether publicly or privately owned, but which excludes the alienation of land on the basis of time sharing, sectional title share blocks or individual subdivision; and excludes resort accommodation or mobile homes;
- (b) "Bed and Breakfast" (accommodation in a dwelling-house or second dwelling unit for transient guests) is defined by a dwelling-house or second dwelling in which the owner of the dwelling supplies lodging and meals for compensation to transient guests who have permanent residence elsewhere; provided that the primary use of the dwelling-house concerned shall remain for the living accommodation of a single family and where not more than 3 guest rooms are provided;
- (c) "Guest House" (accommodation in a dwelling-house or second dwelling unit for transient guests) is defined by a dwelling-house (with a maximum of 10 rooms) or second dwelling which is used for the purpose of supplying lodging and meals to transient guests for compensation, in an establishment which exceeds the restrictions of a bed and breakfast establishment and may include business meetings, training sessions and conference facilities for resident guests;
- (d) "Self catering Accommodation" (accommodation for non-permanent residents and transient guests) is defined by a house, cottage, chalet, bungalow, flat, studio, apartment, villa, or similar accommodation where facilities and equipment are provided for guests to cater for themselves. The facilities should be adequate to cater for the maximum advertised number of residents the facility can accommodate;
- (e) "Self catering Apartments" (accommodation for non-permanent residents and transient guests) is defined by a building or group of buildings consisting of separate accommodation units, each incorporating a kitchen / -ette facility, and which may include other communal facilities for the use of transient guests, together with outbuildings as are normally used therewith; which are rented for residential purposes and may include holiday flats; but does not include a hotel, dwelling-house, second dwelling or group house;
- (f) "Backpackers Accommodation" (accommodation and communal facilities in a building or free standing buildings for transient guests) is defined by a building where lodging is provided, and may incorporate cooking dining and communal facilities for the use of lodgers, together with such outbuildings as are normally used therewith and includes a building in which dormitories/rooms/beds are rented for residential purposes, youth hostel, and backpackers' lodge; but does not include a hotel, dwelling house, second dwelling or group house;
- (g) "Boarding House" a dwelling-house or second dwelling which is used for the purpose of supplying lodging with or without meals or self catering to non permanent/permanent residents for compensation; provided that the primary use of the dwelling-house shall remain for the living accommodation of a single family;

"Account" means an account rendered specifying charges for municipal services provided by the Municipality, or any authorised and contracted service provider, and which account may include assessment rates levies.

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"Accounting Officer" means the municipal manager appointed in terms of Section 60 of the Municipal Finance Management Act.

"Annual Budget" shall mean the budget approved by the municipal council for any particular financial year, and shall include any adjustments to such budget.

"Annually" – means once every financial year;

"Arrangement" means a written agreement entered into between the Municipality and the customer where specific repayment parameters are agreed to. Such arrangement does not constitute a credit facility envisaged in terms of section 8(3) of the National Credit Act but is deemed to be Incidental Credit as envisaged in terms of section 4(6)(b) read with section 5(2) and (3) of the National Credit Act.

"Arrears" means those rates and service charges that have not been paid by the due date and for which no arrangement has been made.

"Authorised Representative" means a person or instance legally appointed by the Municipality to act or to fulfill a duty on its behalf.

"Basic municipal services" shall mean a municipal service necessary to ensure an acceptable and reasonable quality of life, which service – if not provided – would endanger public health or safety or the environment.

"Billing Date" means the date upon which the monthly statement is generated and debited to the customer's account.

"Business and Commercial Property" means –

- (a) property used for the activity of buying, selling or trading in commodities or services and includes any office or other accommodation on the same property, the use of which is incidental to such activity; or
- (b) property on which the administration of the business of private or public entities take place.

"By-law" shall mean legislation passed by the council of the Municipality, and which shall be binding on the Municipality and on the persons and institutions to which it applies.

"Calendar year" shall mean 12 consecutive months of a financial year(s).

"Category" –

- (a) in relation to a property, means a category of properties determined in terms of section 8(2) of the Municipal Property Rates Act;
- (b) in relation to the owners of property, means a category of owners determined in terms of section 15(2) of the Municipal Property Rates Act.

"Chief Financial Officer" means the person appointed as the Chief Financial Officer of the Municipality, or his or her nominee.

"Consumer Price Index" shall mean the CPIX as determined and gazetted from time to time by the South Bureau of Statistics.

"Consolidated Account" means an account which is a consolidation of any separate accounts of a person who is liable for payment to the Municipality.

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"Council" means the Council of the Hessequa Municipality.

"Councillor" shall mean a member of the Council of the Municipality.

"Credit Control" means all the functions relating to the collection of monies owed by ratepayers and the users of municipal services.

"Customer" means the occupier of any premises to which the Municipality has agreed to supply or is actually supplying municipal services, or if no occupier can be identified or located, then the owner of the premises and includes any customer of the Municipality.

"Day/Days" means calendar days, inclusive of Saturdays, Sundays and public holidays.

"Debt Collectors" means an external person or entity appointed by the Municipality to collect monies due and payable to the Municipality, subject to the conditions contained herein.

"Defaulter" means any person who owes arrears to the Municipality.

"Delivery Date" shall mean the date on which the periodic account is delivered to the customer or 3 days after the date the account was posted, whichever is the first.

"Domestic Customer or User" of municipal services shall mean the person or household which municipal services are rendered in respect of "residential property" as defined below.

"Due Date" in relation to -

(a) rates due in respect of any immovable property, means:-

- (i) the twentieth (20th) day of September of the financial year for which such rate is made, in the case where rates are levied on an annual basis;
- (ii) the date for payment indicated on the account, in the case where rates are levied on a monthly basis; or
- (iii) any other date determined by Council in terms of a public notice in the Provincial Gazette, and

(b) service charges due in respect of any immovable property, means the date for payment indicated on the account, provided that the due date for any service charges means the twentieth (20th) day of September in the case where service charges are levied annually; and

(c) should such day fall on a Saturday, Sunday or public holiday the due date shall be the next working day.

"Dwelling" means a building, structure or place of shelter to live in or conduct business from.

"Electricity Charges" means service charges in respect of the provision of electricity.

"Farm Property or Small Holding not used for any purpose" – means agricultural property or an agricultural zoned land which is not used for farming purposes, regardless of whether such portion of such property has a dwelling on it which is used as a dwelling and must be regarded as residential property.

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"Farm Property or Small Holding used for agricultural purpose" – means property that is used for the cultivation of soils for purposes of planting and gathering in of crops; forestry in the context of the planting or growing of trees in a managed and structured fashion; the rearing of livestock and game or the propagation and harvesting of fish, but excludes the use of a property for the purpose of eco-tourism; and in the respect of property on which game is reared, trade or hunted, it excludes any portion that is used for commercial or business purposes. In this definition such properties could also be included within the urban edge of a town;

"Financial Year" shall mean the period starting from 1 July in any year and ending on 30 June of the following year.

"Immovable Property" also includes -

- (a) an undivided share in immovable property, and
- (b) any right in immovable property.

"Implementing Authority" means the Municipal Manager or his or her nominee, acting in terms of section 100 of the Local Government: Municipal Systems Act No. 32 of 2000.

"Indigent Customer" means the head of an indigent household:-

- (a) who applied for and has been declared indigent in terms of Council's Indigent Support Policy for the provision of services from the Municipality; and
- (b) who makes application for indigent support in terms of Council's Indigent Support Policy on behalf of all members of his or her household;

"Indigent Support Policy" means the Indigent Support Policy adopted by the Council of the Municipality.

"Indigent Support Programme" means a structured program for the provision of indigent support subsidies to qualifying indigent customers in terms of the Council's Indigent Support Policy.

"Integrated Development Plan" shall mean a plan formulated and approved as envisaged in Section 25 of the Municipal Systems Act 2000, as amended.

"Industrial Property" – means property used for construction, repair, trade or manufacturing, production, assembly or processing of finished or partially finished products from raw materials or fabricated parts on such a large scale that capital and labour are significantly involved, and includes any office or other accommodation on the same property, the use of which is incidental to such activity;

"Interest" means the charge levied on arrears, calculated as the prime rate, charged by the bank which holds the Municipality's primary bank account, plus one percent or such other percentage as may be determined by Council from time to time. (See clause 18).

"Local Community" – in relation to the Municipality –

- (a) means that body of persons comprising –
 - (i) the residents of the Municipality;
 - (ii) the rate payers of the Municipality;

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- (iii) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the Municipality; and
 - (iv) visitors and other people residing outside the Municipality, who, because of their presence in the Municipality, make use of services or facilities provided by the Municipality; and
- (b) includes, more specifically, the poor and other deprived sections of such body of persons;

"Manager Income" Means the Senior Official in a division of the Municipality's Finance Department, overall responsible for the collection of monies owed to the Municipality and/or any other official to whom he/she has delegated duties and responsibilities in terms of this By-law.

"Market Value" – in relation to a property, means the value of the property determined in accordance with section 46 of the Municipal Property Rates Act;

"Month" means one of twelve months of a calendar year.

"Monthly Average Consumption" means the monthly average consumption in respect of that property calculated on the basis of consumption over the preceding or succeeding twelve months.

"Multiple purposes" – in relation to a property, means the use of a property for more than one purpose as intended in section 9 of the Municipal Property Rates Act.

"Municipality" or **"Municipal Area"** shall, where appropriate, mean the geographic area, determined in terms of the Local Government: Municipal Demarcation Act No. 27 of 1998 as the municipal area pertaining to the Municipality.

"the Municipality" means Hessequa Local Municipality.

"Municipal Council" or **"Council"** shall mean the municipal council of Hessequa Local Municipality as referred to in Section 157(1) of the Constitution.

"Municipal Pay Point" means any municipal office in the area of jurisdiction of the Municipality designated by Council for such purposes, or any such other places as the Chief Financial Officer may from time to time designate.

"Municipal Manager" means the Municipal Manager of the Hessequa Municipality or his or her nominee acting in terms of power delegated to him or her by the said Municipal Manager with the concurrence of the Council.

"Municipal Services" means services provided either by the Municipality, or by an external agent on behalf of the Municipality in terms of a service delivery agreement.

"Municipal Tariff" shall mean a tariff for services which the Municipality may set for the provision of a service to the local community, and may include a surcharge on such service. Tariffs for major services shall mean tariffs set for the supply and consumption or usage of electricity, water, sewerage and refuse removal, and minor tariffs shall mean all other tariffs, charges, fees, rentals or fines levied or imposed by the Municipality in respect of other services supplied including services incidental to the provision of the major services.

"Occupier" means any person who occupies, controls or resides on any premises, or any part of any premises without regard to the title under which he or she so occupies it.

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"Open Space" - means land that is used as a park, garden, for passive leisure or maintained in its natural state and that is zoned as open space.

"Owner" in relation to immovable property means -

- (a) the person in whom is vested the legal title thereto provided that:-
- (i) the lessee of immovable property which is leased for a period of not less than thirty years, whether the lease is registered or not, shall be deemed to be the owner thereof;
 - (ii) the occupier of immovable property occupied under a service servitude or right analogous thereto, shall be deemed to be the owner thereof;
- (b) if the owner is dead or insolvent or has assigned his or her estate for the benefit of his creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be, shall be deemed to be the owner thereof;
- (c) if the owner is absent from the Republic or if his address is unknown to the Municipality, any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property, or if the Municipality is unable to determine who such person is, the person who is entitled to the beneficial use of such property.

"Person" means a natural and juristic person, including any department of state, statutory bodies or foreign embassies.

"Premises" includes any piece of land, the external surface boundaries of which are delineated on:

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

"Prescribed" means prescribed by this By-law and where applicable by Council or the Municipal Manager.

"Prescribed debt" means debt that becomes extinguished by prescription in terms of the Prescription Act 68 of 1969.

"Private Open Space" means land that is privately owned and used for practising of sport, play- or leisure facilities or used as a botanical garden, cemetery or nature area and which is joined as Private Open Space.

"Privately Owned Townships Serviced by the Owner" – means single properties (group housing or single residential erven), situated in an area not ordinarily being serviced by the Municipality, divided through subdivision or township establishment in (ten or more) full-title stands and/or sectional title units and where all rates-related services inclusive of installation and maintenance of streets, roads, sidewalks, lighting, storm water drainage facilities, parks and recreation facilities, are installed at the full cost of the developer and are rendered and maintained by the residents, Home owners association or management companies/ bodies of such estate.

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"Property" – means immovable property registered under separate title in terms of the provisions of the Deeds Registries Act, 1937 (Act 47 of 1937) in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person and includes unregistered land if the right of ownership can be determined;

"Rateable Property" shall mean property on which the Municipality may in terms of Section 2 of the Municipal Property Rates Act 2004 levy a rate, but excluding property fully excluded from the levying of rates in terms of Section 17 of that Act.

"Ratepayer" shall mean a person who is liable to the Municipality for the payment of (a) rates on property in the Municipality; (b) any other tax, duty or levy imposed by the Municipality; and/or (c) fees for services provided either by the Municipality or in terms of a service delivery agreement.

"Rates" means a municipal rate on property envisaged in section 229 (1) of the Constitution read with the Local Government: Municipal Property Rates Act 6 of 2004 and the Local Government: Municipal Finance Act 56 of 2003.

"Rebate" in relation to a rate payable on a property, shall mean a discount granted in terms of Section 15 of the Municipal Property Rates Act, 2004 on the amount of the rate payable on the property.

"Reduction" - in respect of a rate payable on a property, means the lowering of the amount for which the property was valued and the rating of that property at that lower amount.

"Refuse Charges" means service charges in respect of the collection and disposal of refuse.

"Registered Owner" means that person, natural or juristic, in whose name the property is registered in terms of the Deeds Registry Act, no. 47 of 1937.

"Responsible Person" means any person other than the registered owner of an immovable property who is legally responsible for the payment of municipal service charges.

"Residential Property" shall mean a property included in the valuation roll in terms of Section 48(2)(b) of the Municipal Property Rates Act, 2004 as residential.

"Residential Property" furthermore means improved property that: -

- (a) is used predominantly (60% or more) for residential purposes, including any adjoining property registered in the name of the same owner and used together with such residential property as if it were one property.

Any such grouping shall be regarded as one residential property for rate rebate or valuation reduction purposes, if still used dominantly for residential purposes;

- (b) is a unit registered in terms of the Sectional Title Act and is used predominantly for residential purposes;
- (c) is owned by a share-block company and is used predominantly for residential purposes;
- (d) is a residence used for residential purposes situated on a property used for educational purposes;
- (e) is property which is included as residential in a valuation list in terms of section 48(2)(b) of the Municipal Property Rates Act, 2004;

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- (f) are retirement schemes and life right schemes used predominantly (60% or more) for residential purposes;

vacant properties (empty stands), hotels, hostels, old-age homes and accommodation establishments, irrespective of their zoning or intended use, have been specifically excluded from this property category.

"Service Charges" means the fees levied by the Municipality in terms of its tariff By-law for any municipal services rendered in respect of an immovable property and includes any penalties, interest or surcharges levied or imposed in terms of this By-law.

"Service Delivery Agreement" means an agreement between the Municipality and an institution or persons mentioned in section 76(b) of the Local Government: Municipal Systems Act 32 of 2000.

"Sewerage Charges" means service charges in respect of the provision of sewerage collection and treatment of infrastructure.

"Small Holding" means

- (a) all agricultural zoned land units situated within an urban region with an area of one to three hectares; or
- (b) any agricultural zoned land unit situated outside an urban region with an area of three hectares or less.

"State Owned Property" excludes any property included in the valuation roll under the category 'residential property' or 'vacant land'.

"Sundry Customer Accounts" means accounts raised for miscellaneous charges for services provided by the Municipality or charges that were raised against a person as a result of an action by a person, and were raised in terms of Council's policies, bylaws and decisions.

"Supervisory Authority" means the Executive Mayor of the Municipality or his or her nominee, acting in terms of Section 99 of the Municipal Systems Act 32 of 2000.

"Tariff" means the scale of rates, taxes, duties, levies or other fees which may be imposed by the Municipality in respect of immovable property and/ or for municipal services provided.

"Tariff Policy" means a Tariff Policy adopted by the Council in terms of Section 74 of the Local Government: Municipal Systems Act 32 of 2000.

"User" means the owner or occupier of a property in respect of which municipal services are being rendered.

"Vacant Property" – means any land without any improvements thereon.

"Water Charges" means service charges in respect of the provision of water.

3. PRINCIPLES

- (1) Apart from meeting legislative requirements, this By-law also emanates from the objectives determined in Council's anti-corruption policy.
- (2) The principles of credit management in the Municipality are:-

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- (a) The administrative integrity of the Municipality must be maintained at all times.
- (b) This By-law must have the full support of Council.
- (c) Councillors must have full knowledge of the implementation and enforcement of the By-law.
- (d) Customers must be informed of the contents of this By-law.
- (e) Customers must apply for services from the Municipality by the completion of the prescribed application form.
- (f) Customers must receive regular and accurate accounts that indicate the basis for calculating the amounts due. The customer is entitled to have the details of the account explained upon request.
- (g) Customers must pay their accounts regularly by the due date.
- (h) Customers are entitled to reasonable access to pay points and to a variety of reliable payment methods.
- (i) Customers are entitled to an efficient, effective and reasonable response to appeals, and should not suffer any disadvantage during the processing of a reasonable appeal.
- (j) Debt collection action will be instituted promptly, consistently, and effectively without exception and with the intention of proceeding until the debt, including the cost of collection, is recovered.
- (k) It shall be the duty of all customers to ensure that they have the correct information regarding all due amounts.

4. SUPERVISORY AUTHORITY

- (1) The Executive Mayor oversees and monitors:-
 - (a) The implementation and enforcement of the Municipality's credit control and debt collection By-law.
 - (b) The performance of the Municipal Manager in implementing the credit control and debt collection By-law.
- (2) The Executive Mayor shall at least once a year cause an evaluation or review of the credit control and debt collection By-law to be performed, in order to improve the efficiency of the Municipality's credit control and debt collection mechanisms, processes and procedures, as well as the implementation of this By-law.
- (3) The Executive Mayor shall submit a report to Council regarding the implementation of the credit control and debt collection By-law at such intervals as Council may determine.

5. IMPLEMENTING AUTHORITY

- (1) The Municipal Manager:-
 - (a) Implements and enforces the credit control and debt collection By-law.

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- (b) Is accountable to the Executive Mayor for the enforcement of the By-law and shall submit a report to the Executive Mayor regarding the implementation and enforcement of the credit control and debt collection By-law at such intervals as may be determined by Council.
 - (c) Must establish effective administration mechanisms, processes and procedures to collect money that is due and payable to the Municipality.
 - (d) Where necessary make recommendations to the Executive Mayor with the aim of improving the efficiency of the credit control and debt collection mechanisms, processes and procedures.
 - (e) Establish effective communication between the Municipality and account holders with the aim of keeping account holders abreast of all decisions by Council that may affect account holders.
 - (f) Establish customer service centres, located in such communities as determined by the Municipal Manager.
 - (g) Convey to account holders information relating to the costs involved in service provision, and how funds received for the payment of services are utilised, and may where necessary employ the services of local media to convey such information.
- (2) The Municipal Manager may, in writing, delegate any of the powers entrusted or delegated to him or her in terms of Council's credit control and debt collection By-law to the Chief Financial Officer.
- (3) A delegation in terms of subsection (2):-
- (a) Is subject to any limitations or conditions that the Municipal Manager may impose;
 - (b) May authorise the Chief Financial Officer in writing, to sub-delegate duties and responsibilities to the Manager Income.
 - (c) The delegation does not divest the Municipal Manager of the responsibility concerning the exercise of the delegated power.
- (4) The Chief Financial Officer is accountable to the Municipal Manager for the implementation, enforcement and administration of this By-law, and the general exercise of his powers in terms of this By-law.
- (5) The Manager Income shall be accountable to the Chief Financial Officer for the sections of this By-law delegated to the Manager Income in terms of the MFMA section 82.

