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## LOUDTSHOORN MUNICIPALITY

### FINAL BY – LAW RELATING TO MUNICIPAL TARIFFS

Council Resolution No: 63.44/05/20

Date: 29 May 2020

**PREAMBLE:**

**Whereas** the council of the municipality must, in terms of section 74(1) of the Local Government: Municipal Systems Act, 32 of 2000, adopt and implement a tariff policy on the levying of fees for a municipal service provided by the municipality or by way of service delivery agreements and which complies with the provisions of the Local Government: Municipal Systems Act, 32 of 2000, the Local Government: Municipal Finance Management Act, 53 of 2003 and any other applicable legislation;

**Whereas** the council of the municipality must, in terms of section 75(1) of the Local Government: Municipal Systems Act, 32 of 2000, adopt by-laws to give effect to the implementation and enforcement of its tariff policy.

**Whereas** the council of the municipality is obliged to strive to ensure that municipal services are provided to the local community in a financially and environmentally sustainable manner;

**The council adopts** this By-law and be it therefore enacted by the municipality as follows:

**Definitions—**

In this by-law, the singular includes the plural and vice versa unless the context otherwise indicates;

**"community services "** means services rendered by the municipality, which include, but are not limited to, street cleaning, grass cutting and the operation of community halls and cemeteries;

**"consumer"** means any person resident within the municipal area and utilising services provided by the municipality;

**"economic services"** means services such as refuse removal and sanitation that the municipality renders for consumers;

**"indigent household"** means a household receiving a subsidy from the municipality in terms of its indigent support programme;

**"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.

**"municipal council"** or **"council"** means the municipal council of the municipality as referred to in terms of Section 157(1) of the Constitution;

**"municipal manager "** means a person appointed in terms of Section 82 of the Municipal Structures Act, 1998 [ Act No. 117 of 1998];

**"municipal services"** means a service rendered by the municipality as defined in the Municipal Systems Act and includes community, economic and trading services;

**"Municipal Finance Management Act"** means the Local Government: Municipal Finance Management Act, 2000 [Act No. 53 of 2003], as amended from time to time;

**"Municipal Systems Act"** means the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], as amended from time to time;

**"Municipal Structures Act"** means the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998], as amended from time to time;

**"subsidised services"** means community services or such other services that the municipality may render for the benefit of consumers;

**"tariff"** means the rate at which fees for municipal services will be determined;

**"trading services"** means services such as water and electricity that the municipality renders to consumers.

**1. Application of By-Law:**

This by-law shall only apply in respect of municipal services rendered by the municipality itself, or by an external mechanism in terms of a service delivery agreement, within the municipal area.

**2. Objective and principles of the tariff framework for municipal services:**

2.1 Tariffs must reflect the costs reasonably associated with the rendering of the service, in order to facilitate the financial sustainability of the service.

2.2 Services must be rendered in a manner that is economical, efficient and indicative of an effective use of resources.

2.3 Tariffs should be applied consistently and in an equitable manner to all consumers within the municipal area.

2.4 Tariffs may differentiate between different categories of consumers, municipal services and service standards as long as such differentiation does not amount to unfair discrimination.

2.5 Tariffs may make special provisions for certain categories of commercial and industrial consumers in order to promote local economic development.

2.6 Indigent households must have access to a minimum, nationally specified, level of service, provide that –

(a) the cost of such service shall be recovered through –

(i) tariffs that recover operating and maintenance costs;

or

(ii) special tariffs for low levels of use of consumption;

and

- (b) municipality may subsidise such service by means of any direct or indirect method permitted by law.
- (c) In the event of indigent households and other categories of users being subsidised, the extent of subsidisation must be fully disclosed.

### **3. Determination of tariffs:**

3.1 In determining tariffs for municipal services, the municipality shall ensure that –

- (a) provision is made for working capital reserves to be maintained at optimum levels; and
- (b) contributions to funds and other reserves are maintained at specified levels.

3.2 The municipal council shall determine a process for the setting of tariffs, which shall take into consideration the following –

- (a) the level of service delivery based on the availability thereof and the condition of the current infrastructure;
- (b) the level of services required to meet the reasonable expectations of consumer groups;
- (c) an analysis of the costs of providing services;
- (d) an analysis of the subsidy level framework;
- (e) the revenue generating capacity to recover the cost of services; and
- (f) the affordability of services to various consumer groups.

3.3 In setting a tariff structure, the municipality shall ensure that the tariff fairly reflects the costs of providing the service in respect of –

- (a) trading service tariffs, the municipality must ensure that the service yields a trading surplus not exceeding an amount to be determined by resolution of the municipality;
- (b) economic service tariffs, the full cost of the service should be recovered without any deficit;

- (c) subsidised service tariffs, the municipality shall ensure that the cost of operating, maintaining and upgrading the municipal asset is recovered; and;
- (d) community service tariffs, the service may be rendered without a compensatory tariff, provided that the municipality may however, in its discretion, levy a charge.

#### **4. Subsidisation of tariffs:**

4.1 In order to comply with its obligation to reflect the extent of subsidisation of tariffs for indigent households, the municipality shall ensure that the generation of revenue for subsidies and their disbursement is conducted in a transparent, equitable and efficient manner.

4.2 The municipality shall, in its annual financial statements, reflect:

- (a) the source of revenue for financing subsidies; and
- (b) the benefit provided to each consumer receiving a subsidy.