6. UNSATISFACTORY LEVELS OF INDEBTEDNESS

- (1) If the level of indebtedness in a particular ward or part of the Municipality exceeds the level of the acceptable norm as determined in the Municipality's budget guidelines, the supervisory authority (Executive Mayor) must, without delay, advise the Councillor for that ward or part.
- (2) The Councillor concerned must without delay convene a meeting of the ward committee, if there is one, or convene a public meeting and report the matter to the committee or meeting for discussion and advice; and may make any appropriate recommendations to the supervisory authority.

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7. APPLICATION FOR THE PROVISION OF MUNICIPAL SERVICES

- (1) A customer who requires the provision of municipal services must apply for the service from the Municipality. The application must be made on the prescribed form "APPLICATION FOR DELIVERY/TERMINATE/CHANGE OF SERVICES".
- (2) The application for the provision of municipal services must be made by the registered owner of an immovable property only.
- (3) The Municipality will not entertain an application for the provision of municipal services by a tenant of a property, or any other person who is not the owner of the property. The only exception will be:-
 - (a) Individuals and Businesses with lease agreements to lease properties from the Municipality;
 - (b) Government Departments;
 - (c) Body Corporates who take the responsibility for the payment of basic water, basic sewer and refuse removal services on behalf of the individual sectional title owners; and
 - (d) Approved Indigent Customers for the purposes of registering and allocating the applicable subsidy to qualified indigent customers whom will be allowed to open an account in the name of the lessee of the property.
- (4) In case of existing arrangements where tenants have existing accounts, written permission of the owner may be requested from the owner by the Municipality. If the tenant is guilty of non-payment the owner, where permission has been granted, as a last resort is liable for the outstanding debt, except where the property concerned is owned by the Municipality.
 In terms of section 102(3) of the Municipal Systems Act the Municipality must provide an owner of a property in its jurisdiction with copies of accounts sent to the occupier of the property for municipal services supplied to such a property if the owner requests such accounts in writing from the Municipality.
- (5) An agent may with a proxy open an account in the name of the owner.
- (6) The application for the provision of municipal services must be made in writing on the prescribed application form that is provided by the Municipality.
- (7) By completing the prescribed application form for the provision of municipal services the consumer of services enters into an agreement with the Municipality. Such agreement does not constitute a credit facility envisaged in terms of section 8(3) of the National Credit Act (NCA) but shall be incidental credit as envisaged in terms of section 4(6)(b) of the NCA, to which the NCA will only apply to the extent as stipulated in section 5 of the NCA.
- (8) The agreement with the Municipality makes provision for the following:-
 - (a) An undertaking by the occupier that he or she will be liable for collection costs including administration fees, interest, disconnection and reconnection costs, and any other legal costs occasioned by his or her failure to settle accounts by the due date on an attorney/ client basis;

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- (b) An acknowledgement by the occupier that accounts will become due and payable by the due date notwithstanding the fact that the owner did not receive the account;
 - (c) That the onus will be on the occupier to ensure that he or she is in possession of an account before the due date; and
 - (d) An undertaking by the Municipality that it shall do everything in its power to deliver accounts timeously.
- (9) The application for the provision of municipal services shall be made at least fourteen (14) days prior to the date on which the services are required to be connected.
- (10) On receipt of the application for provision of municipal services, the Municipality will cause the reading of metered services linked to the property to be taken on the working day preceding the date of occupation.
- (11) The first account for services will be rendered after the first meter reading cycle to be billed following the date of signing the service agreement.
- (12) In case of new buildings being erected and a connection is made for the first time to the main service lines the metering and levying of services actually consumed or received will take place as follow:-
- (a) Basic water, basic electricity (in the case of builders' connections) and sewer charges are levied with effect from the date when the connection is made to the main service line.
 - (b) Basic electricity (if no builders' connection), basic conservancy tank/ septic tank/ french drain (where applicable) and refuse removal charges are levied with effect from the date of the Occupancy Certificate issued by the Building Control Section.
 - (c) Any connection date between the 1st and 15th of the month will be levied for a full month whilst any connection date after the 15th of the month will only be levied from the 1st of the following month.

8. DEPOSITS AND GUARANTEES

- (1) Every customer must, on application for the provision of municipal services pay a deposit to the municipality prior to the provision of any municipal services. The amount of which shall be annually determined by Council and is contained in the tariff book produced annually.
- (2) No interest will be paid on any deposit held by Council.
- (3) For the purposes of registering and allocating the applicable subsidy to qualified indigent customers, accounts will be opened for these customers without requiring any deposit. This is made possible through the fact that the value of services levied against these accounts is fully offset on a monthly basis against the applicable indigent subsidy. This arrangement will immediately terminate if the status of the indigent customer changes.
- (4) The Chief Financial Officer may, in respect of business premises, accept an irrevocable bank guarantee in lieu of a deposit on application for the provision of municipal services by a business.

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- (5) Existing customers moving to a new address are required to pay the prescribed customer deposit on application for the provision of municipal services at the new address.
- (6) The customer deposit paid on application for the provision of municipal services must be reviewed annually and may be increased or decreased upon written notice to customers. The deposit will be the equivalent of one month's charge for all municipal services supplied, however this may be increased if it is determined that the customer is a credit risk.
- (7) On termination of the supply of services the amount of the deposit less any payment due to the Municipality will be refunded to an account holder, provided that payments due are less than the deposit paid, and that the account holder has provided a forwarding address.
- (8) If the Chief Financial Officer intends increasing the minimum deposit payable by the owner, then he or she shall, in the aforesaid notice, state full reasons for the increase, and allow the owner an opportunity to make written representations in this regard.
- (9) An aggrieved owner may, within a period of twenty one (21) days of having been notified of an increase in the minimum deposit payable, lodge an appeal against the decision of the Chief Financial Officer with the Municipal Manager.
- (10) The Municipal Manager shall, in his or her capacity as the appeal authority, consider the appeal, and confirm, vary or revoke the decision of the Chief Financial Officer, within a reasonable period.

9. TERMINATION OF SERVICES

- (1) It is the responsibility of the consumer to notify the municipality when municipal services are no longer required due to the sale of the property or other reasons.
- (2) failure to comply with the provision of paragraph 1 above renders the consumer liable for all service charges and interest thereon accumulated from the date when the premises are vacated to the date when council becomes aware of such vacation.
- (3) A customer may terminate an agreement for the supply of municipal services by giving at least 21 (twenty- one) days' written notice to the municipality of such termination.
- (4) The municipality may terminate an agreement for the supply of municipal services by giving at least 21 (twenty-one) days' written notice to a customer where:-
 - (a) Municipal services were not utilized by such customer for a conservative period of 2 months and without an arrangement, to the satisfaction of the municipality, having been made for the continuation of the agreement; or
 - (b) Premises have been vacated by the customer concerned and no arrangement for the continuation of the agreement has been made with the municipality provided that, in the event of the customer concerned not being the registered owner of the premise, a copy of the aforesaid notice shall also be served on such registered owner.
- (5) A customer shall remain liable for all arrears and applicable charges that are payable for municipal services rendered prior to the termination of an agreement.

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10. ACCOUNTS AND BILLING

- (1) The Municipality shall provide all customers with a monthly consolidated account for municipal service rendered, which account shall be generated on a monthly basis in cycles of approximately thirty (30) days.
- (2) The monthly consolidated account can include property rates charges, in which case they shall comply with section 27 of the Municipal Property Rates Act No. 6 of 2004.
- (3) All accounts rendered by the Municipality shall be payable on the due date.
- (4) Account balances which remain unpaid after 30 days from the delivery date of the account shall attract interest on arrears, irrespective of the reasons for non-payment. Interest will be charged from the first working day of the month following the month in which the account becomes payable.
- (5) All accounts are payable as above regardless of the fact that the customer has not received the account; the onus being on the customer to obtain a copy of the account before the due date.
- (6) Accounts will be rendered using conventional postal services, hand delivery at the premises or by means of an email if so requested by the customer.
- (7) No accounts will be rendered in the case of an outstanding balance of R30.00 or less or where such account has a credit balance.
- (8) In the case of joint ownership the Municipality may, in order to limit costs and prevent unnecessary administration, recover the rates and service charges continuously from one of the joint owners.

11. RATES

- (1) Rates shall be billed annually and maybe recovered annually or monthly, as determined by the Municipality.
- (2) Property rates which are billed and recovered annually shall be billed in terms of the July account of each year.
- (3) Rates payable on an annual basis will be subject to a 3% rebate if paid in full before or on 20 September of each year.
- (4) Property rates may also be billed annually for a specific financial year but recovered in monthly installments to assist its customers. In the case of the consolidated account of a customer being in arrear during a specific financial year the full amount becomes due and payable with immediate effect.
- (5) The tariffs to calculate property rates are determined annually, approved by Council and contained in the tariff book produced by the Municipality.

12. ELECTRICITY CHARGES

- (1) The provisions of this By-law, in respect of the supply of electricity to a customer, shall constitute the payment conditions of the Municipality as licensee, contemplated in section 21(5) of the Electricity Regulation Act No. 4 of 2006.
- (2) Service charges in respect of electricity shall be determined in accordance with metered consumption.

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- (3) Monthly accounts shall be rendered for electricity consumption and the customer shall effect payment thereof by the due date.
- (4) Availability charges for electricity, where applicable, are levied annually for a specific financial year but recovered in monthly installments to assist its customers. In the case of the consolidated account of a customer being in arrear during a specific financial year the full amount becomes due and payable with immediate effect.
- (5) Availability charges for electricity payable on an annual basis will be subject to a 3% rebate if paid in full before or on 20 September of each year.
- (6) The tariffs to calculate the electricity charges are determined annually, approved by Council and contained in the tariff book produced by the Municipality.

13. WATER CHARGES

- (1) The provisions of this By-law, in respect of the supply of water to a customer, shall constitute the payment conditions of the Municipality as water services authority and water services provider, contemplated in sections 4 and 21 of the Water Services Act No. 108 of 1997.
- (2) Service charges in respect of water shall be determined in accordance with metered consumption.
- (3) Monthly accounts shall be rendered for water consumption and the customer shall effect payment thereof by the due date.
- (4) Availability charges for water, where applicable, are levied annually for a specific financial year but recovered in monthly installments to assist its customers. In the case of the consolidated account of a customer being in arrear during a specific financial year the full amount becomes due and payable with immediate effect.
- (5) Availability charges for water payable on an annual basis will be subject to a 3% rebate if paid in full before or on 20 September of each year.
- (6) The tariffs to calculate the water charges are determined annually, approved by Council and contained in the tariff book produced by the Municipality.

14. REFUSE AND SEWER CHARGES

- (1) Refuse and Sewer charges are billed monthly.
- (2) Refuse and Sewer charges charged monthly are billed on the monthly accounts and the due date for the payment of the charges is as indicated on the accounts.
- (3) Availability charges for sewer, where applicable, are levied annually for a specific financial year but recovered in monthly installments to assist its customers. In the case of the consolidated account of a customer being in arrear during a specific financial year the full amount becomes due and payable with immediate effect.
- (4) Availability charges for sewer payable on an annual basis will be subject to a 3% rebate if paid in full before or on 20 September of each year.
- (5) The tariffs to calculate the refuse and sewer charges are determined annually, approved by Council and contained in the tariff book produced by the Municipality.



15. SUNDRY CUSTOMER ACCOUNTS

- (1) Sundry customer accounts may be rendered by the Municipality from time to time.
- (2) Any sundry customer account shall be included in the monthly consolidated account produced by the Municipality.

16. FINAL ACCOUNTS

Upon receipt of a customer's application for the termination of municipal services, the Municipality shall:-

- (a) take final readings in respect of metered municipal services;
- (b) prepare and render a final account;
- (c) appropriate the customer deposit for the reduction or settlement of any outstanding amount owed by the customer; and
- (d) return the customer deposit to the customer in the event that no amount is owed to the Municipality.

17. LEVYING AND METERING OF MUNICIPAL SERVICES

- (1) The Municipality may introduce various metering equipment and may encourage customers to convert to a system which is preferred by the Council when Council considers this to be beneficial to its functioning and operations.
- (2) Electricity and water consumption is measured with credit and prepayment electricity and water meters.
- (3) Customers may apply to Council for the installation of a prepayment electricity meter in place of a credit meter at the cost of the customer.
- (4) Where a customer has successfully applied for indigent status the credit meter for electricity or water will be changed to a prepayment electricity or water meter at the cost of the Council.
- (5) The following applies to the reading of credit meters:-
 - (a) Credit electricity and water meters are read in cycles of approximately 30 days.
 - (b) If for any reason the credit electricity and water meters cannot be read, the Municipality will render an account based on estimated consumption. The estimate will be based on the average of the previous 12 months consumption.
 - (c) The account based on estimated consumption will be adjusted in the subsequent account based on the actual consumption.
 - (d) The customer is responsible to ensure access to metering equipment for the purpose of obtaining meter readings for billing purposes.
 - (e) Customers can, for reasons of non-accessibility to their properties by meter readers, provide the Municipality with monthly meter readings for billing purposes, provided that an audit reading can be obtained by the Municipality once every six months and provided that a final reading can be obtained should the customer vacate the property.

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- (f) If any basic charge or other calculation, reading or metering error is discovered in respect of any account rendered to a customer:-
 - (i) the error shall be corrected in the subsequent account;
 - (ii) any such correction in favour of Council may apply in respect of an account from a date no more than six calendar months back from the date on which the error on the account was discovered;
 - (iii) any such correction in favour of the customer may apply in respect of an account from a date no more than six calendar months back from the date on which the error on the account was discovered; and
 - (iv) the correction shall be based on the tariffs applicable during the period.
 - (g) Any water leakage discovered on the side of the customer will be the responsibility of the customer.
 - (h) When a customer vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made by the Municipality and the final account rendered accordingly.
- (6) The following applies to prepayment metering:-
- (a) Prepayment electricity and water is purchased at prepayment vending points for consumption after the date of purchase.
 - (b) Amounts tendered for the purchase of prepayment electricity and water will not be refunded after the prepayment meter voucher has been produced.
 - (c) On request of the customer, copies of the previous prepayment meter vouchers will be produced. Lost vouchers will not be replaced under any circumstances.
 - (d) Credits remaining in the prepayment meter will not be refunded when a premises is vacated by a customer or in case of purchasing against a wrong account.
 - (e) The Municipality shall not be liable for the reinstatement of credit in a prepayment meter due to tampering with, or the incorrect use or abuse of prepayment meters.
 - (f) The Municipality may appoint vendors for the sale of prepaid electricity and water but does not guarantee the continued operation of any vendor.
 - (g) The Municipality may apply all the debt collection functions available on the prepayment system to collect all arrear debt on the account of the customer.

18. PAYMENT OF ACCOUNTS

- (1) All accounts rendered by the Municipality are due and payable on the due date.
- (2) All payments, whether made by cash, stop order, electronic payments or payments made through duly authorized agents must be receipted by the Municipality by the close of business on the due date. Cheques will be accepted as payment for all municipal services excluding the municipal resorts and in cases set out in par 17(3) below. Where a cheque has been dishonoured the person issuing the cheque shall not be allowed to pay by cheque in future. All costs associated with a dishonoured cheque will be for the account of the customer.

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- (3) Unless the customer has a municipal account to which a dishonoured cheque can be debited only cash (or debit cards where available) will be accepted as payment for prepaid electricity, municipal accounts and the registering and licensing of vehicles.
- (4) Only cash, credit- or debit cards will be accepted as payment at the municipal resorts, regardless of whether a customer has a municipal account.
- (5) Accounts rendered by the Municipality can be paid at any municipal cashier office and any other pay point as determined by the Municipal Manager from time to time.
- (6) The payment methods and facilities supported by the Municipality can be used to make payments on accounts.
- (7) Payments received in respect of rates and service charges will be allocated by the Municipality entirely within its discretion, on the account of the customer.
- (8) Part payment received on an account shall be allocated firstly to reduce any penalty charges that may have accrued on the account.
- (9) An official receipt issued by the Municipality or its duly authorized agent will be the only proof of payments made.

19. INTEREST ON ARREAR DEBT

- (1) Account balances which remain unpaid 30 days after the delivery date of an account shall attract interest irrespective of the reason for non-payment.
- (2) Interest on arrear debt shall, subject to sub-clause (1) above, be calculated for each month, or part thereof, for which such payment remains unpaid.
- (3) Interest will be charged from the first working day of the month following the month in which the account becomes payable.
- (4) In case of outstanding debt owed by Residential Households, no further interest shall be charged on any outstanding amounts in respect of which an agreement had been concluded for the payment by way of installment thereof, provided the installments are paid in full by the due dates thereof.

20. ENQUIRIES AND APPEALS

- (1) Any aggrieved person may address a grievance or query regarding charges for municipal services to the Chief Financial Officer in writing or may visit any customer care office provided by the Municipality.
- (2) Every customer has the right to ask and to be provided with a clear explanation as to the services being charged and a breakdown of all amounts shown on their account.
- (3) The aggrieved person shall clearly state the basis of his or her dissatisfaction and the desired resolution.
- (4) The lodging of an inquiry shall not relieve the aggrieved person of the responsibility to settle his or her account. An interim payment similar to an average account must be paid by the due date pending finalisation of the enquiry.
- (5) The Municipality will respond to all inquiries from customers in writing within twenty eight days from the lodging of the enquiry.

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- (6) A person may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision. Such appeal will be dealt with in terms of Section 62 of the Municipal Systems Act.
- (7) The Chief Financial Officer will keep custody of all enquiries and appeals through the Collaborator Programme and report monthly to Council on all enquiries and appeals yet to be resolved.

21. LIMITATION, DISCONNECTION OR DISCONTINUATION OF SUPPLY

- (1) An account rendered to a customer by the Municipality in respect of rates or municipal services, including the collection and disposal of refuse, electricity, water and sewerage services shall be paid by the due date.
- (2) If the customer fails to pay any account after the expiry of the due date then, (within a period of fourteen (14) days for residential customers and two (2) days for businesses):-
 - (a) the Municipality may limit, disconnect or discontinue the supply of electricity or water to the immovable property in question; and
 - (b) the Chief Financial Officer or any duly authorised person may instruct attorneys to recover the outstanding amounts owed.
- (3) The limitation, disconnection or discontinuation of the supply of electricity or water shall be effected in the manner that is customarily used or by taking such reasonable and lawful steps as may be necessary.
- (4) Any disbursements or charges incurred or raised in respect of the limitation, disconnection or discontinuation of the supply of electricity or water shall be paid by the customer.
- (5) Prior to the limitation, disconnection or discontinuation of the supply of electricity or water as per paragraph 20(2) above, the Municipality shall:-
 - (a) provide the customer with adequate notice, including:-
 - (i) the date and time of the proposed limitation, disconnection or discontinuation;
 - (ii) the reason for the proposed limitation, disconnection or discontinuation;
 - (iii) the place at which the customer can challenge the basis of the proposed limitation, disconnection or discontinuation; and
 - (b) allow the customer to challenge or make representations (within a period of fourteen (14) days for residential customers and two (2) days for businesses).
- (6) The limitation, disconnection or discontinuation of the supply of water shall not result in a customer being denied access to basic water services for non-payment, where the customer proves, to the satisfaction of the Municipality, that he or she is unable to pay for basic water services.
- (7) If a customer unlawfully reconnects or attempts to reconnect a supply of electricity or water that has been limited, disconnected or discontinued, then -

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- (a) the Municipality may disconnect or discontinue the supply entirely by removing the service connection from the premises; and
 - (b) any disbursements, penalties or reconnection charges, together with any outstanding amounts owed in respect of rates or municipal services, must be paid in full before a reconnection can be made.
- (8) Subject to the provisions of this By-law, the Chief Financial Officer or any person duly authorised thereto may enter into an arrangement with a defaulter for the payment of an outstanding account, in which event -
- (a) payment may be made by way of installments; and
 - (b) the normal supply of electricity and water to the premises shall be resumed.
- (9) Any defaulter who enters into a bona fide arrangement with the Municipality for the settlement of arrears, and who fails to honour the terms of such arrangement, shall not be allowed to enter into any further arrangement with the Municipality.
- (10) Any customer already handed over to a debt collector or attorney is not allowed to make any arrangement with the Municipality for the payment of such an account and must be referred to the relevant debt collector or attorney attending to the account handed over.
- (11) In the case of a customer where the supply of electricity or water has been limited, disconnected or discontinued at least twice during the preceding period of twelve (12) months, the Municipality may review the amount of the customer deposit required from such customer.
- (12) The Municipality must provide an owner of a property in its jurisdiction with copies of accounts sent to the occupier of the property for municipal services supplied to the property if the owner requests such accounts in writing from the Municipality.
- (13) The Municipality must provide an owner of a property in its jurisdiction with copies of any agreement entered into with the occupier of the property for the payment of an outstanding account if the owner requests such agreement in writing from the Municipality.

22. RECOVERY OF RATES FROM OWNERS, TENANTS, OCCUPIERS AND AGENTS

- (1) The Municipality may utilise the procedures prescribed in terms of section 20 of this By-law to recover rates arrears from the owner of immovable property.
- (2) Any limitation, disconnection or discontinuation of the electricity or water supply, for the purposes of sub-section (1), shall be effected subject to the requirements contained in section 21 of this By-law.
- (3) Alternatively to sub-section (1), above, the Municipality may recover rates arrears in whole or in part from a tenant or occupier of the immovable property, despite any contractual obligation to the contrary on the tenant or occupier. The Municipality may recover an amount only after the Municipality has served a written notice on the tenant or occupier.
- (4) The amount the Municipality may recover from the tenant or occupier of a property is limited to the amount of rent or other money due and payable, but not yet paid, by the tenant or occupier to the owner of the property.

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- (5) Any amount the Municipality recovers from the tenant or occupier of the property must be set off by the tenant or occupier against any money owed by the tenant or occupier to the owner.
- (6) The tenant or occupier of a property must, on request by the Municipality, furnish the Municipality with a written statement specifying all payments to be made by the tenant or occupier to the owner of the property for rent or other money payable on the property during a period determined by the Municipality.
- (7) The Municipality may, despite the Estate Agents Affairs Act 1976, recover the amount due for rates on a property in whole or in part from the agent of the owner, if this is more convenient for the Municipality.
- (8) The Municipality may recover the amount due for rates from the agent of the owner only after it has served a written notice on the agent.
- (9) The agent must, on request by the Municipality, furnish the Municipality with a written statement specifying all payments for rent on the property and any other money received by the agent on behalf of the owner during a period determined by the Municipality.
- (10) The amount the Municipality may recover from the agent is limited to the amount of any rent or other money received by the agent on behalf of the owner, less any commission due to the agent.

23. DEBT COLLECTION

- (1) Handover of debt to debt collectors
 - (a) Debts which have been outstanding for more than 60 days from due date may be handed over to debt collectors appointed by the Municipality for the purposes of collecting such debt.
 - (b) The relevant debt collectors must ensure that the stipulations contained in the NCA with respect to incidental credit are duly complied with.
 - (c) If the debt collectors are unsuccessful in collecting the debt within 90 days of same being handed over, the debt may be handed over to attorneys for legal action.
 - (d) Only the Chief Financial Officer may hand over debts to attorneys for collection, and the Chief Financial Officer shall hand such debts over to attorneys for collection if they have not been collected by debt collectors within the aforementioned period of ninety (90) days, unless the Chief Financial Officer is of the opinion that it shall not be cost effective to do so.
 - (e) If the Chief Financial Officer is of the opinion that it is appropriate to do so (such as in cases of urgency), he or she may hand over debts for collection to attorneys at any time prior to the expiration of any of the periods referred to above and without first handing them to debt collectors.
 - (f) The following types of debt will not be handed over to debt collectors.
 - (i) Debts of indigent customers that are registered as indigent at the date of handover.
 - (ii) Government debt.

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- (iii) Debt that is being paid off as per an arrangement with the customer.
- (iv) Debt that has not been subject to internal credit control actions for at least two months.
- (g) The process of collecting debt by debt collectors includes:-
 - (i) The phoning of customers.
 - (ii) Sending an sms to customers.
 - (iii) Sending out demand letters.
 - (iv) Making arrangements with customers to pay off debt in terms of the Council's credit control and debt collection By-law.
 - (v) Making follow-up contact with customers on unpaid arrangements.
- (2) Handover of debt to Attorneys for legal collection
 - (a) Debt that could not be collected by the debt collectors and debt that requires urgent legal attention may be handed over to attorneys for legal collection.
 - (b) The following types of debt will not be handed over to attorneys:-
 - (i) Debt of approved indigent customers that has not yet been written off by the council.
 - (ii) Debt that is being paid off as per an arrangement with the customer.
 - (iii) Debt that has not been subject to internal credit control actions for at least two months.
 - (c) The process of legal collection includes:-
 - (i) Final demands for payment to customers.
 - (ii) Emolument attachment orders on customer's salaries.
 - (iii) Summons issued for debt to be paid.
 - (iv) Default judgment be obtained against the customer.
 - (v) The attachment of moveable properties and sale in execution of moveable property.
 - (vi) The attachment of immoveable property and the sale of immoveable property.
- (3) Withholding or offsetting grants-in-aid.

The Municipality provides annual grants-in-Aid to Institutions on application. If an institution is in arrear with its services account, then the Municipality will withhold the grant-in-aid or the grant-in-aid will be off set against the arrear debt with the Municipality.

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- (4) Section 118 of the Local Government: Municipal Systems Act No 32 of 2000.
- (a) The Municipality will issue a certificate required for the transfer of immovable property in terms of Section 118 of the Systems Act, which is lodged with the Municipality in the prescribed manner.
 - (b) This is subject to all amounts that became due in connection with that property for municipal service fees, surcharges on 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.
 - (c) Debt older than two years on the property irrespective of whether the owner of the property accumulated the debt will also have to be paid by the owner before the transfer of the property can be affected. In case of a sequestrated estate all debt outstanding two years prior of the date of sequestration must be paid before a certificate will be issued.
 - (d) If the owner refuses to pay the debt which is older than two years (excluding a sequestrated estate) then the Municipality will apply to a competent Court for an order in the following terms:-
 - (i) In the case where there is already a judgment for the payment of the amount, an order that the judgment debt be paid out of the proceeds of the sale, before the mortgage debt is settled.
 - (ii) In the case where there is no judgment debt, for an order staying transfer of the property pending the finalisation of a civil action to be instituted against the person who is in law liable for the payment of the outstanding debt.
 - (iii) The above action must be taken before the property is transferred as the statutory lien created by Section 118(3) of the Act only endures until the property has been transferred and in terms of Section 118(5) of the Act the new owner of the property cannot be held liable for the debt that became due before a transfer of a residential property took place.
 - (e) Rates Clearance Certificates:-
 - (i) will be valid for up to 60 days;
 - (ii) no extension on a certificate will be granted. If it expires a new application for clearance must be made;
 - (iii) if the valid period surpasses 30 June, the total annual debit for the following financial year will be payable; and
 - (iv) outstanding services on properties may only be recovered for a maximum period of two years.
- (5) Debt of approved indigent customers written off
- (a) Upon registration as an indigent household, the arrears on the account of the applicant will be written off.

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- (b) Where restriction of consumption applies to a particular service, applicants may not refuse to be restricted in terms of Council policy. Where restrictions are not possible the account holder will be responsible for the consumption in excess of the approved subsidy.
- (c) The writing off of any arrears is strictly subject to the provision that the property may not be sold within a period of three years from the date that the owner qualify as a registered indigent. In the case of the property being sold inside a period of three years the arrear debt, excluding any further accumulated interest, will be recovered before a clearance certificate is issued.
- (6) Other debt collection methods
 - (a) The debt collection methods mentioned in the paragraphs above are not an exhaustive list of methods that can be applied to collect debts and any other methods that can be initiated will be implemented with the approval of Council.
- (7) Debt Collection Costs
 - (a) Any costs, which include collection costs, charges, disbursements and legal costs relating to any of the debt collection methods applied to collect the debt will be debited to the account of the defaulting customer.

24. ARRANGEMENTS TO PAY ARREAR DEBT

- (1) Arrangements to Pay Outstanding and Due Amounts in Consecutive Installments - Residential Households
 - (a) One of the key objectives of debt collection is to encourage customers to start paying their monthly accounts in full. In addition it is also necessary to ensure that arrear debt is addressed. The current average balances on customer accounts necessitate that innovative ideas be implemented to encourage customers to pay off their arrears. At the same time it is also of utmost importance that regular payers not be discouraged through the implementation of any possible incentives.
 - (b) The main aim of an agreement will be to promote full payment of the current account and to address the arrears on a consistent basis.
 - (c) A customer may enter into a written agreement with the Municipality to repay any outstanding and due amount to the Municipality under the following conditions:-
 - (i) The outstanding balance, costs and any interest thereon shall be paid in regular and consecutive monthly installments;
 - (ii) The current monthly amount must be paid in full; and
 - (iii) The written agreement has to be signed on behalf of the Municipality by a duly authorised officer.
 - (iv) The agreement will be compliant with the requirements of the National Credit Act where applicable.

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- (d) In order to determine monthly installments a comprehensive statement of assets and liabilities of the customer must be compiled by a treasury official. To ensure the continuous payment of such arrangement the amount determined must be affordable to the customer, taking into account that payment of the monthly current account is a prerequisite for concluding an arrangement.
- (e) The Municipality may from time to time introduce incentive schemes to improve the debt collection rate.
- (f) A customer who cannot pay their arrear debt may enter into an arrangement to pay the account over an extended period of time.
- (g) During the time of the debt collection process, but before the debt is handed over to the attorneys a customer may enter into an arrangement to pay off arrear debt, which will be made an order of court by agreement in terms of the Rules of the Court.
- (h) No arrangements will be entertained by the Municipality on a debt that has been handed over for legal collection.
- (i) The Municipality will entertain only one arrangement with a customer to pay off arrear debt. Failure to abide by the arrangement will result in that:-
 - (i) the arrangement shall be terminated with immediate effect; and
 - (ii) the outstanding balance shall immediately become due and payable;
- (j) The customer by signing the arrangement agreement to pay off arrear debt acknowledges the following: -
 - (i) The debt is owed to the Municipality.
 - (ii) That on default of the arrangement agreement, interest on arrears will be charged on the amount due, electricity supply will be disconnected to the property of the customer or the customer will be blocked from the purchase of electricity or water on the prepayment system, and legal proceedings will be instituted to collect the debt.
 - (iii) That the customer will be liable for all costs, which includes legal costs on an attorney client basis incurred to collect the debt.

(2) Arrangements by businesses

- (a) At the date of the arrangement a minimum of 50% of the capital arrear debt must be paid immediately.
- (b) The balance of the debt which includes the capital amount and interest must be paid over a 6 to 12 month period provided payments are made monthly by the due date. Only the Chief Financial Officer may approve any extension on this arrangement.
- (c) The total monthly installment must include the current monthly charges plus the amount to pay off arrear debt.
- (d) Arrangements by businesses to pay off arrear debt will only be entertained for debt on which debt collection actions have been taken and which actions are in an advanced stage.

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- (e) During the time of the debt collection process, but before the debt is handed over to the attorneys a customer may enter into an arrangement to pay off arrear debt, which will be made an order of court by agreement in terms of the Rules of the Court.
- (f) No arrangements will be entertained by the Municipality on a debt that has been handed over for legal collection.
- (g) Failure to maintain the arrangement will result in interest being reversed and full debt collection being implemented, with no possibility of reprieve.
- (h) Any arrangement outside of the foregoing must be approved by the Municipal Manager. This function cannot be delegated.

25. INDIGENT CUSTOMERS

- (1) An account holder (customer) must apply, in the prescribed manner, to be regarded as an indigent customer as defined in the Indigent Policy approved by the Council.
- (2) Any person who has been declared indigent shall be entitled to indigent subsidies for basic services on a basis determined by Council from time to time.
- (3) The approved account holder shall remain responsible for any outstanding amount at the date of application as well as for future excess charges.
- (4) The arrears on the accounts of households, approved as indigent, will be submitted to Council to be written off in full. This submission will only be valid as a once-off exercise after approval and will not be applicable for future consumption in excess of the approved subsidy accumulated.
- (5) Where applicable, indigent customers must have their credit electricity and water meters converted to prepayment electricity and water meters at the cost of Council.
- (6) Indigent customers with credit electricity and water meters are required to pay their current monthly account, which is the amount after the indigent subsidy has been deducted, every month by the due date, until the conversion to a prepaid meter has been made.

26. DEBT OF ABSCONDED OWNERS

The occupant of the property must sign an agreement in which the occupant agrees to pay all property rates and service charges that are to be raised on the property of the absconded registered owner's property.

27. STAFF AND COUNCILLORS - PAYMENT OF ARREARS

- (1) All existing staff and Councillors who have not entered into an agreement to pay arrears must do so within thirty days of the approval of this By-law by Council.
- (2) All staff joining the Municipality must within thirty days sign an agreement to pay arrears.
- (3) The repayment period for both Councillors and staff is not to exceed twelve months.
- (4) All agreements with Councillors must not exceed the expiry date of the term of office.

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28. ADMINISTRATION AND DEBT REVIEW ORDERS - PAYMENT OF ARREARS

- (1) On notification that an order for administration in terms of section 74 of the Magistrates Court Act, 1944 order has been granted, Council will manage the debt that is part of the administration order separately to the current account.
- (2) On notification that an order for review of debt, in terms of section 86(7)(c) of the National Credit Act, 34 of 2000, has been granted, Council will manage the debt that is part of the review order separately to the current account.
- (3) The customer will be responsible for the payment of the current monthly account and if the customer defaults on the payment of the account, debt collection action will be implemented.

29. WRITE OFF OF IRRECOVERABLE DEBT

- (1) The objective to write off irrecoverable debt is to have a debt book that does not reflect irrecoverable debt.
- (2) For this purpose Council should adopt and implement a write off policy to formalise the processes for writing off such debts.

30. CERTIFICATES REQUIRED FOR TENDERS

- (1) A person or an institution reacting to a tender published by the Municipality or wishing to enter into a contract to either provide services or goods to the Municipality must produce a certificate, on the prescribed form, which states that regular payment of rates and services accounts are maintained and that the account is currently up to date.
- (2) A person who fails to provide such a certificate shall be disqualified from the tendering process.
- (3) A person who has an existing arrangement with the Municipality for the payment of arrears shall be exempted from (1) and (2) to the extent of the arrears.

31. PRIMA FACIE EVIDENCE

A certificate endorsed by the municipal manager, reflecting the amount due and payable to the Municipality, shall upon mere production thereof be accepted by any court of law as prima facie evidence of the indebtedness reflected therein.

32. OFFENCES AND PENALTIES

- (1) Any person who:-
 - (a) fails to give the access required by a duly authorised representative of the Municipality in terms of this By-law;
 - (b) obstructs or hinders a duly authorised representative of the Municipality in the exercise of his or her powers or performance of functions or duties in terms of this By-law;
 - (c) unlawfully uses or interferes with municipal equipment or the consumption of services supplied to any customer;

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- (d) tampers with or breaks any seal on a meter or on any equipment belonging to the Municipality, or causes a meter not to register properly the service used;
 - (e) fails, or refuses, to give a duly authorised representative of the Municipality such information as he or she may reasonably require for the purpose of exercising or performing his or her powers or functions in terms of this By-law, or gives such representative false or misleading information, knowing it to be false or misleading; or
 - (f) contravenes, or fails to comply with, a provision of this By-law,
- shall be guilty of an offence.
- (2) Upon conviction in a court, an offender shall be liable for a fine not exceeding R60 000, or to imprisonment for a period not exceeding 12 (twelve) months, or both such a fine and imprisonment, and may be charged for consumption, as determined by the Chief Financial Officer, and based on average monthly consumption, or as determined by resolution of the Municipality from time to time.

33. REPORTING ON PERFORMANCE MANAGEMENT

- (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 Mayor as supervisory authority in terms of section 99 of the Systems Act, read with section 100(c).
- (2) The Executive Mayor as Supervisory Authority shall, at intervals of three (3) months, report to Council as contemplated in section 99(c) of the Systems Act.
- (3) This report shall contain particulars on cash collection statistics, showing high-level debt recovery information including amongst others numbers of customers, enquiries, arrangements, default arrangements, growth or reduction of arrear debt.
- (4) Where possible, the statistics should ideally be divided into wards, business (commerce and industry), domestic, state, institutional and other such divisions.
- (5) If in the opinion of the Chief Financial Officer, the Municipality will not achieve cash receipt income equivalent of the revenue projected in the annual budget as approved by Council, the Chief Financial Officer will report this with motivation to the Municipal Manager who will, in agreement with the Chief Financial Officer, immediately move for a revision of the budget according to realistically realisable income levels.

34. PROPERTY MANAGEMENT LEASES

The procedure for the recovery of arrears on leases will be in accordance with the conditions contained in the relevant lease contract.

35. TEMPORARY WORKERS

Where the Municipality provides temporary employment to members of the community who are in arrears with payments for municipal rates and services they will be required to enter into a written agreement to pay 50% of their gross remuneration towards these arrears of debt.

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36. POWER OF ENTRY AND INSPECTION

- (1) For any purpose related to the implementation or enforcement of this By-law, and at all reasonable times, or in an emergency, a duly authorised representative of the Municipality may enter premises, request information and carry out such inspection or examination, as he or she may deem necessary:-
 - (a) with regard to the installation or repair of any meter or service connection or reticulation; or
 - (b) so as to limit, discontinue, disconnect or reconnect the provision of any service.
- (2) If the Municipality considers it necessary that work be performed to enable the aforesaid authorised representative to perform a function referred to in subsection (1) properly and effectively, then it may:-
 - (a) by written notice require the owner or occupier of the premises, at his or her own expense, to do specific work within a specified period; or
 - (b) if, in its reasonable opinion, the situation is a matter of urgency, then the Municipality may do such work, or cause it to be done, at the expense of the owner or occupier, and without written notice.
- (3) If the work referred to in subsection (2)(b) above is carried out for the sole purpose of establishing whether a contravention of this By-law has been committed, and no such contravention has taken place, then the Municipality shall bear the expense connected therewith, together with the expense of restoring the premises to its former condition.

37. NOTICES

- (1) A notice or document issued by the Municipality in terms of this By-law shall be deemed to be duly issued if signed by a duly authorised representative of the Municipality.
- (2) If a notice is to be served on a person in terms of this By-law then such service shall be effected by:-
 - (a) delivering the notice to him or her personally, or his or her duly authorised agent;
 - (b) delivering the notice at his or her residence or place of employment, to a person apparently not less than 16 (sixteen) years of age, and apparently residing or employed there;
 - (c) if he or she has nominated an address for legal purposes, delivering the notice to such an address;
 - (d) registered or certified post, addressed to his or her last known address;
 - (e) in the case of a body corporate, delivering it to the registered office or the business premises of such a body corporate; or
 - (f) if service cannot be effected in terms of the foregoing subsections, by affixing it to the principal door of entry to the premises or displaying it in a conspicuous place on the property to which it relates.

38. BY-LAWS

The Municipality may promulgate by-laws regarding:-

- (a) any matter required, or permitted, to be prescribed in terms of this By-law; and

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- (b) generally, all matters which, in the reasonable opinion of the Municipality, are necessary, or expedient, to be prescribed, in order to achieve the objects of this By-law.

39. REVIEW OF THIS BY-LAW

- (1) This By-law shall be implemented once approved by Council.
- (2) In terms of section 17(1)(e) of the MFMA this By-law must be reviewed on annual basis and the reviewed By-law tabled to Council for approval as part of the budget process.

40. REPEAL OF BY-LAWS

This By-law does not repeal the entire existing By-law on Customer Care and Revenue Management published by the Hessequa Municipality under PN.6594/2009 dated 16 January 2009. However, where there are conflicting arrangements on Credit Control and Debt Collection actions specifically this by-law will supersede as the latest arrangement.

41. SHORT TITLE AND COMMENCEMENT

This By-law is the By-law to regulate Customer Care Management, Credit Control and Debt Collection and commences on the date of publication thereof in the Provincial Gazette.

HESSEQUA MUNICIPALITY

PRINCIPLES AND BY-LAW ON TARIFFS AND FREE BASIC SERVICES



(FINAL FOR IMPLEMENTATION ON 1 JULY 2013)

28 MAY 2013

HESSEQUA LOCAL MUNICIPALITY
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HESSEQUA LOCAL MUNICIPALITY
PRINCIPLES AND BY-LAW ON TARIFFS AND FREE BASIC SERVICES

DOCUMENT AND VERSION CONTROL

Version:

Date:

Summary: This document describes the By-law on Tariffs and Free Basic Services that will be applicable to the Hessequa Municipality, with effect from 01 July 2013.

Municipal Manager: J JACOBS

Executive Mayor: E NEL

Date: 2013/05/28

Date: 2013/05/28

1. INTRODUCTION AND LEGISLATIVE REQUIREMENTS

- 1.1 In terms of section 62 (1) of the Local Government: Municipal Finance Management Act (MFMA), Act no 56 of 2003, the Accounting Officer of a Municipality is responsible for managing the financial administration of the Municipality, and must for this purpose take all reasonable steps to ensure that, inter alia, the Municipality has and implements a tariff By-law referred to in section 74 of the Local Government: Municipal Systems Act (MSA), Act no 32 of 2000 as amended.
- 1.2 In terms of section 74 of the Municipal Systems Act the municipal council hereby adopts a tariff By-law on the levying of fees for municipal services provided by the Municipality itself or by way of service delivery agreements.
- 1.3 This By-law has been compiled in accordance with:-
- 1.3.1 The Constitution of the Republic of South Africa, Act no 108 of 1996 as amended;
- 1.3.2 Local Government: Municipal Systems Act (MSA), Act no 32 of 2000 as amended;
- 1.3.3 Local Government: Municipal Finance Management Act (MFMA), Act no 56 of 2003;
- 1.3.4 Local Government: Municipal Property Rates Act (MPRA), Act no 6 of 2004;
- 1.3.5 Hessequa Municipality Property Rates Policy as reviewed annually.

2. DEFINITIONS AND ABBREVIATIONS

“**Accommodation**” means accommodation in an accommodation establishment, a room, dwelling/ house or second dwelling unit, self-catering room, self-catering apartment or free standing building let to transient guests consisting of three or more lettable units.

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“Accommodation Establishments” – consists of one or more of the following lettable types of accommodation, consisting of three or more lettable units –

- (a) “Camping” (informal temporary accommodation in a unique environment) is defined by a property used for erection of tents or other temporary structures for temporary accommodation for visitors or holiday-makers, which includes ablution, cooking and other facilities that are reasonably and ordinarily related to camping, for use of such visitors, and includes a caravan park, whether publicly or privately owned, but which excludes the alienation of land on the basis of time sharing, sectional title share blocks or individual subdivision; and excludes resort accommodation or mobile homes;
- (b) “Bed and Breakfast” (accommodation in a dwelling-house or second dwelling unit for transient guests) is defined by a dwelling-house or second dwelling in which the owner of the dwelling supplies lodging and meals for compensation to transient guests who have permanent residence elsewhere; provided that the primary use of the dwelling-house concerned shall remain for the living accommodation of a single family and where not more than 3 guest rooms are provided;
- (c) “Guest House” (accommodation in a dwelling-house or second dwelling unit for transient guests) is defined by a dwelling-house (with a maximum of 10 rooms) or second dwelling which is used for the purpose of supplying lodging and meals to transient guests for compensation, in an establishment which exceeds the restrictions of a bed and breakfast establishment and may include business meetings, training sessions and conference facilities for resident guests;
- (d) “Self catering Accommodation” (accommodation for non-permanent residents and transient guests) is defined by a house, cottage, chalet, bungalow, flat, studio, apartment, villa, or similar accommodation where facilities and equipment are provided for guests to cater for themselves. The facilities should be adequate to cater for the maximum advertised number of residents the facility can accommodate;
- (e) “Self catering Apartments” (accommodation for non-permanent residents and transient guests) is defined by a building or group of buildings consisting of separate accommodation units, each incorporating a kitchen / -ette facility, and which may include other communal facilities for the use of transient guests, together with outbuildings as are normally used therewith; which are rented for residential purposes and may include holiday flats; but does not include a hotel, dwelling-house, second dwelling or group house;
- (f) “Backpackers Accommodation” (accommodation and communal facilities in a building or free standing buildings for transient guests) is defined by a building where lodging is provided, and may incorporate cooking dining and communal facilities for the use of lodgers, together with such outbuildings as are normally used therewith and includes a building in which dormitories/rooms/beds are rented for residential purposes, youth hostel, and backpackers’ lodge; but does not include a hotel, dwelling house, second dwelling or group house;
- (g) “Boarding House” a dwelling–house or second dwelling which is used for the purpose of supplying lodging with or without meals or self catering to non permanent/permanent residents for compensation; provided that the primary use of the dwelling-house shall remain for the living accommodation of a single family;

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"**Account**" means an account rendered specifying charges for municipal services provided by the Municipality, or any authorised and contracted service provider, and which account may include assessment rates levies.

"**Accounting Officer**" means the municipal manager appointed in terms of Section 60 of the Municipal Finance Management Act.

"**Annual Budget**" shall mean the budget approved by the municipal council for any particular financial year, and shall include any adjustments to such budget.

"**Annually**" means once every financial year;

"**Arrangement**" means a written agreement entered into between the Municipality and the customer where specific repayment parameters are agreed to. Such arrangement does not constitute a credit facility envisaged in terms of section 8(3) of the National Credit Act but is deemed to be Incidental Credit as envisaged in terms of section 4(6)(b) read with section 5(2) and (3) of the National Credit Act.

"**Arrears**" means those rates and service charges that have not been paid by the due date and for which no arrangement has been made.

"**Authorised Representative**" means a person or instance legally appointed by the Municipality to act or to fulfill a duty on its behalf.

"**Basic Municipal Services**" shall mean a municipal service necessary to ensure an acceptable and reasonable quality of life, which service – if not provided – would endanger public health or safety or the environment.

"**Billing Date**" means the date upon which the monthly statement is generated and debited to the customer's account.

"**Business and Commercial Property**" means -

- (a) property used for the activity of buying, selling or trading in commodities or services and includes any office or other accommodation on the same property, the use of which is incidental to such activity; or
- (b) property on which the administration of the business of private or public entities take place.

"**By-law**" shall mean legislation passed by the council of the Municipality, and which shall be binding on the Municipality and on the persons and institutions to which it applies.

"**Calendar year**" shall mean 12 consecutive months of a financial year(s).

"**Category**" –

- (a) in relation to a property, means a category of properties determined in terms of section 8(2) of the Municipal Property Rates Act;
- (b) in relation to the owners of property, means a category of owners determined in terms of section 15(2) of the Municipal Property Rates Act.

"**Chief Financial Officer**" means the person appointed as the Chief Financial Officer of the Municipality, or his or her nominee.

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"Consumer Price Index" shall mean the CPIX as determined and gazetted from time to time by the South African Bureau of Statistics.

"Consolidated Account" means an account which is a consolidation of any separate accounts of a person who is liable for payment to the Municipality.

"Council" means the Council of the Hessequa Municipality.

"Councillor" shall mean a member of the Council of the Municipality.

"Credit Control" means all the functions relating to the collection of monies owed by ratepayers and the users of municipal services.

"Customer" means the occupier of any premises to which the Municipality has agreed to supply or is actually supplying municipal services, or if no occupier can be identified or located, then the owner of the premises and includes any customer of the Municipality.

"Day/Days" means calendar days, inclusive of Saturdays, Sundays and public holidays.

"Debt Collectors" means an external person or entity appointed by the Municipality to collect monies due and payable to the Municipality, subject to the conditions contained herein.

"Defaulter" means any person who owes arrears to the Municipality.

"Delivery Date" shall mean the date on which the periodic account is delivered to the customer or 3 days after the date the account was posted, whichever is the first.

"Domestic Customer or User" of municipal services shall mean the person or household which municipal services are rendered in respect of "residential property" as defined below.

"Due Date" in relation to -

- (a) rates due in respect of any immovable property, means:-
- (i) the twentieth (20th) day of September of the financial year for which such rate is made, in the case where rates are levied on an annual basis;
 - (ii) the date for payment indicated on the account, in the case where rates are levied on a monthly basis; or
 - (iii) any other date determined by Council in terms of a public notice in the Provincial Gazette, and
- (b) service charges due in respect of any immovable property, means the date for payment indicated on the account, provided that the due date for any service charges means the twentieth (20th) day of September in the case where service charges are levied annually; and
- (c) should such day fall on a Saturday, Sunday or public holiday the due date shall be the next working day.

"Dwelling" means a building, structure or place of shelter to live in or conduct business from.

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"Electricity Charges" means service charges in respect of the provision of electricity.

"Farm Property or Small Holding used for agricultural purpose" – means property that is used for the cultivation of soils for purposes of planting and gathering in of crops; forestry in the context of the planting or growing of trees in a managed and structured fashion; the rearing of livestock and game or the propagation and harvesting of fish, but excludes the use of a property for the purpose of eco-tourism; and in the respect of property on which game is reared, trade or hunted, it excludes any portion that is used for commercial or business purposes. In this definition such properties could also be included within the urban edge of a town;

"Farm Property or Small Holding not used for any purpose" – means agricultural property or an agricultural zoned land unit which is not used for farming purposes, regardless of whether such portion of such property has a dwelling on it which is used as a dwelling and must be regarded as residential property.

"Financial Year" shall mean the period starting from 1 July in any year and ending on 30 June of the following year.

"Immovable Property" also includes -

- (a) an undivided share in immovable property, and
- (b) any right in immovable property.

"Implementing Authority" means the Municipal Manager or his or her nominee, acting in terms of section 100 of the Local Government: Municipal Systems Act No. 32 of 2000.

"Indigent Customer" means the head of an indigent household:-

- (a) who applied for and has been declared indigent in terms of Council's Indigent Support Policy for the provision of services from the Municipality; and
- (b) who makes application for indigent support in terms of Council's Indigent Support Policy on behalf of all members of his or her household;

"Indigent Support Policy" means the Indigent Support Policy adopted by the Council of the Municipality.

"Indigent Support Programme" means a structured program for the provision of indigent support subsidies to qualifying indigent customers in terms of the Council's Indigent Support Policy.

"Integrated Development Plan" shall mean a plan formulated and approved as envisaged in Section 25 of the Municipal Systems Act 2000, as amended.

"Industrial Property" – means property used for construction, repair, trade or manufacturing, production, assembly or processing of finished or partially finished products from raw materials or fabricated parts on such a large scale that capital and labour are significantly involved, and includes any office or other accommodation on the same property, the use of which is incidental to such activity;

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"Interest" means the charge levied on arrears, calculated as the prime rate, charged by the bank which holds the Municipality's primary bank account, plus one percent or such other percentage as may be determined by Council from time to time.

"Local Community" – in relation to the Municipality –

- (a) means that body of persons comprising –
- (i) the residents of the Municipality;
 - (ii) the rate payers of the Municipality;
 - (iii) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the Municipality; and
 - (iv) visitors and other people residing outside the Municipality, who, because of their presence in the Municipality, make use of services or facilities provided by the Municipality; and
- (b) includes, more specifically, the poor and other deprived sections of such body of persons;

"Manager Income" Means the Senior Official in a division of the Municipality's Finance Department, overall responsible for the collection of monies owed to the Municipality and/or any other official to whom he/she has delegated duties and responsibilities in terms of this By-law.

"Market Value" – in relation to a property, means the value of the property determined in accordance with section 46 of the Municipal Property Rates Act.

"MFMA" means the Local Government Municipal Finance Management Act, Act no 56 of 2003 and any amendments thereof.

"Month" means one of twelve months of a calendar year.

"Monthly Average Consumption" means the monthly average consumption in respect of a property calculated on the basis of the average consumption over the preceding twelve months on the respective property or should it be a newly developed property a projected average consumption per month for a property in the Municipality having a similar sized development thereon.

"Multiple Purposes" – in relation to a property, means the use of a property for more than one purpose as intended in section 9 of the Municipal Property Rates Act.

"Municipality" or **"Municipal Area"** shall, where appropriate, mean the geographic area, determined in terms of the Local Government: Municipal Demarcation Act No. 27 of 1998 as the municipal area pertaining to the Municipality.

"the Municipality" means Hessequa Local Municipality.

"Municipal Council" or **"Council"** shall mean the municipal council of Hessequa Local Municipality as referred to in Section 157(1) of the Constitution.

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"Municipal Pay Point" means any municipal office in the area of jurisdiction of the Municipality designated by Council for such purposes, or any such other places as the Chief Financial Officer may from time to time designate.

"Municipal Manager" means the Municipal Manager of the Hessequa Municipality or his or her nominee acting in terms of power delegated to him or her by the said Municipal Manager with the concurrence of the Council.

"Municipal Services" means services provided either by the Municipality, or by an external agent on behalf of the Municipality in terms of a service delivery agreement.

"Municipal Tariff" shall mean a tariff for services which the Municipality may set for the provision of a service to the local community, and may include a surcharge on such service.

Tariffs for major services shall mean tariffs set for the supply and consumption or usage of electricity, water, sewerage and refuse removal, and minor tariffs shall mean all other tariffs, charges, fees, rentals or fines levied or imposed by the Municipality in respect of other services supplied including services incidental to the provision of the major services.

"Occupier" means any person who occupies, controls or resides on any premises, or any part of any premises without regard to the title under which he or she so occupies it.

"Open Space" - means land that is used as a park, garden, for passive leisure or maintained in its natural state and that is zoned as open space.

"Owner" in relation to immovable property means -

- (a) the person in whom is vested the legal title thereto provided that:-
 - (i) the lessee of immovable property which is leased for a period of not less than thirty years, whether the lease is registered or not, shall be deemed to be the owner thereof;
 - (ii) the occupier of immovable property occupied under a service servitude or right analogous thereto, shall be deemed to be the owner thereof;
- (b) if the owner is dead or insolvent or has assigned his or her estate for the benefit of his creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be, shall be deemed to be the owner thereof;
- (c) if the owner is absent from the Republic or if his address is unknown to the Municipality, any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property, or if the Municipality is unable to determine who such person is, the person who is entitled to the beneficial use of such property.

"Person" means a natural and juristic person, including any department of state, statutory bodies or foreign embassies.

"Premises" includes any piece of land, the external surface boundaries of which are delineated on:

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

"Prescribed" means prescribed by this By-law and where applicable by Council or the Municipal Manager.

"Prescribed debt" means debt that becomes extinguished by prescription in terms of the Prescription Act 68 of 1969.

"Private Open Space" means land that is privately owned and used for practising of sport, play- or leisure facilities or used as a botanical garden, cemetery or nature area and which is joined as Private Open Space and which is joined as Private Open Space.

"Privately Owned Townships Serviced by the Owner" – means single properties (group housing or single residential erven), situated in an area not ordinarily being serviced by the Municipality, divided through subdivision or township establishment in (ten or more) full-title stands and/or sectional title units and where all rates-related services inclusive of installation and maintenance of streets, roads, sidewalks, lighting, storm water drainage facilities, parks and recreation facilities, are installed at the full cost of the developer and are rendered and maintained by the residents, Home owners association or management companies/ bodies of such estate.

"Property" – means immovable property registered under separate title in terms of the provisions of the Deeds Registries Act, 1937 (Act 47 of 1937) in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person and includes unregistered land if the right of ownership can be determined;

"Rateable Property" shall mean property on which the Municipality may in terms of Section 2 of the Municipal Property Rates Act 2004 levy a rate, but excluding property fully excluded from the levying of rates in terms of Section 17 of that Act.

"Ratepayer" shall mean a person who is liable to the Municipality for the payment of (a) rates on property in the Municipality; (b) any other tax, duty or levy imposed by the Municipality; and/or (c) fees for services provided either by the Municipality or in terms of a service delivery agreement.

"Rates" means a municipal rate on property envisaged in section 229 (1) of the Constitution read with the Local Government: Municipal Property Rates Act 6 of 2004 and the Local Government: Municipal Finance Act 56 of 2003.

"Rebate" in relation to a rate payable on a property, shall mean a discount granted in terms of Section 15 of the Municipal Property Rates Act, 2004 on the amount of the rate payable on the property.

"Reduction" - in respect of a rate payable on a property, means the lowering of the amount for which the property was valued and the rating of that property at that lower amount.

"Refuse Charges" means service charges in respect of the collection and disposal of refuse.

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"Registered Owner" means that person, natural or juristic, in whose name the property is registered in terms of the Deeds Registry Act, no. 47 of 1937.

"Responsible Person" means any person other than the registered owner of an immovable property who is legally responsible for the payment of municipal service charges.

"Residential Property" shall mean a property included in the valuation roll in terms of Section 48(2)(b) of the Municipal Property Rates Act, 2004 as residential.

"Residential Property" furthermore means improved property that: -

- (a) is used predominantly (60% or more) for residential purposes, including any adjoining property registered in the name of the same owner and used together with such residential property as if it were one property.

Any such grouping shall be regarded as one residential property for rate rebate or valuation reduction purposes, if still used dominantly for residential purposes;

- (b) is a unit registered in terms of the Sectional Title Act and is used predominantly for residential purposes;
- (c) is owned by a share-block company and is used predominantly for residential purposes;
- (d) is a residence used for residential purposes situated on a property used for educational purposes;
- (e) is property which is included as residential in a valuation list in terms of section 48(2)(b) of the Municipal Property Rates Act;
- (f) are retirement schemes and life right schemes used predominantly (60% or more) for residential purposes;

vacant properties (empty stands), hotels, hostels, old-age homes and accommodation establishments, irrespective of their zoning or intended use, have been specifically excluded from this property category.

"Service Charges" means the fees levied by the Municipality in terms of its tariff By-law for any municipal services rendered in respect of an immovable property and includes any penalties, interest or surcharges levied or imposed in terms of this By-law.

"Service Delivery Agreement" means an agreement between the Municipality and an institution or persons mentioned in section 76(b) of the Local Government: Municipal Systems Act 32 of 2000.

"Sewerage Charges" means service charges in respect of the provision of sewerage collection and treatment of infrastructure.

"Small Holding" means:-

- (a) all agricultural zoned land units situated within an urban region with an area of one to three hectares; or
- (b) any agricultural zoned land unit situated outside an urban region with an area of three hectares or less.

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"State Owned Property" excludes any property included in the valuation roll under the category 'residential property' or 'vacant land'.

"Sundry Customer Accounts" means accounts raised for miscellaneous charges for services provided by the Municipality or charges that were raised against a person as a result of an action by a person, and were raised in terms of Council's policies, bylaws and decisions.

"Supervisory Authority" means the Executive Mayor of the Municipality or his or her nominee, acting in terms of Section 99 of the Municipal Systems Act 32 of 2000.

"Tariff" means the scale of rates, taxes, duties, levies or other fees which may be imposed by the Municipality in respect of immovable property and/ or for municipal services provided.

"Tariff Policy" means a Tariff Policy adopted by the Council in terms of Section 74 of the Local Government: Municipal Systems Act 32 of 2000.

"User" means the owner or occupier of a property in respect of which municipal services are being rendered.

"Vacant Property" – means any land without any improvements thereon.

"Water Charges" means service charges in respect of the provision of water.

3. PURPOSE OF THE TARIFF BY-LAW

- 3.1 Apart from meeting legislative requirements, this By-law also emanates from the objectives determined in Council's anti-corruption policy.
- 3.2 The purpose of this tariff By-law is to prescribe the accounting and administrative policies and procedures relating to the determining and levying of tariffs by the Hessequa Local Municipality.
- 3.3 The Municipality should perform the procedures set out in this By-law to ensure the effective planning and management of tariffs. In setting its annual tariffs the council shall at all times take due cognisance of the tariffs applicable elsewhere in the economic region, and of the impact which its own tariffs may have on local economic development.

4. SCOPE OF APPLICATION

- 4.1 This By-law applies to all tariffs charged within the defined boundaries of Hessequa Local Municipality.

5. BASIC PRINCIPLES TO BE CONSIDERED IN DETERMINATION OF A TARIFF STRUCTURE

- 5.1 Service tariffs imposed by the local Municipality shall be viewed as user charges and not as taxes, and therefore the ability of the relevant customer or user of the services to which such tariffs relate, shall not be considered as a relevant criterion (except in the case of the indigent relief measures approved by the Municipality from time to time).
- 5.2 The Municipality shall ensure that its tariffs are uniformly and fairly applied throughout the municipal region.

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- 5.3 Tariffs for the four major services rendered by the Municipality, namely Electricity, Water, Sewerage and Refuse Removal, shall as far as possible recover the expenses associated with the rendering of each service concerned, and where feasible, generate a modest surplus as determined in each annual budget. Such surplus shall be applied in relief of property rates or for the future capital expansion of the service concerned, or both.
- 5.4 The tariff which a particular customer or user pays shall therefore be directly related to the standard of service received and the quantity of the particular service used or consumed.
- 5.5 The Municipality shall develop, approve and at least annually review an indigent support programme for the municipal area. This programme shall set out clearly the Municipality's cost recovery policy in respect of the tariffs which it levies on registered indigents, and the implications of such policy for the tariffs which it imposes on other users and customers in the municipal region.
- 5.6 In line with the principles embodied in the Constitution, in other legislation pertaining to local government, and in the case of electricity approval by NERSA, the Municipality may differentiate between different categories of users and customers in regard to the tariffs which it levies. Such differentiation shall however at all times be reasonable and shall be fully disclosed in each annual budget.
- 5.7 The Municipality's tariff By-law shall be transparent, and the extent to which there is cross-subsidisation between categories of customers or users shall be evident to all customers or users of the service in question.
- 5.8 The Municipality further undertakes to ensure that its tariffs shall be easily explainable and understood by all customers and users affected by the tariff By-law concerned.
- 5.9 The Municipality also undertakes to render its services cost effectively in order to ensure the best possible cost of service delivery.
- 5.10 In the case of conventional metering systems for electricity and water, the consumption of such services shall be properly metered by the Municipality and meters shall be read, wherever circumstances reasonably permit, on a monthly basis. The charges levied on customers shall be proportionate to the quantity of the service which they consume. In addition, the Municipality shall levy a monthly fixed charge for electricity and water services.
- 5.11 In adopting what is fundamentally a two-part tariff structure, namely a fixed basic charge coupled with a charge based on consumption, the Municipality believes that it is properly attending to the demands which both future expansion and variable demand cycles and other fluctuations will make on service delivery.
- 5.12 In case of vacant stands, where the services are available but not connected, the Municipality shall levy a monthly availability charge which is levied because of fixed costs such as the capital and maintenance costs and insurance of infra structure available for immediate connection. This principle also applies to vacant stands in areas serviced through conservancy or septic tanks.

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- 5.13 The Municipality's tariffs for electricity services will be determined to ensure that those customers who are mainly responsible for peak demand, and therefore for the incurring by the Municipality of the associated demand charges from Eskom, will have to bear the costs associated with these charges. To this end the Municipality shall therefore install demand meters to measure the maximum demand of such customers during certain periods. These bulk customers shall therefore pay the relevant demand charge as well as an energy charge directly related to their actual consumption of electricity during the relevant metering period.

6. FACTORS TO BE CONSIDERED IN THE DETERMINATION OF A TARIFF STRUCTURE

6.1 Financial Factors

- 6.1.1 The primary purpose of a tariff structure is to recover the actual costs of the rendering of a particular service, during each of the Municipality's specific financial years, to avoid cross subsidising of services.

- 6.1.2 In order to determine the tariffs which must be charged for the supply of the four major services, the Municipality shall identify all the costs of operation of the undertakings concerned, including specifically the following:-

6.1.2.1 Cost of bulk purchases in the case of water and electricity.

6.1.2.2 Distribution costs.

6.1.2.3 Distribution losses in the case of electricity and water.

6.1.2.4 Depreciation expenses.

6.1.2.5 Maintenance of infrastructure and other fixed assets.

6.1.2.6 Cost of approved indigent relief measures and cross subsidising of low consumption.

6.1.2.7 Administration and service costs, including:-

- (a) service charges levied by other departments such as finance, human resources and legal services;
- (b) reasonable general overheads, such as the costs associated with the Office of the Municipal Manager;
- (c) adequate contributions to the provisions for bad debts and obsolescence of stock; and
- (d) all other ordinary operating expenses associated with the service concerned including, in the case of the electricity service, the cost of providing street lighting in the municipal area.

(Note: the costs of the democratic process in the Municipality – that is, all expenses associated with the political structures of the Municipality – shall form part of the expenses to be financed from property rates and general revenue, and shall not be included in the costing of the major services of the Municipality).

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6.1.2.8 The intended surplus to be generated for the financial year. Surplus to be applied:-

- (a) as an appropriation to capital reserves; and/or
- (b) generally in relief of rates.

6.2 Socio-economic factors

6.2.1 Although the determination of tariffs is in many instances politically orientated, it ought to be based on sound, transparent and objective principles at all times. In order to fully understand the influence of the socio-economic factors the various user categories and forms of subsidisation needs to be considered. Tariffs should also support business initiatives aimed at creating jobs or contribute to the economy of the area.

6.2.2 Users can be divided into the following categories:-

6.2.2.1 Users who are incapable to make any contribution towards the consumption of services and who are fully subsidised;

6.2.2.2 Users who are able to afford a partial contribution and who are partially subsidised only; and

6.2.2.3 Users who can afford the cost of the services in total.

6.2.3 It is important to identify these categories and to plan the tariff structures accordingly. Subsidies currently derived from two sources namely:-

6.2.3.1 Contributions from National Government: National Government makes an annual contribution according to a formula, which is primarily based on information obtained from Statistics South Africa by means of census surveys. If this contribution is judiciously utilised it will subsidise all indigent households who qualify in terms of the Council policy.

6.2.3.2 Contributions from own funds: The Council can, if the contribution of National Government is insufficient, provide in its own operational budget for such support. Such action will in all probability result in increased tariffs for the larger users. Any subsidy must be made known publicly.

6.2.4 To make provision for subsidisation the tariff structure can be compiled as follow:-

6.2.4.1 Totally free services (within limits and guide lines);

6.2.4.2 Lower tariffs for users who qualify in terms of particular guide lines, for example to recover the operational costs of the service only; and

6.2.4.3 Full tariff payable with a subsidy that is transferable from sources as mentioned above.

6.3 Minimum service levels

6.3.1 It is important that minimum service levels be determined in order to calculate and develop an affordable tariff package available to all potential users.

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6.4 Credit Control

- 6.4.1 It is not possible to successfully compile a tariff structure without consideration of the stipulations of an effective credit control system. Income is provided for in the budget as if a 100% payment level will be maintained. It is therefore important to continuously ensure that users indeed pay punctually. Non payment has a direct effect in that provision for bad debt, in accordance with current payment levels, must be provided as expenditure in the budget.
- 6.4.2 However, it is also a fact that there are users who are unable to pay. Tariffs must therefore provide access to a minimum level of basic services for all users. It should furthermore be supplemented with a practical policy for indigents. This will ensure the sustainable delivery of services. In addition, adequate provision should be made on an annual basis for bad debt/ working capital in accordance with current payment levels.

6.5 Package of services

- 6.5.1 The accounts for rates and services must not be seen in isolation. It must be considered jointly to determine the most affordable amount that the different users can pay as a total account. The basic costs of a service must first of all be recovered and then only can surpluses be manipulated to determine the most economic package for the user with due allowance for future events in regard to a particular service.

6.6 Historical and future user patterns

- 6.6.1 It is important to keep accurate consumption statistics for the purpose of determining tariffs. Consumption determines tendencies, which ultimately have an influence on tariffs within a structure. Provision should be made in the process for growth and seasonal use, as well as for unforeseen events that may have an impact on tariffs.

6.7 User groups

- 6.7.1 Users are traditionally divided into user groups as set out below:-
- 6.7.1.1 Domestic (Residential);
 - 6.7.1.2 Businesses/ Commercial;
 - 6.7.1.3 Industries/Bulk customers;
 - 6.7.1.4 Farm properties (agricultural);
 - 6.7.1.5 Accommodation establishments (including guest houses);
 - 6.7.1.6 Municipal consumption (departmental charges);
 - 6.7.1.7 Institutions that may be directly subsidised for example retirement homes, schools and hostels, sport organisations, etcetera; and
 - 6.7.1.8 Special arrangements for specific developments as may be determined by Council from time to time.

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6.7.2 A continuous effort should be made to group together those users who have more or less the same access to a specific service.

7. FREE BASIC SERVICES

7.1 Free basic municipal services refers to those municipal services necessary to ensure an acceptable and reasonable quality of life and which service, if not provided, could endanger public health or safety or the environment.

7.2 In terms of the South African Constitution all customers should have access to basic services. Currently, the free basic services provided to the domestic customers within the Hessequa Local Municipality are as follows: -

7.2.1 The extent of the monthly indigent support granted to indigent households must be based on budgetary allocations for a particular financial year and the tariffs determined for each financial year.

7.2.2 The general threshold for indigent support is restricted to qualifying households with a combined income amount determined by Council at the beginning of every financial year and will be applied for the duration of that particular financial year.

7.2.3 The Municipality recognises the following five levels of indigent support:-

7.2.3.1 Category A - Support to qualifying households where the combined total gross income of the registered owner/ tenant and his/her spouse or life companion is equal or less to the minimum amount as determined by Council from time to time.

7.2.3.2 Category B - Support to qualifying households where the combined total gross income of the registered owner/ tenant and his/her spouse or life companion is within the extended amount as determined by Council from time to time.

7.2.3.3 Category C - Care centres where elderly care is provided. The subsidy will be restricted to a fixed amount per month determined by Council at the beginning of every financial year per resident with an income equal or lower than the income amount determined by Council at the beginning of every financial year. The indigent assistance is rendered in the form of credit on the monthly electricity levy payable by the management of the particular institution. The total subsidy should not exceed the total monthly municipal account.

7.2.3.4 Category D – Indigent household tenants not receiving municipal accounts. Support to qualifying households where the combined total gross income of the registered tenant and his/her spouse or life companion is equal or less to the minimum amount or within the extended amount as determined by Council from time to time. The indigent assistance is rendered in the form of credit on the monthly municipal account payable by the owner of the property. The total subsidy should not exceed the total monthly municipal account.

7.2.3.5 Category E – Churches who are categorised in the Valuation Roll as a 'Place of Public Worship' in terms of the Municipal Property Rates Act. Where more than 50% of the members of that congregation are registered as indigents in terms of the Council's Indigent Policy the property will be subsidised in terms of all basic services charges only.

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8. TARIFF STRUCTURES FOR VARIOUS SERVICES

8.1 It is essential that a compromise be reached between the following needs with the determination of a tariff structure: -

- 8.1.1 The need to reflect costs as accurately as possible in order to achieve cost effectiveness;
- 8.1.2 The need to ensure equality and fairness between user groups;
- 8.1.3 The need for a practically implementable tariff;
- 8.1.4 The need to use appropriate metering and provisioning technology;
- 8.1.5 The need for an understandable tariff; and
- 8.1.6 The user's ability to pay.

8.2 Taking into consideration the abovementioned points the tariff structure of the following services are discussed:-

- 8.2.1 Electricity.
- 8.2.2 Water.
- 8.2.3 Refuse Removal.
- 8.2.4 Sewerage.
- 8.2.5 Property Rates.

8.3 Electricity

8.3.1 To calculate the tariff for electricity, the actual cost incurred in the supply of electricity to the community, has to be taken into consideration. The principle of basic levies as well as a per unit tariff for electricity is determined by the cost structure. This cost structure consists of the following components:-

8.3.1.1 Fixed costs: It represents that portion of expenses that must be incurred irrespective of the fact whether or not any electricity has been sold, for example the salary of staff who have been appointed permanently with specific tasks relating to the provision of electricity, costs of capital, maintenance cost and insurance that is payable in respect of the infra structure. These costs must be recovered whether any electricity is used or not.

The costs are therefore recovered by means of a fixed levy per period (normally levied as a monthly basic charge) in order to ensure that these costs are covered.

8.3.1.2 Variable costs: It relates to the physical provision of electricity according to consumption/ demand and must be financed by means of a unit tariff which is payable per kWh/KVA electricity consumed.

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8.3.1.3 Profit taking: The tariffs for these services are determined in such a way that a NETT trading surplus is realised. Any trading surplus is used to subsidise the tariffs of rate funded services.

8.3.2 The following tariff structures were basically used for the determination of tariffs:-

8.3.2.1 Inclining block tariff (IBT) tariff structure where customer's consumption is divided into blocks and each subsequent block has a higher energy rate (c/kWh). The tariff structure has been set by NERSA in order to protect/ cross-subsidise low income domestic customers and to promote energy efficiency.

8.3.2.2 Single rate energy tariff (all costs expressed in a single cent/kWh charge).

8.3.2.3 Two part tariff for Domestic, Commercial, Business Customers and Accommodation Establishments (consist of a basic (fixed cost) monthly charge and a variable charge related to metered kWh consumption):-

- Energy rate (c/kWh); and
- Basic monthly charge (R/month).

8.3.2.4 Three part tariff for Industrial and Bulk Customers (consist of a basic monthly charge, demand charge and a variable charge related to metered kWh consumption):-

- Energy rate (c/kWh);
- Basic monthly charge (R/month); and
- Demand charge (R/KVA month – recovers capital costs elements).

8.3.2.5 Special tariff arrangements determined and approved by Council from time to time for specific developments and/or informal settlements.

8.3.3 An availability charge is payable on all properties (irrespective of the category), where a connection to the electricity network is possible at the cost of the Municipality, but not in use. This fee aims to recoup capital and maintenance costs in respect of such properties. If the owner connects the service with the intention to improve the property the debit will be adjusted pro-rata from the date of the connection.

8.4 Water

8.4.1 Water is a scarce commodity with little alternatives available (contrary to electricity). Tariff structures should therefore be aimed at the reduction of consumption. In order to restrict consumption, an inclining block rate tariff structure with a basic fee is applied.

In principle, the amount that users pay for water services should generally be in proportion to their use of water services. Tariffs must be set at levels that facilitate the sustainability of the service.

8.4.2 To calculate the tariff for water, the actual cost incurred in the supply of water to the community, has to be taken into consideration. The principle of basic levies as well as a kilolitre tariff for water is determined by the cost structure.

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8.4.3 Similar to electricity, this cost structure consists of the following components:-

8.4.3.1 Fixed costs: It represents that portion of expenses that must be incurred irrespective of the fact whether or not any water has been sold, for example the salary of staff who have been appointed permanently with specific tasks relating to the provision of water, costs of capital and insurance that is payable in respect of the infra structure. These costs must be recovered whether any water is used or not. The costs are therefore recovered by means of a fixed levy per period (normally on a monthly basis) in order to ensure that these costs are covered.

8.4.3.2 Variable costs: It relates to the physical provision of water according to demand and must be financed by means of a unit tariff which is payable per kilolitre water consumed.

8.4.3.3 Profit taking: The tariffs for these services are determined in such a way that a NETT trading surplus is realised. Any trading surplus is used to subsidise the tariffs of rate funded services.

8.4.4 The following tariff structures were basically used for the determination of tariffs:-

8.4.4.1 Single-leg water consumption for users with pre-paid meters; and

8.4.4.2 Two-leg tariff consisting of a basic charge based on the size of the water connection and consumption for users with conventional meters.

8.4.4.3 An availability charge is payable on all properties (irrespective of the category), where a connection to the water network is possible at the cost of the Municipality, but not in use. This fee aims to recoup capital and maintenance costs of networks as well as certain fixed administrative costs in respect of such properties. If the owner connects and improve the property the debit will be adjusted pro-rata from the date of the connection.

8.4.4.4 Special tariff arrangements determined and approved by Council from time to time for specific developments and/or informal settlements.

8.5 Refuse Removal

8.5.1 Refuse removal is an economic service and tariff calculations should be based on the actual cost incurred in delivering the service.

8.5.2 A customer who chooses to do his/her own refuse removal will still be liable for paying the applicable refuse tariff.

8.5.3 The tariff levied by Hessequa Local Municipality is based on the category of property as determined in the valuation roll.

8.5.4 The following tariff structures were basically used for the determination of tariffs:-

8.5.4.1 Residential (domestic customers) – maximum of one removal per week (black bag system).

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- 8.5.4.2 Accommodation Establishments – maximum of one removal per week (black bag system).
- 8.5.4.3 Business/ Commercial/ Industrial (Non – Bulk) – maximum of two removals per week.
- 8.5.4.4 Business/ Commercial/ Industrial (Bulk) - maximum of three removals per week.
- 8.5.4.5 Business/Commercial/Industrial (Bulk) - four or more, with a maximum of seven removals per week.
- 8.5.4.6 Additional removals – More than the maximum removals as per 8.5.4.1 - 8.5.4.6.
- 8.5.4.7 Special tariff arrangements determined and approved by Council from time to time for specific developments and/or informal settlements.

8.6 Sewerage

- 8.6.1 Sewer service is an economic service and tariff calculations should be based on the actual cost incurred in delivering the service.
- 8.6.2 The following tariff structures were basically used for the determination of tariffs:-
 - 8.6.2.1 The tariff levied for waterborne sewerage systems is based on the size of the water connection.
 - 8.6.2.2 The tariff levied for conservancy tanks, septic tanks and french drains will consist of a basic charge plus a fixed amount per withdrawal.
 - 8.6.2.3 An availability charge is payable on all properties (irrespective of the category), where a connection to the sewer network is possible at the cost of the Municipality, but not in use. This fee aims to recoup capital and maintenance costs of networks as well as certain fixed administrative costs in respect of such properties. If the owner connects and improve the property the debit will be adjusted pro-rata from the date of the connection.
 - 8.6.2.4 However, owners of vacant stands in an area serviced through conservancy tanks, septic tanks or french drains only will not pay the availability tariff for waterborne sewerage but only pay the basic tariff for septic tanks.
 - 8.6.2.5 Customers in an area serviced through a waterborne sewerage network who prefer not to connect to such a service but remain with a conservancy tank, septic tank or french drain will be charged the monthly basic tariff for a 50mm water connection and not the basic tariff for septic tanks. In addition, such customers will also pay a fixed fee per withdrawal.
 - 8.6.2.6 Special tariff arrangements determined and approved by Council from time to time for specific developments and/or informal settlements.

8.7 Property Rates

- 8.7.1 The rate levied by the Municipality will be a cent amount in the Rand based on the market value of the property.

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- 8.7.2 In terms of the Municipal Property Rates Act, 2004 the Municipality may levy different rates for different categories of rateable property. Differential rating among the various property categories will be done by way of setting different cent amount in the rand for each property category and by way of reductions and rebates as provided for in the Municipality's property rates policy.
- 8.7.3 In terms of section 17 (1) (e) of the MFMA the Municipality's property rates policy must be reviewed on annual basis and the reviewed policy tabled to Council for approval as part of the budget process.

9. ELECTRICITY TARIFF BY-LAW

Electricity is supplied under a distribution license, granted by NERSA for a specific area of jurisdiction, which regulates inter alia the following aspects:-

- a. Classification of customer categories.
- b. Permissible tariff structure options are determined at a national level and distributors are obliged to apply these structures to obtain uniformity.
- c. All tariff structures and tariffs must be approved by NERSA prior to application thereof by a distributor.

9.1 Domestic Customers and Accommodation Establishments

This tariff covers the supply of electricity for domestic use in private dwellings, flats and chalets with separate meters and includes churches, schools, welfare buildings, hospitals, halls or similar premises.

This tariff is applied for circuit breaker sizes not in excess of 63A single phase or 63A three phase. Should customers require supplies in excess hereof, the Commercial Customer or Bulk Supply tariff will be applicable. A phased approach will be implemented to convert existing customers who have traditionally been charged at different tariffs towards these criteria.

9.1.1 Customers with Conventional Meters

9.1.1.1 Customers with conventional meters are billed as follow:-

- (a) An availability charge is payable on all properties (irrespective of the category), where a connection to the electricity network is possible, but not in use.
- (b) Two part tariff:
 - i. Basic monthly charge (R/month). The basic charge is determined by the category within which the consumer's tariff circuit breaker size falls, i.e. 0 to 32A, 33A to 45A, 46A to 63A and 64A to 100A for single phase, and 0 to 32A, 33A to 45A, 46A to 63A and 64A to 100A for three phase.
 - ii. Energy rate (c/kWh). The energy rate is charged on an inclining block tariff per unit based on the number of kWh consumed which is determined as follows:-

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Block 1: 0 to 50 kWh

Block 2: 51 to 350 kWh

Block 3: 351 to 600 kWh

Block 4: >600 kWh

9.1.2 Pre-paid Customers

9.1.2.1 Prepaid users are charged based on a Two part tariff:-

- i. Basic monthly charge (R/month). The basic charge is determined by the category within which the consumer's tariff circuit breaker size falls, i.e. 0 to 32A, 33A to 45A, 46A to 63A and 64A to 80A for single phase and 0 to 32A, 33A to 45A, and 46A to 63A for three phase. The basic charge will not be billed monthly but collected when customers purchase electricity at any given time as follow:-

Daily service charge payable at each purchase transaction. The total service charge payable at each transaction is calculated using the number of days between the previous and present purchases. This daily pro rata basic charge must first be subtracted from the amount tendered and kWh are issued for the remainder of the amount. Consumers will therefore find that they do not receive the same amount of kWh for the same rand value tendered if the number of days between purchases varies.

- ii. Energy rate (c/kWh). The energy rate is charged on an inclining block tariff per unit based on the number of kWh purchased, which is determined as follows:-

Block 1: 0 to 50 kWh

Block 2: 51 to 350 kWh

Block 3: 351 to 600 kWh

Block 4: >600 kWh

9.1.2.2 Should the customer have any municipal arrears, the auxiliary payment system may be activated for the gradual payment of the arrears as a percentage of purchases.

9.1.2.3 Registered Indigents receive a number of kWh units fully subsidised every month, as determined by Council on an annual basis. Where possible, Council may limit the supply to indigent customers to a 20A single phase sized circuit breaker. Indigents do not pay a Basic Charge or Service Charge.

9.2 Commercial/ Business Customers

This tariff covers the supply of electricity to shops, office buildings, hotels, clubs, industrial undertakings, builder's supplies or similar premises.

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The tariff is normally for circuit breaker sizes not in excess of 63A single phase or 100A three phase. Should customers require supplies in excess hereof, the Bulk Supply tariff will be applicable. A phased approach will be implemented to convert existing customers who have traditionally been charged at different tariffs towards these criteria.

9.2.1 Customers with Conventional Meters

9.2.1.1 Customers with conventional meters are billed as follow:-

- (a) An availability charge is payable on all properties (irrespective of the category), where a connection to the electricity network is possible at the cost of the Municipality, but not in use.
- (b) Two part tariff:
 - i. Basic monthly charge (R/month). The basic charge is determined by the category within which the consumer's tariff circuit breaker size falls, i.e. 0 to 32A, 33A to 45A, 46A to 63A and 64A to 100A for single phase, and 0 to 32A, 33A to 45A, 46A to 63A, 64A to 100A for three phase.
 - ii. Energy rate (c/kWh). The energy rate is charged at a single rate tariff per unit based on the number of kWh consumed.

9.2.2 Pre-paid Customers

9.2.2.1 Prepaid users, if applicable, are charged on a Two part tariff:

- i. Basic monthly charge (R/month). The basic charge is determined by the category within which the consumer's tariff circuit breaker size falls, i.e. 0 to 32A, 33A to 45A, 46A to 63A and 64A to 100A for single phase, and 0 to 32A, 33A to 45A, 46A to 63A, 64A to 100A for three phase. The basic charge will not be billed monthly but collected when customers purchase electricity at any given time as follow:-

Daily service charge payable at each purchase transaction. The total service charge payable at each transaction is calculated using the number of days between the previous and present purchases. This daily pro rata basic charge must first be subtracted from the amount tendered and kWh are issued for the remainder of the amount. Consumers will therefore find that they do not receive the same amount of kWh for the same rand value tendered if the number of days between purchases varies.
- ii. Energy rate (c/kWh). The energy rate is charged on a single rate per unit based on the number of kWh purchased.

9.2.2.2 Should the customer have any municipal arrears, the auxiliary payment system may be activated for the gradual payment of the arrears as a percentage of purchases.

9.3 Industrial/ Bulk Customers

9.3.1 The Bulk Supply tariff is for Customers with a notified maximum demand of 71kVA or more or who require a supply greater than a 100Amp three phase circuit breaker size.

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9.3.2 These customers are billed as follow:-

9.3.2.1 Three part tariff.

- (a) Fixed monthly charge (R/month).
- (b) Demand charge (R/kVA month – recovers capital costs elements).
- (c) Energy rate (c/kWh). The energy rate is charged at a single rate tariff per unit based on the number of kWh consumed.

9.4 Farm Properties (Agricultural)

9.4.1 These customers are billed as per the tariffs applicable which have been determined by the Council by special agreement with a specific group of farmers in the past.

9.5 Streetlights

9.5.1 An energy rate (c/kWh) will be applied per streetlight metering point.

9.6 Special Arrangements

9.6.1 Other tariffs may be applicable which has been determined by the Town Electrical Engineer or Council by special agreement with specific Clients. This will only be considered when special circumstances prevail.

9.7 Departmental

9.7.1 The respective Commercial and Bulk Supply tariffs, for consumption only, as per paragraphs 9.2 and 9.3 above will be applicable to all municipal buildings, pump stations, waste water works, water treatment works, etc.

9.8 Electricity sundry tariffs

9.8.1 All other electricity related services offered by the Council are charged at a tariff as determined by the Council annually during the budget process.

10. WATER TARIFF BY-LAW

A decision to equalise tariffs was already taken in 2001 by Council. This resolution was only implemented on 1 July 2011 with no phase in process.

10.1 Domestic /Commercial /Business /Accommodation Establishments

10.1.1 Customers are billed as follow:-

10.1.1.1 An availability charge is payable on all properties (irrespective of the category), where a connection to the water network is possible at the cost of the Municipality, but not in use.

10.1.1.2 A basic charge is payable on all properties that are connected to the water network based on the size of the water connection, regardless of whether any water is used.

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- 10.1.1.3 Registered Indigents receive their basic levy for water either fully or 50% subsidised every month, as determined by Council on an annual basis.
- 10.1.1.4 Registered Indigents receive an amount of water fully subsidised every month, as determined by Council on an annual basis.
- 10.1.1.5 Installation of prepaid water meters are only allowed for registered indigents and in approved low cost housing schemes.
- 10.1.1.6 Customers are billed for consumption based on the amount of water used by way of a step tariff per kilolitre usage in the following blocks:-
- (a) 1 to 6 kl – Registered Indigent Domestic Customers Only
 - (b) 7 to 15 kl - Registered Indigent Domestic Customers Only
 - (c) 1 to 15 kl – All Non-Indigent Registered Domestic Customers/Commercial/ Business/ Accommodation Establishments
 - (d) 16 to 30 kl -All Domestic/Commercial/Business/Accommodation Establishments
 - (e) 31 to 40 kl -All Domestic/Commercial/Business/Accommodation Establishments
 - (f) 41 to 50 kl -All Domestic/Commercial/Business/Accommodation Establishments
 - (g) 51 to 70 kl -All Domestic/Commercial/Business/Accommodation Establishments
 - (h) 71 kl and above - All Domestic/Commercial/Business/Accommodation Establishments.

10.2 Old Age Homes/Schools/ Sports Clubs

10.2.1 Customers are billed as follow:-

- 10.2.1.1 An availability charge is payable on all properties, where a connection to the water reticulation network is possible, but not in use.
- 10.2.1.2 A basic charge is payable on all properties that are connected to the water network based on the size of the water connection, regardless of whether any water is used.
- 10.2.1.3 Customers are billed for consumption based on the amount of water used by way of a step tariff per kilolitre usage in the following blocks:-
- (a) 1 to 70kl
 - (b) 70 to 90kl
 - (c) 91kl and above

10.3 All other Customers

10.3.1 All other customers are billed as follow:-

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10.3.1.1 An availability charge is payable on all properties (irrespective of the category), where a connection to the water reticulation network is possible, but not in use.

10.3.1.2 A basic charge is payable on all connections, based on the size of the water connection.

10.3.1.3 Customers are billed for consumption at a fixed tariff per kilolitre based on the number of kilolitres consumed.

10.4 Special Arrangements

10.4.1 Where two or more dwellings/ flats/ offices/ accommodation establishment units are feeding from one main water connection to a property, the customers are billed as follow:-

10.4.1.1 A basic charge is payable on all dwellings that are connected to the water network based on the size of the smallest water connection (20mm), regardless of whether any water is used.

10.4.1.2 In the case of accommodation establishments, a basic charge is payable on all units/ dwellings that are connected to the water network based on the size of the smallest water connection (20mm), regardless of whether any water is used based on the following formula:-

- (a) 1 to 3 units = basic charge for one dwelling.
- (b) 4 to 6 units = basic charge for two dwellings.
- (c) 7 to 10 units = basic charge for three dwellings.
- (d) 11 to 20 units = basic charge for five dwellings.
- (e) 21 plus units = basic charge for ten dwellings.

10.4.1.3 Customers in 10.4.1.1 and 10.4.1.2 are billed for consumption based on the amount of water used by way of a step tariff per kilolitre usage as per 10.1.1.6.

10.4.2 Body Corporates who take the responsibility for the payment of basic water, basic sewer and refuse removal services on behalf of the individual owners/ sectional title owners may apply in writing for a rebate on the basic charges levied for water. If approved a rebate of 20% will be applied. If no application is received the full basic charges will be levied.

10.5 Water Delivery in Rural Areas

10.5.1 Customers are billed as follow:-

10.5.1.1 A fixed predetermined amount will be charged per kilometre to cover the transport.

10.5.1.2 The actual man hour cost to cover the total cost of employment.

10.5.1.3 The actual cost of the water based on the applicable tariff for purified or raw water as charged for all other customers (see 10.2.1.3).

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10.5.1.4 A surcharge of 20% on the total cost of the transaction.

10.6 Water Restrictions

10.6.1 The availability of bulk water resources will be monitored throughout the year by Council.

10.6.2 When so required, Council will take a resolution to implement water restrictions.

10.6.3 Any penalties payable on water consumption as a result of water restrictions will be implemented in the month following the Council resolution; regardless of the meter reading dates (water consumed prior to the resolution date may therefore also be subject to penalties).

10.7 Departmental

10.7.1 The respective Domestic/Commercial/Business/Accommodation Establishments tariffs as per paragraph 10.1.1.6 above will be applicable to all municipal buildings, pump stations, waste water works, water treatment works, etc.

10.8 Water Sundry Tariffs

10.8.1 All other water related services offered by the Council are charged at a tariff as determined by the Council annually during the budget process.

11. REFUSE TARIFF BY-LAW

11.1 Refuse Removal Tariffs

11.1.1 The Council has determined the following categories for refuse removal:-

11.1.1.1 Residential (domestic customers) – maximum of one removal per week.

11.1.1.2 Accommodation Establishments - maximum of one removal per week, based on the following formula:-

(a) 1 to 3 units = basic charge for one dwelling.

(b) 4 to 6 units = basic charge for two dwellings.

(c) 7 to 10 units = basic charge for three dwellings.

(d) 11 to 20 units = basic charge for five dwellings.

(e) 21 plus units = basic charge for ten dwellings.

11.1.1.3 Business/ Commercial/ Industrial (Non – Bulk) – maximum of two removals per week. Businesses situated in residential areas will only be serviced once a week.

11.1.1.4 Business/ Commercial/ Industrial (Bulk) - maximum of three removals per week.

11.1.1.5 Business/Commercial/Industrial (Bulk) - four or more, with a maximum of seven removals per week.

11.1.1.6 Additional removals – More than the maximum removals as per 11.1.1.1 – 11.1.1.5.

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11.1.2 Registered Indigents receive their refuse removal service either fully or 50% subsidised every month, as determined by Council on an annual basis.

11.2 Special Arrangements

11.2.1 Where two or more customers on a premises make use of the compulsory solid waste disposal service the customers are billed as per the category in par 11.1.1 above.

11.2.2 Body Corporates who take the responsibility for the payment of basic water, basic sewer and refuse removal services on behalf of the individual owners/ sectional title owners may apply in writing for a rebate on refuse removal charges. To qualify, a central collection point for refuse as agreed with Council must have been created. If approved, a rebate of 20% will be applied. If no application is received the full charges will be levied.

11.2.2.1 Special tariff arrangements determined and approved by Council from time to time for specific developments. In terms of the current arrangements, all developments with ten or more units that have created a central collection point for refuse as agreed with Council may qualify for a reduced tariff as determined by Council on an annual basis. The Body Corporate or individual owners may apply in writing for a rebate. If approved, a rebate of 20% will be applied. If no application is received the full charges will be levied.

11.3 Departmental

11.3.1 The respective Business/ Commercial/ Industrial (Non – Bulk) tariffs as per paragraphs 11.1.1.3 above will be applicable to all municipal buildings, pump stations, waste water works, water treatment works, etc.

11.4 Refuse Removal Sundry Tariffs

11.4.1 All other refuse removal related services offered by the Council are charged at a tariff as determined by the Council annually during the budget process.

12. SEWERAGE TARIFF BY-LAW

12.1 Waterborne Sewerage Systems

12.1.1 An availability charge is payable on all properties (irrespective of the category), where a connection to the sewer network is possible at the cost of the Municipality, but not in use.

12.1.2 The Council charges a basic monthly fee per property based on the size (mm) of the water connection(s) for a specific property.

12.1.3 Registered Indigents receive their basic levy for sewerage service either fully or 50% subsidised every month, as determined by Council on an annual basis.

12.2 Conservancy Tanks/ Septic Tanks/ French Drains

12.2.1 An availability charge is payable on all properties, (irrespective of the category), where installation by the owner and servicing by the Municipality, of a Conservancy Tank/ Septic Tank or French Drain is possible, but not in use.

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- 12.2.2 A monthly basic charge is payable on all installations. In case where Council is unable to render a withdrawal service due to the premises being not accessible no monthly basic charge will be payable.
- 12.2.3 Customers in an area serviced through a waterborne sewerage network who prefer not to connect to such a service but remain with a conservancy tank, septic tank or french drain will be charged the monthly basic tariff for a 50mm water connection and not the basic charge for septic tanks.
- 12.2.4 The Council charges a fixed fee per withdrawal.
- 12.2.5 Vacant stands in an area serviced through conservancy tanks, septic tanks or french drains will pay an availability charge which is equal to the basic tariff for septic tanks.
- 12.2.6 The subsidy for registered indigents will also be applicable to qualifying indigents with no waterborne sewerage but serviced through conservancy tanks, septic tanks or french drains. The subsidy will be restricted to the basic levy for conservancy tanks, septic tanks or french drains as well as one withdrawal per month.

12.3 Withdrawal of Conservancy Tanks/ Septic Tanks/ French Drains in Rural Areas

12.3.1 Customers are billed as follow:-

- 12.3.1.1 A fixed predetermined amount will be charged per kilometre to cover the transport.
- 12.3.1.2 The actual man hour cost to cover the total cost of employment.
- 12.3.1.3 The fixed fee per withdrawal (see 12.2.4).
- 12.3.1.4 A surcharge of 20% on the total cost of the transaction.

12.4 Special Arrangements

12.4.1 Where two or more dwellings/ flats/ offices/accommodation establishment units are feeding from one main sewerage connection to a property, the customers are billed as follow:-

- 12.4.1.1 A basic charge is payable on all dwellings that are connected to the sewerage network based on the size of the smallest water connection (20mm).
- 12.4.1.2 In the case of accommodation establishments, a basic charge is payable on all units/ dwellings that are connected to the sewerage network based on the size of the smallest water connection (20mm), based on the following formula:-
- (a) 1 to 3 units = basic charge for one dwelling.
 - (b) 4 to 6 units = basic charge for two dwellings.
 - (c) 7 to 10 units = basic charge for three dwellings.
 - (d) 11 to 20 units = basic charge for five dwellings.
 - (e) 21 plus units = basic charge for ten dwellings.

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12.4.2 Body Corporates who take the responsibility for the payment of basic water, basic sewer and refuse removal services on behalf of the individual owners/ sectional title owners may apply in writing for a rebate on the basic charges levied for sewer. If approved a rebate of 15% will be applied. If no application is received the full basic charges will be levied.

12.5 Departmental

12.5.1 The tariffs as per paragraph 12.1.2, 12.2.2 and 12.2.4 above will be applicable to all municipal buildings, pump stations, waste water works, water treatment works, etc.

12.6 Sewerage sundry tariffs

12.6.1 All other sewerage related services offered by the Council are charged at a tariff as determined by the Council annually during the budget process.

13. PROPERTY TAX BY-LAW

13.1 Property Tax Tariffs

13.1.1 Property rates are levied as determined by Council from time to time and is covered in the Property Rates Policy and Bylaw of the Hessequa Municipality.

13.2 Property Tax Sundry Tariffs

13.2.1 All other property tax related services offered by the Council are charged at a tariff as determined by the Council annually during the budget process.

14. SUNDRY TARIFFS

14.1 Various sundry tariffs are applied to recoup costs of sundry services to the public. All such tariffs are based on cost of supply, but individual tariffs may be set at:-

14.1.1 Subsidised levels;

14.1.2 Levels reflecting actual cost; or

14.1.3 Levels producing surpluses.

14.2 The level at which the Council sets a sundry service tariff, takes into account factors such as:-

14.2.1 Affordability;

14.2.2 Socio-economic circumstances;

14.2.3 Utilisation of amenities and resources;

14.2.4 National and regional agreements and provisions; and

14.2.5 Any other factors influencing such decisions.

14.3 Sundry tariffs and structures will be revised at least once a year, during the annual budgeting process.

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15. REVIEW OF THIS BY-LAW

- 15.1 This By-law shall be implemented once approved by Council. All future tariff charges must be considered in accordance with this By-law.
- 15.2 In terms of section 17(1)(e) of the MFMA this By-law must be reviewed on annual basis and the reviewed By-law tabled to Council for approval as part of the budget process.

16. REPEAL OF BY-LAWS

- 16.1 The Tariff By-law published by the Hessequa Municipality under PN 6588/2008 dated 19 December 2008 is hereby repealed.

17. SHORT TITLE AND COMMENCEMENT

- 17.1 This By-law is the By-law on Tariffs and Free Basic Services of the Hessequa Municipality and commences on the date of publication thereof in the Provincial Gazette.

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PROPERTY RATES BY-LAW



(FINAL FOR IMPLEMENTATION ON 1 JULY 2013)

28 MAY 2013

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**HESSEQUA MUNICIPALITY
BY-LAW ON THE LEVYING OF PROPERTY RATES**

DOCUMENT AND VERSION CONTROL

Version:

Date:

Summary: This document describes the By-law on the Levying of Property Rates that will be applicable to the Hessequa Municipality, with effect from 01 July 2013.

Municipal Manager: J Jacobs

Executive Mayor: E Nel

Date: 2013/05/28

Date: 2013/05/28

PREAMBLE

WHEREAS section 3 of the Local Government: Municipal Property Rates Act, 2004 (Act No 6 of 2004) requires that a Municipality must adopt a By-law in accordance with the provisions of the Act;

NOW THEREFORE the following By-law on the levying of property rates is adopted:

1. DEFINITIONS

In this By-law, definitions, words and expressions have the same meanings as assigned to them in the Act, and unless the context indicates otherwise: –

“**accommodation**” means accommodation in an accommodation establishment, a room, dwelling/ house or second dwelling unit, self-catering room, self-catering apartment or free standing building let to transient guests consisting of three or more lettable units;

“**accommodation establishments**” – consists of one or more of the following lettable types of accommodation, consisting of three or more lettable units –

- (a) “**Camping**” (informal temporary accommodation in a unique environment) is defined by a property used for erection of tents or other temporary structures for temporary accommodation for visitors or holiday-makers, which includes ablution, cooking and other facilities that are reasonably and ordinarily related to camping , for use of such visitors, and includes a caravan park, whether publicly or privately owned, but which excludes the alienation of land on the basis of time sharing, sectional title share blocks or individual subdivision; and excludes resort accommodation or mobile homes;

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- (b) "Bed and Breakfast" (accommodation in a dwelling-house or second dwelling unit for transient guests) is defined by a dwelling-house or second dwelling in which the owner of the dwelling supplies lodging and meals for compensation to transient guests who have permanent residence elsewhere; provided that the primary use of the dwelling-house concerned shall remain for the living accommodation of a single family and where not more than 3 guest rooms are provided;
- (c) "Guest House" (accommodation in a dwelling-house or second dwelling unit for transient guests) is defined by a dwelling-house (with a maximum of 10 rooms) or second dwelling which is used for the purpose of supplying lodging and meals to transient guests for compensation, in an establishment which exceeds the restrictions of a bed and breakfast establishment and may include business meetings, training sessions and conference facilities for resident guests;
- (d) "Self catering Accommodation" (accommodation for non-permanent residents and transient guests) is defined by a house, cottage, chalet, bungalow, flat, studio, apartment, villa, or similar accommodation where facilities and equipment are provided for guests to cater for themselves. The facilities should be adequate to cater for the maximum advertised number of residents the facility can accommodate;
- (e) "Self catering Apartments" (accommodation for non-permanent residents and transient guests) is defined by a building or group of buildings consisting of separate accommodation units, each incorporating a kitchen / -ette facility, and which may include other communal facilities for the use of transient guests, together with outbuildings as are normally used therewith; which are rented for residential purposes and may include holiday flats; but does not include a hotel, dwelling-house, second dwelling or group house;
- (f) "Backpackers Accommodation" (accommodation and communal facilities in a building or free standing buildings for transient guests) is defined by a building where lodging is provided, and may incorporate cooking dining and communal facilities for the use of lodgers, together with such outbuildings as are normally used therewith and includes a building in which dormitories/rooms/beds are rented for residential purposes, youth hostel, and backpackers' lodge; but does not include a hotel, dwelling house, second dwelling or group house;
- (g) "Boarding House" a dwelling-house or second dwelling which is used for the purpose of supplying lodging with or without meals or self catering to non permanent/permanent residents for compensation; provided that the primary use of the dwelling-house shall remain for the living accommodation of a single family;

"Act" – means the Local Government: Municipal Property Rates Act, 2004 (Act No 6 of 2004) and any amendment thereof;

"annually" – means once every financial year;

"business and commercial property" – means -

- (a) property used for the activity of buying, selling or trading in commodities or services and includes any office or other accommodation on the same property, the use of which is incidental to such activity; or
- (b) property on which the administration of the business of private or public entities take place;

"Calendar year" shall mean 12 consecutive months of a financial year(s);

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“category” –

- (a) in relation to a property, means a category of properties determined in terms of section 8(2) of the Act;
- (b) in relation to the owners of property, means a category of owners determined in terms of section 15(2) of the Act;

“conservation area” –

- (a) a protected area as listed in section 10 of the Protected Areas Act, 2003;
- (b) a nature reserve established in accordance with the Nature and Environment Conservation Ordinance, no 19 of 1974; or
- (c) any land area zoned as open area zone III in accordance with the Municipality's zoning scheme regulations;

provided that such protected areas, nature reserves or land areas, with the exception of tourism facilities that may be erected thereupon, be used exclusively for the conservation of the fauna and flora and the products of those land areas may not be traded for commercial gain;

“exclusion” – in relation to a Municipality's rating power, means a restriction of that power as provided for in sections 16 and 17 of the Act;

“exemption” – in respect of the calculation of a rate means an exemption granted in terms of section 15(1)(a) of the Act;

“farm property or small holding used for agricultural purpose” – means property that is used for the cultivation of soils for purposes of planting and gathering in of crops; forestry in the context of the planting or growing of trees in a managed and structured fashion; the rearing of livestock and game or the propagation and harvesting of fish, but excludes the use of a property for the purpose of eco-tourism; and in the respect of property on which game is reared, trade or hunted, it excludes any portion that is used for commercial or business purposes. In this definition such properties could also be included within the urban edge of a town;

“farm property or small holding not used for any purpose” – means agricultural property or an agricultural zoned land which is not used for farming purposes, regardless of whether such portion of such property has a dwelling on it which is used as a dwelling and must be regarded as residential property;

“financial year” – the period starting from 1 July in a year to 30 June the following year;

“industrial property” – means property used for construction, repair, trade or manufacturing, production, assembly or processing of finished or partially finished products from raw materials or fabricated parts on such a large scale that capital and labour are significantly involved, and includes any office or other accommodation on the same property, the use of which is incidental to such activity;

“local community” – in relation to the Municipality –

- (a) means that body of persons comprising –
 - (i) the residents of the Municipality;
 - (ii) the rate payers of the Municipality;
 - (iii) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the Municipality; and

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- (iv) visitors and other people residing outside the Municipality, who, because of their presence in the Municipality, make use of services or facilities provided by the Municipality; and
- (b) includes, more specifically, the poor and other deprived sections of such body of persons;

“local Municipality” – a Municipality that shares municipal executive and legislative authority in its area with a district Municipality within whose area it falls and which is described in section 155(1) of the Constitution as a category B Municipality;

“market value” – in relation to a property, means the value of the property determined in accordance with section 46 of the Act;

“multiple purposes” – in relation to a property, means the use of a property for more than one purpose as intended in section 9 of the Act;

“municipal council” or **“council”** – is a municipal council referred to in section 18 of the Municipal Structures Act, 1998 (Act No 117 of 1998);

“municipal manager” – means a person appointed in terms of section 82 of the Municipal Structures Act, 1998 (Act No 117 of 1998);

“municipal property” – is property registered or established in the name of the Hessequa Municipality;

“Municipality” –

- (a) as a corporate entity means a Municipality as described in section 2 of the Municipal Systems Act, 2000 (Act No 32 of 2000); and
- (b) as a geographical area, means a municipal area demarcated in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No 27 of 1998);

“occupier” – in respect of a property means a person in actual occupation of a property, whether or not that person has a right to occupy the property;

“open space” - means land that is used as a park, garden, for passive leisure or maintained in its natural state and that is zoned as open space;

“owner”-

- (a) in relation to a property referred to in paragraph (a) of the definition of “property”, means a person in whose name ownership of the property is registered;
- (b) in relation to a right referred to paragraph (b) of the definition of “property” means a person in whose name the right is registered;
- (c) in relation to a land tenure right referred to in paragraph (c) of the definition of “property” means a person in whose name the right is registered or to whom it was granted in terms of legislation; or
- (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of “property”, means the organ of state which owns or controls that public service infrastructure, as envisaged in the definition in the Act of the term “publicly controlled” provided that a person mentioned below may for the purposes of this Act be regarded by a Municipality as the owner of a property in the following cases:-
 - (i) a trustee, in the case of a property in a trust, excluding state trust land;

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- (ii) an executor or administrator, in the case of a property in a deceased estate (the applicant must produce a letter from the Master of the Court or appropriate legal proof to substantiate the appointment);
- (iii) a trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- (iv) a judicial manager, in the case of a property in the estate of a person under judicial management;
- (v) a curator, in the case of a property in the estate of a person under curatorship;
- (vi) a person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of a property that is registered in the name of a Municipality and is leased by it (the applicant must produce a letter from the Master of the Court or appropriate legal proof to substantiate the appointment);
- (viii) a buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

“**permitted use**” – in respect of a property means the limited purposes for which a property may be used in terms of the following –

- (a) any restrictions imposed by –
 - (i) a condition of title; or
 - (ii) a provision of a town planning or land use scheme; or
 - (iii) any legislation applicable to any specific property or properties; or
- (b) any alleviation of any such restrictions;

“**private open space**” means land that is privately owned and used for practising of sport, play- or leisure facilities or used as a botanical garden, cemetery or nature area and which is joined as Private Open Space;

“**privately owned townships serviced by the owner**” – means single properties (group housing or single residential erven), situated in an area not ordinarily being serviced by the Municipality, divided through subdivision or township establishment in (ten or more) full-title stands and/or sectional title units and where all rates-related services inclusive of installation and maintenance of streets, roads, sidewalks, lighting, storm water drainage facilities, parks and recreation facilities, are installed at the full cost of the developer and are rendered and maintained by the residents, Home owners association or management companies/ bodies of such estate;

“**property**” – means

- (a) immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;
- (b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; or
- (d) public services infrastructure;

“**property register**” – a register of properties referred to in section 23 of the Act;

“**rate**” – a municipal rate on a property envisaged in section 229(1)(a) of the Constitution;

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“**rateable property**” – means property on which a Municipality may in terms of section 2 of the Act levy a rate, excluding property fully excluded from the levying of rates in terms of section 17 of the Act;

“**rebate**” – in relation to a rate payable on a property, means a discount granted in terms of section 15 of the Act on the amount of the rate payable on the property;

“**reduction**” - in respect of a rate payable on a property, means the lowering of the amount for which the property was valued and the rating of that property at that lower amount;

“**residential property**” – means improved property that:-

- (a) is used predominantly (60% or more) for residential purposes, including any adjoining property registered in the name of the same owner and used together with such residential property as if it were one property. Any such grouping shall be regarded as one residential property for rate rebate or valuation reduction purposes, if still used dominantly for residential purposes;
- (b) is a unit registered in terms of the Sectional Title Act and is used predominantly for residential purposes;
- (c) is owned by a share-block company and is used predominantly for residential purposes;
- (d) is a residence used for residential purposes situated on a property used for educational purposes;
- (e) is property which is included as residential in a valuation list in terms of section 48(2)(b) of the Act;
- (f) are retirement schemes and life right schemes used predominantly (60% or more) for residential purposes;

vacant properties (empty stands), hotels, hostels, old-age homes and accommodation establishments, irrespective of their zoning or intended use, have been specifically excluded from this property category;

“**small holding**” - means

- (a) all agricultural zoned land units situated within an urban region with an area of one to three hectares; or
- (b) any agricultural zoned land unit situated outside an urban region with an area of three hectares or less;

“**state owned property**” – excludes any property included in the valuation roll under the category ‘residential property’ or ‘vacant land’;

“**vacant property**” – means any land without any improvements thereon.

2. OBJECTIVES OF THE BY-LAW

2.1 The objectives of this By-law are: –

- (1) to comply with the provisions of section 3 of the Act;
- (2) to determine criteria to be applied for –
 - (a) levying differential rates for different property categories;
 - (b) exemptions;
 - (c) reductions;
 - (d) rebates; and
 - (e) rate increases.
- (3) to determine or provide criteria for the determination of the following -

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- (a) property categories for the purpose of levying different rates; and
- (b) categories of owners of properties for the purpose of granting exemptions, rebates and reductions;
- (4) to determine how the Municipality's power should be exercised in terms of multiple-used properties;
- (5) to identify and quantify the following for the Municipality in terms of costs and the benefit for the community –
 - (a) exemptions, rebates and reductions; and
 - (b) exclusions.
- (6) to take into account the effect of rates on the indigent;
- (7) to take into account the effect of rates on organisations that perform activities for public benefit;
- (8) to take into account the effect of rates on the public services infrastructure;
- (9) to determine measures for promoting local economic and social development; and
- (10) to identify all rateable revenue not being rated.

3. BY-LAW PRINCIPLES

- 3.1 Apart from meeting legislative requirements, this By-law also emanates from the objectives determined in Council's anti-corruption Policy.
- 3.2 The levying of rate on a property is an exclusive right of the Municipality which will be exercised: –
 - (a) optimally and comprehensively within the Municipality; and
 - (b) with consideration of the total revenue source of the Municipality.
- 3.3 The rating of properties will be done independently, justly, equitably and without prejudice and this principle will also be applied with the determination of criteria for exemptions, reductions and rebates as provided for in section 15 of the Act.
- 3.4 The levying of property rates must be implemented in such a way that: -
 - (a) it is aimed at development;
 - (b) it promotes sustainable local government by providing a stable and constant revenue source within the discretionary control of the Municipality; and
 - (c) it promotes economic, social and local development.
- 3.5 Property rates will be levied to: –
 - (a) correct the imbalances of the past; and
 - (b) minimise the effect of rates on the indigent.
- 3.6 The market value of a property serves as basis for the calculation of property rates.
- 3.7 The rate tariff will be based on the value of all rateable properties and the amount the Municipality needs to fund community and subsidised services, after taking into account any possible surplus generated from trading and economic services and the amounts required to finance exemptions, rebates and reductions of rate, as approved by council from time to time.
- 3.8 Trade and economic services will be financially ring fenced and tariffs and service charges will as far as possible be calculated in such a way that the revenue generated covers the cost of the services or generate a surplus.
- 3.9 The provision for operating capital and bad debt must be related to community and subsidised services and must not include any provisions in respect of trade and economic services.

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- 3.10 Property rates will be used to finance community and subsidised services.
- 3.11 Surpluses from trade and economic services may be used to subsidise community and subsidised services.
- 3.12 The revenue basis of the Municipality will be optimally protected by limiting the exemptions, rebates and reductions.

4. CATEGORISATION OF SERVICES

- 4.1 The Chief Financial Officer must, subject to the guidelines provided by the National Treasury and Mayoral Committee of council, make provision for the following categories of municipal services: –

(a) Trade services

- (i) Water
- (ii) Electricity

(b) Economic services

- (i) Waste removal
- (ii) Sewerage
- (iii) Camping facilities

(c) Community services

- (i) Air pollution
- (ii) Local tourism
- (iii) Municipal planning
- (iv) Municipal public works, in respect of the needs of the Municipality in the execution of its responsibilities and to administer functions specially assigned to the Municipality under the Constitution or any other law
- (v) Storm water management systems in built-up areas
- (vi) Trade regulations
- (vii) Advertising billboards and the display of advertisements in public places
- (viii) Cemeteries
- (ix) Control of public nuisances
- (x) Control over undertakings that sell alcohol to the public
- (xi) Township development
- (xii) Facilities for accommodation, care and burial of animals
- (xiii) Fencing and fences
- (xiv) Licensing of dogs
- (xv) Licensing and control of undertakings that sell food to the public
- (xvi) Local amenities
- (xvii) Local sport facilities
- (xviii) Municipal parks and recreation
- (xix) Municipal roads
- (xx) Noise pollution
- (xxi) Pounds
- (xxii) Public places
- (xxiii) Street trading / Street lighting
- (xxiv) Traffic control and parking
- (xxv) Building control
- (xxvi) Licensing of vehicles and vehicle permits
- (xxvii) Nature reserves
- (xxviii) Child-care facilities

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- (xxix) Ferry boats, jetties, piers and harbours
- (xxx) Markets
- (xxxi) Cleaning
- (xxxii) Beaches and entertainment facilities.

5. CATEGORIES OF PROPERTIES

- 5.1 Subject to section 19 of the Act, Hessequa Municipality may, in terms of the criteria set out in its rates By-law, levy different rates for different categories of rateable properties, which may include categories determined according to the: –
- (a) use of the property;
 - (b) permitted use of the property; or
 - (c) geographical area in which the property is situated.
- 5.2 Categories of rateable property that may be determined in terms of paragraph 5.1 include the following: –
- (a) residential (improved property);
 - (b) property that is vacant (empty stands) with zoning or proposed use earmarked for residential;
 - (c) property that is vacant (empty stands) with zoning or proposed use earmarked for industrial, business or commercial;
 - (d) industrial;
 - (e) business and commercial;
 - (f) farm properties used for –
 - (i) agricultural purposes;
 - (ii) other commercial or business purposes;
 - (iii) residential purposes; or
 - (iv) purposes other than those specified in subparagraphs (i) to (iii);
 - (g) farm properties not used for any purpose;
 - (h) smallholdings used for –
 - (i) agricultural purposes;
 - (ii) residential purposes;
 - (iii) industrial purposes;
 - (iv) commercial and business purposes; or
 - (v) purposes other than those specified in subparagraphs (i) to (iv).
 - (i) state-owned property;
 - (j) municipal property;
 - (k) public services infrastructure;
 - (l) property-
 - a. acquired through the Provision of Land and Assistance Act, 1993 (Act No 126 of 1993) or the Restitution of Land Rights Act, 1994 (Act No 22 of 1994); or
 - b. which is subject to the Communal Property Associations Act, 1996 (Act No 28 of 1996);
 - (m) protected areas;
 - (n) properties used for any specific public benefit activities listed in Part 1 of the Ninth Schedule to the Income Tax Act, 1962 (Act No 58 of 1962);
 - (o) properties used for multiple purposes, subject to section 9 of the Act;
 - (p) accommodation establishments;
 - (q) private open space;
 - (r) such other categories as may be determined by the council from time to time.

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6. CATEGORIES OF OWNERS

- 6.1 For the purpose as described in section 2(3)(b) of the By-law the following categories of owners will be recognised in terms of section 15(2) of the Act: –
- (a) Those owners who qualify and who are registered as indigent in terms of the adopted indigent policy of the Municipality;
 - (b) Owners of properties situated within an area affected by: –
 - i. a disaster within the meaning of the Disaster Management Act, 2002 (Act No 57 of 2002); or
 - ii. any serious adverse social or economic conditions.
 - (c) Owners of properties situated in "privately owned townships" serviced by the owner as referred to in clause 9.1.2 of this By-law;
 - (d) Owners of agricultural properties as referred to in clause 9.1.3 of this By-law;
 - (e) Owners of farm properties that are used for residential purposes;
 - (f) Owners of farm properties that are used for industrial, commercial and business purposes;
 - (g) Owners of smallholdings used for residential purposes;
 - (h) Owners of smallholdings used for industrial, commercial and business purposes; and
 - (i) Owners of developed properties not yet sold and transferred.

7. DIFFERENTIAL RATING

- 7.1 Criteria for differential rating on different categories of properties in terms of section 8(1) of the Act will be according to –
- (a) the nature of the property including its sensitivity to rating, e.g. agricultural properties used for agricultural purposes; and
 - (b) the promotion of social and economic development within the Municipality.
- 7.2 Differential rating among the various property categories will be done by way of setting a different cent amount in the rand for each property category; and
- 7.3 by way of reductions and rebates as provided for in this By-law document.

8. EXEMPTIONS

8.1 Categories of properties

- 8.1.1 The following property categories are exempt from the payment of property rates: –

8.1.1.1 Municipal properties

Municipal properties are exempted from paying property rates.

8.1.1.2 Residential properties

All residential property with a market value of less than the amount as annually determined by the Municipality, are exempted from paying property rates. **For the 2013/2014 financial year the maximum amount is determined as R50 000.** The impermissible rates of R15 000 contemplated in terms of section 17(1)(h) of the Act are included in the amount as referred to above as annually determined by the Municipality. The remaining R35 000 is aimed primarily at alleviating poverty and forms an important part of the Municipality's indigent policy.

8.1.1.3 Public Service Infrastructure

Is exempted from paying rates as it provides essential services to the community.

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- 8.1.1.4 **Public Benefit Organisations** - Public Benefit Organisation Property means property owned by public benefit organisations and used for any specified public benefit activity listed in item 1 (welfare and humanitarian), item 2 (health care), and item 4 (education and development) of part 1 of the Ninth Schedule to the Income Tax Act.
- 8.1.2 Exemptions in 8.1.1.1 to 8.1.1.3 will automatically apply and no application is thus required by the owners of such property.
- 8.1.3 All possible benefiting organisations in clause 8.1.1.4 must apply annually, by 31 August, for exemption for the financial year in respect of which the application is made. If the exemption applied for is approved the exemption will be valid for the full financial year. Applications received after 31 August for the financial year in respect of which the application is made will only be applied for the remainder of that financial year if approved.
- 8.1.4 A rate-exemption certificate as issued by the South African Revenue Service (SARS), as contemplated in terms of Part 1 of the Ninth Schedule to the Income Tax Act, 1962 (Act No 58 of 1962), must be submitted together with the application.
- 8.1.5 The Municipality retains the right to refuse the application for exemption if the details supplied in the application were incomplete, incorrect or false.

8.2 Impermissible Rates

In terms of section 17(1) of the Property Rates Act, 2004, the Municipality may, inter alia, not levy rates: –

- a. on those parts of a special nature reserve, national park or nature reserve within the meaning of the National Environmental Management: Protected Areas Act, 2003 (Act No 57 of 2003), or of a national botanical garden within the meaning of the National Environmental Management Biodiversity Act, 2004 (Act No 10 of 2004), which are not developed or used for commercial, business, residential or agricultural purposes.
- b. on mineral rights within the meaning of paragraph (b) of the definition for "property" in section 1 of the Act.
- c. on a property belonging to a land reform beneficiary or his or her heirs, provided that the exclusion lapses ten years from the date on which such beneficiary's title was registered in the Deeds register.
- d. on a property registered in the name of and primarily used as a place of public worship, including an official residence registered in the name of the church that is occupied by an office-bearer who acts as officiant of the church.

9. REBATES

9.1 Categories of properties

9.1.1 Business, commercial and industrial properties

- 9.1.1.1 The Municipality may grant rebates to rateable undertakings that promote local, social or economic development within the municipal jurisdiction. The following criteria will apply: –
- (a) job creation in the municipal area;
 - (b) social upliftment of the local community; and
 - (c) creation of infrastructure for the benefit of the community.
- 9.1.1.2 Rebates will be granted on application subject to: -
- (a) a business plan issued by the directors of the company indicating how the local, social and economic development objectives of the Municipality are going to be met;
 - (b) a continuation plan issued by the directors and certified by the auditors stating that the objectives have been met and how they plan to continue meeting the objectives;
 - (c) an assessment by the municipal manager or his/her nominee indicating that the company qualifies.
- 9.1.1.3 Council will consider all LED requests on an individual basis according to merits.

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9.1.2 Privately owned townships serviced by the owner

The Municipality grants an additional rebate, to be determined on an annual basis, which applies to privately owned townships serviced by the owners as defined in terms of paragraph 1 of this By-law. Applications to this effect must be addressed once off in writing to the Municipality by 31 August of the financial year in respect of which the rate is levied. If the rebate applied for is granted the rebate will apply for the full financial year. Applications received after 31 August for the financial year in respect of which the application is made will only be applied for the remainder of that financial year if approved. For the 2013/2014 financial year the rebate is determined as 10%.

9.1.3 Rebate on agricultural property

- i. When considering the criteria to be applied in respect any exemptions, rebates and reductions on any properties used for agricultural purposes the Municipality must take into account: –
 - a. the extent of rates-funded services rendered by the Municipality in respect of such properties;
 - b. the contribution of agriculture to the local economy;
 - c. the extent to which agriculture assists in meeting the service delivery and developmental objectives of the Municipality; and
 - d. the contribution of agriculture to the social and economic welfare of farm workers.
- ii. In terms of section 84 of the Act the Minister for Provincial and Local Government, and in concurrence with the Minister of Finance as required through section 19 of the Act, may determine that a rate levied by council on a category of non-residential property may not exceed a prescribed ratio to the tariff levied on residential properties. In the absence of any such promulgation the Municipality will apply a standard ratio for agricultural properties from 1:0.25 (75% rebate on the tariff for residential properties). Before the start of 2009/2010 financial year the Minister had promulgated a ratio of 1:0.25 which remains unchanged for the 2013/2014 financial year.
- iii. An additional rebate (based on the total property value) of maximum 10% will be granted by the Municipality in respect of the following: –
 - a. 2,5% for the provision of accommodation in a permanent structure to full-time farm workers and their dependents or families;
 - b. 2,5% if these residential properties are provided with potable water;
 - c. 2,5% if the residential properties of the farm workers are electrified;
 - d. 2,5% for the provision of land for burial for own workers or for educational or recreational purposes to own workers and workers from surrounding farms.
- iv. The granting of additional rebates is subject to the following: –
 - a. All applications must be addressed in writing to the Municipality indicating how service delivery and development obligations of the Municipality and contribution to the social and economic welfare of farm workers were met. This application will be required as a once-off requirement.
 - b. Any new applications must be addressed in writing to the Municipality by 31 August of the financial year in respect of which the application is made. If the rebate applied for is granted the rebate will apply for the full financial year and such application will again be regarded as a once-off requirement. Applications received after 31 August for the financial year in respect of which the application is made will only be applied for the remainder of that financial year if approved.
 - c. Council reserves the right to send officials or its agents on an annual basis to premises/households receiving relief for the purposes of conducting an on-site audit of the details supplied. The onus also rests on recipients to immediately notify Council of any changes in their original applications.

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- d. The Municipality retains the right to refuse applications for rebates if the details supplied in the application form were incomplete, incorrect or false.
- v. No other rebates will be granted to properties that qualify for the agricultural rebate. In order to avoid doubt, properties that qualify for the agricultural rebate will not be entitled to the residential rate exemption as set out in paragraph 8.1.1.2 of this By-law.
- 9.1.4 Farm properties and smallholdings used for residential purposes - The Municipality annually grants an additional rebate to owners of farm properties and smallholdings that are used for residential purposes. Such a rebate is in relation to the extent of rate-funded services that the Municipality renders in respect of such properties. For the 2013/2014 financial year the rebate is determined as 10%.
- 9.1.5 Farm properties and smallholdings used for industrial, commercial and business purposes - The Municipality annually grants an additional rebate to owners of farm properties and smallholdings that are used for industrial, commercial and business purposes. Such a rebate is in relation to the extent of rate-funded services that the Municipality renders in respect of such properties. For the 2013/2014 financial year the rebate is determined as 10%.
- 9.2 Categories of Owners**
- 9.2.1 Indigent owners - The owners that qualify and are registered indigents in terms of the Municipality's policy for indigents receive a rebate on the payment of rates as specified in the Municipality's policy for indigents. In terms of the current policy, category A registered indigents shall be fully subsidised and category B registered indigents shall be subsidised for 50% of the payment of property rates levied. If they qualify in terms of the Municipality's policy for indigents these rebates will automatically be applied and no further application is necessary.
- 9.2.2 Rebates for retired and disabled persons
- 9.2.2.1 Retired and disabled persons qualify for special rebates in accordance with their monthly household income. Property owners who meet the following requirements may apply for a rebate:-
- The property must be registered in the name of the applicant or the usufruct of the property must be established in the name of the applicant.
 - The owner must be at least sixty (60) years of age or in receipt of a disability pension from the Department of Welfare and Population Development.
 - The property owner may not be the owner of more than one property.
 - The owner must occupy the relevant property. Where the owner is unable to occupy the property due to no fault of his/her own, the spouse or minor children may satisfy the occupancy requirement.
 - In the case of a semi-detached house, of which a section is rented out, only the rates paid on that section occupied by the owner is subject to rebates.
 - If the owner is a disabled person who receives a disability grant from the government or a person who, due to medical reasons, had to take early retirement, the age requirement as in section 9.2.2.1(b) will not apply.
- 9.2.2.2 The Municipality grants a rebate, to be determined on an annual basis, for retired and disabled persons that do not qualify in terms of Council's approved Indigent policy. For the 2013/2014 financial year rebates will be applied as follows: -
- Income R0 – R3 000 per month – 25%; and
 - Income R3 001 to R8 000 per month – 15%.
- 9.2.2.3 Additional rebates for owners who qualify in terms of clause 9.2.2.2 (additional to 9.2.2.2 on balance of rates) can be granted to owners or usufructuaries if they can be categorised in one of the following age categories: -

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- (a) 60 to 75 years – 25%;
- (b) 76 to 85 years – 35%; and
- (c) 86 years and older – 45%.

9.2.2.4 Property owners must apply annually for a rebate on a prescribed form as stipulated by the Municipality, and these applications must reach the Municipality by 31 August of the financial year in respect of which rates are levied. If the rebate applied for is granted, the rebate will apply for the full financial year. Applications received after 31 August for the financial year in respect of which the application is made will only be applied for the remainder of that financial year if approved.

9.2.2.5 The Municipality retains the right to refuse the granting of rebates if the details supplied in the application were incomplete, incorrect or false.

9.2.2.6 Applications as intended in paragraph 9.2.2.4 must be accompanied by the following information: –

- (a) a certified copy of the identity document of the owner or any other proof of the owner's age which is acceptable to the Municipality;
- (b) sufficient proof of income of the owner and the his/her spouse;
- (c) an affidavit from the owner;
- (d) if the owner is a disabled person, satisfactory proof submitted to the Municipality that the relevant person receives a disability pension payable by the state; and
- (e) proof of early retirement if the owner has retired at an earlier stage due to medical reasons.

10. REDUCTIONS

10.1 Reductions as contemplated in section 15 of the Act will be considered on an ad-hoc basis in the event of the following:-

10.1.1 Partial or total destruction of a property; or

10.1.2 Disasters as defined in the Disaster Management Act, 2002 (Act 57 of 2002).

10.2 The following conditions shall be applicable in respect of clause 10.1:-

10.2.1 The owner of the property referred to in clause 10.1.1 shall apply in writing for a reduction and the onus will rest on such applicant to prove to the satisfaction of the Municipality that his property has been totally or partially destroyed. He/ she will also have to indicate to what extent the property can still be used and the impact on the value of the property.

10.2.2 Owners of property referred to in clause 10.1.2 will only qualify for a rebate if affected by a disaster as referred to in the Disaster Management Act, 2002 (Act No. 57 of 2002).

10.2.3 A maximum reduction to be determined on an annual basis shall be allowed in respect of both clauses 10.1.1 and 10.1.2. For the 2013/2014 financial year the maximum reduction is determined as 80%.

10.2.4 An ad-hoc reduction will not be given for a period in excess of 6 months, unless the Municipality gives further extension on application.

10.2.5 If rates were paid in advance prior to granting of a reduction the Municipality will give credit to such an owner as from the date of reduction until the date of lapse of the reduction or the end of the period for which payment was made whichever occurs first.

11. COST OF EXEMPTIONS, REBATES AND REDUCTIONS

11.1 The chief financial officer must inform council during the budgeting process of all the costs associated with the proposed exemptions, rebates, reductions, phasing-in of rates and grants in the place of rates.

11.2 Provision must be made on the operating budget for –

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- (a) the full potential revenue associated with property rates; and
- (b) the full cost associated with exemptions, rebates and reductions.

12. MULTIPLE USE OF PROPERTIES

Properties used for multiple purposes which for example do not fall within the definition of Residential Properties and, accordingly, do not qualify for the residential rate, may be included into the category of multiple-use properties, as per section 9 (1) (c) of the Property Rates Act, for which an apportionment of value for each distinct use of the property will be calculated by the municipal valuer and used for billing at the appropriate and applicable rate, in cases where the municipal valuer considers it reasonable to apply this category as per section 9 (1) (c) of the Property Rates Act.

13. PROPERTY REGISTER

- 13.1 A property register, divided into Sections A and B, regarding all properties in the municipal area of jurisdiction, must be compiled and maintained by the Municipality.
- 13.2 Section A of the register will consist of the current valuation roll of the Municipality and will include all supplementary valuations, as done from time to time.
- 13.3 Section B of the register will specify which properties on the valuation roll or any supplementary valuation roll are subject to: –
 - 13.3.1 exemption from rates in terms of section 15 of the Act;
 - 13.3.2 a reduction or rebate in terms of section 15;
 - 13.3.3 the phasing in of tariffs in terms of section 21; and
 - 13.3.4 exclusions as referred to in section 17.
- 13.4 The register will be open for inspection by the public during office hours at the head office of the Municipality or on the internet website of the Municipality.
- 13.5 Section A of the register will be updated at least annually by the Municipality during the supplementary valuation process.
- 13.6 Section B of the register will be updated annually as part of the implementation of the Municipality's annual budget.

14. NOTIFICATION OF RATES

- 14.1 Council will give notice at least 30 days before the rate approved during the annual budget meeting will come into effect. Accounts furnished after the 30 days' notice will be based on the new rates.
- 14.2 A notice containing the extent of council's resolution and the date on which the new rate will come into effect will be displayed by the Municipality at places installed for this purpose.

15. CONSULTATION PROCESS

- 15.1 Before council commands a new valuation in terms of the Act, a consultation process involving all interest groups will be undertaken during which the purpose and method of valuation will be explained.
- 15.2 Before the Municipality accepts the rates By-law the municipal manager will follow a process of public participation, as prescribed in chapter 4 of the Municipal Systems Act, and comply with the following requirements: –

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- 15.2.1 Display the draft property rates By-law continuously for a period of thirty (30) days at the Municipality's head office, satellite offices and on the website.
- 15.2.2 Publish a notice in the media stating that the draft property rates By-law was compiled for submission to council and that such a By-law is available at the different municipal offices and on the website for public inspection.
- 15.2.3 Property owners and interested persons may obtain a copy of the draft By-law from the municipal office during office hours at a prescribed cost per copy.
- 15.2.4 Property owners and interested parties are invited to address written suggestions or representations to the Municipality within the period prescribed in the notice.
- 15.2.5 Council will consider all suggestions and/or representations received during the finalisation of the property rates By-law.

16. FURNISHING OF ACCOUNTS

- 16.1 The Municipality will furnish each person liable for the payment of a rate with a written account, specifying: -
 - 16.1.1 the amount due for rates payable;
 - 16.1.2 the date on or before which the amount is payable;
 - 16.1.3 how the amount was calculated;
 - 16.1.4 the market value of the property; and
 - 16.1.5 exemptions, reductions and rebates or the phasing-in of rates, if applicable.
- 16.2 A person liable for the payment of rates remains liable for payment, whether or not that person has received a written account from the Municipality. Inquiries must be addressed to the Municipality by such a person who has not received a written account.
- 16.3 In the case of joint ownership the Municipality will, upon request, furnish written accounts to one or more individual owners.
- 16.4 In the case of joint ownership the Municipality may, in order to limit costs and prevent unnecessary administration, recover the rates continuously from one of the joint owners.

17. PAYMENT OF RATES

- 17.1 Council may claim the payment of rates: -
 - 17.1.1 on a monthly basis; or
 - 17.1.2 annually before 20 September of each year.
- 17.2 Rate payers may choose to pay rates in one instalment annually on or before 20 September of each year. The property owner subject to rates must notify the municipal manager or his/her nominee by no later than 30 June in any financial year, or such later date in the financial year as determined by the Municipality, that he/she wishes to pay all rates in respect of such a property in annual instalments, after which such an owner shall be entitled to pay all rates in the subsequent financial year and all subsequent financial years annually until he/she withdraws this notice in similar manner.
- 17.3 If a rate is payable: -
 - 17.3.1 in a single amount annually, it must be paid on or before a date determined by the Municipality.
 - 17.3.2 in instalments, it must be paid on or before a date in each period determined by the Municipality.
- 17.4 Rates payable on an annual basis will be subject to a 3% rebate if paid in full before or on 20 September of each year.

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- 17.5 Interest on rates in arrear, whether paid annually or in equal monthly instalments, shall be calculated in accordance with the provisions of the Municipality's policy on credit control and debt collection.
- 17.6 If a property owner who in terms of this By-law is liable for the payment of property rates fails to pay such rates in the prescribed manner, it will be recovered from him/her in accordance with the provisions of the Municipality's by-law on credit control and debt collection.
- 17.7 Rates in arrear shall be recovered from tenants, occupiers and agents for the owner in terms of section 28 and 29 of the Act and the Municipality's policy on credit control and debt collection.
- 17.8 In the event of rates levied emanating from a supplementary valuation, payment thereof will be according to the date determined by the Municipality and payment thereof may not be withheld pending an objection or appeal as determined by section 78(2) of the Act.
- 17.9 In the event that a property has been transferred to a new owner and rates emanating from a supplementary valuation become due and payable, the owner on date of the levy will be held responsible for the settlement of the interim rates account.
- 17.10 Where the rates on a specific property have been incorrectly determined, whether because of an error or omission on the part of the Municipality or false information provided by the property owner concerned, or a contravention of the permitted use to which the property concerned may be put, the rates payable shall be adjusted retrospectively for the period of the date on which the error or omission is detected, back to the date on which rates were first levied in terms of the current valuation roll.
- 17.11 Where the error occurred because of false information provided by the property owner or as a result of a contravention of the permitted use of the property, interest on the unpaid portion of the adjusted rates payable shall be levied at the maximum rate permitted by prevailing legislation.
- 17.12 Rates Clearance Certificates:-
- 17.12.1 will be valid for up to 60 days;
- 17.12.2 no extension on a certificate will be granted. If it expires a new application for clearance must be made;
- 17.12.3 if the valid period surpasses 30 June, the total annual debit for the following financial year will be payable; and
- 17.12.4 outstanding services and taxes on properties may only be recovered for a maximum period of two years.
- 18. ADJUSTMENT OF RATES PRIOR TO SUPPLEMENTARY VALUATION**
- 18.1 In circumstances where a valuation has been carried out by the municipal valuer in pursuance of a Supplementary Valuation (SV) in terms of section 78(1)(d) or 78(1)(f) of the MPRA as a result, for example, of a demolition having taken place on a property or a fire having destroyed buildings on a property, but the Municipality has not yet included such valuation of the relevant property in a SV, such valuation shall be submitted to the CFO for approval to levy rates on the property in accordance with such valuation, with effect from the date of the occurrence of the event which caused a SV to be required.

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18.2 If the owner of a property which has been subdivided or consolidated after the last general valuation wishes to sell the consolidated erf, or one or more of the erven which have been subdivided off the parent erf, as the case may be, applies to the Municipality for a clearance certificate in terms of section 118 of the Systems Act and if the Municipality has not yet included such valuation of the relevant property(ies) in a SV, then:-

18.2.1 the municipal valuer shall conduct a valuation of the relevant property(ies) for purposes of a SV; and

18.2.2 the valuation shall be submitted to the CFO for approval of the levying of rates on such property(ies) in accordance with such valuation, with effect from the date on which the relevant subdivision or consolidation (as the case may be) was registered in the Deeds Office.

18.3 Any valuations performed in terms of paragraph 15 shall be included in the next SV prepared by the City without any amendments to the valuation and any objections to such valuation may only be lodged once such SV is made public in terms of section 49 of the MPRA.

19. FREQUENCY OF VALUATIONS

19.1 The Municipality shall prepare a new valuation roll at least every four (4) years.

19.2 In accordance with the Act the Municipality, under exceptional circumstances, may request the MEC for Local Government and Housing, to extend the validity of the valuation roll to five (5) years.

19.3 Supplementary valuations shall be done on a continual basis, but at least on an annual basis, in order to ensure that the valuation roll is maintained.

20. REVIEW PROCESSES

The Property Rates By-law must be reviewed on an annual basis to ensure that it complies with the strategic objectives of the Municipality, as stipulated in the Integrated Development Plan and other applicable legislation.

21. REPEAL OF BY-LAWS

The Property Rates By-law published by the Hessequa Municipality under PN.6588/2008 dated 19 December 2008 is hereby repealed.

22. SHORT TITLE AND COMMENCEMENT

This By-law is the Property Rates By-law of the Hessequa Municipality and commences on the date of publication thereof in the Provincial Gazette.