#### **5. Review of tariff policy and tariffs:**

Council shall review the official tariff policy as well as the applicable tariffs for services prior to the adoption of its annual budget.

#### **6. Procedure for the implementation of tariffs:**

6.1 Prior to the implementation of any tariff, it shall first be approved by the passing of a resolution to this effect by the majority of the members of Council.

6.2 Once Council has passed such resolution, the municipal manager shall display a copy of the resolution at the main administrative offices of the municipality or such other places as he or she may determine, for a period of at least 30 days.

6.3 The municipal manager must further publish a notice in the local newspaper, stating that –

- (a) the municipality has passed the resolution referred to in sub-section (1);
- (b) the resolution is available for inspection during office hours; and
- (c) the date upon which the tariff will come into operation is the date indicated.

6.4 If possible, the contents of the notice referred to in (3) must be conveyed to the local community by radio broadcasts, covering the municipal area.

6.5 The municipal manager must forthwith send a copy of the notice to the Member of the Executive Committee for Local Government in the Province of Western Cape.

6.6 The provisions of this section must be interpreted and applied in accordance with the requirements of sections 21 and 21A of the Municipal Systems Act.

## **7. Regulations:**

The municipality may make regulations not inconsistent with this by-law, prescribing–

- (a) any matter that may or must be prescribed in terms of this by-law; and
- (b) any matter that may facilitate the application of this by-law.

## **8. Repeal of by-law:**

Any by-law relating to a tariff framework in respect of the levying of fees for municipal services adopted by the municipal council or any municipal council it superseded, shall be repealed from 01 July 2017.

**9. Short title and commencement:**

This by-law is called the By-law Relating to Municipal Tariffs, 2020 - 2021, and takes effect on 01 July 2020.



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## LOUDTSHOORN MUNICIPALITY

### FINAL BY – LAW RELATING TO PROPERTY RATES

Council Resolution No: 63.44/05/20  
Date: 29 May 2020

**OUDTSHOORN LOCAL MUNICIPALITY**

**THIRD AMENDED PROPERTY RATES BY-LAW**

**1. PREAMBLE:**

- (1) Section 229(1) of the Constitution authorises a municipality to impose rates on property and surcharges on fees for services provided by or on behalf of the municipality.
- (2) In terms of section 3 of the Property Rates Act, a municipal council must adopt a policy consistent with the Property Rates Act on the levying of rates on rateable property in the municipality.
- (3) In terms of section 6(1) of the Property Rates Act, a municipality must adopt by-laws to give effect to the implementation of the rates policy.
- (4) In terms of section 6(2) of the Property Rates Act, by-laws adopted in terms of section 6(2) may differentiate between different categories of properties, and different categories of owners of properties liable for the payment of rates.

**2. INTERPRETATION:**

In this by-law, the English text shall prevail in the event of any conflict with the Afrikaans text, and unless the context otherwise indicates:-

**“Constitution”** means the Constitution of the Republic of South Africa;

**“Credit Control and Debt Collection By-Law and Policy”** means the municipality's Credit Control and Debt Collection By-Law and Policy as required by sections 96(b), 97 and 98 of the Municipal Systems Act;

**“Municipality”** means the Municipality of Oudtshoorn;

**“Municipal Rates Policy”** means the Rates Policy adopted by the Municipal Council in terms of this By-Law;

**“Property Rates Act”** means the Local Government: Property Rates Act, 6 of 2004 & amended act 29 of 2014;

**“Rate”** or **“Rates”** means a municipal rate on property as envisaged in section 229 of the Constitution.

### **3. ADOPTION AND IMPLEMENTATION OF RATES POLICY:**

- (1) The Municipality shall adopt and implement a rates policy consistent with the Property Rates Act on the levying of rates on rateable property in the municipality.
- (2) The Municipality shall not be entitled to levy rates other than in terms of a valid rates policy.

### **4. CONTENTS OF RATES POLICY:**

The Municipality's rates policy shall, *inter alia*:

- (1) Apply to all rates levied by the Municipality pursuant to the adoption of the Municipality's annual budget;
- (2) Comply with the requirements for:-
  - (a) the adoption and contents of a rates policy as contemplated in section 3 of the Property Rates Act;
  - (b) the process of community participation as contemplated in section 4 of the Property Rates Act;
  - (c) the annual review of the rates policy as contemplated in section 5 of the Property Rates Act;

- (3) Contemplate any further principles, criteria and implementation measures consistent with the Property Rates Act for the levying of rates which the Municipality may wish to adopt;
- (4) Include such further enforcement mechanisms, if any, as the Municipality may wish to impose in addition to those contained in the Credit Control and Debt Collection By-Law and Policy.

**5. ENFORCEMENT OF RATES POLICY:**

The Municipality's rates policy shall be enforced through the Credit Control and Debt Collection By-Law and Policy and any further enforcement mechanisms stipulated in the rates policy.

**6. EFFECTIVE DATE:**

This By-Law shall take effect on 01 July 2020, and after it is been promulgated in the Government Gazette.

**OUDTSHOORN PLAASLIKE MUNISIPALITEIT**

**TWEEDE GEWYSIGDE VERORDENING OP EIENDOMS BELASTING**

**1. AANHEF:**

- (1) Artikel 229(1) van die Grondwet magtig 'n munisipaliteit om eiendomsbelasting en bobelasting op gelde vir dienste deur of namens die munisipaliteit verskaf, op te lê.
- (2) Ingevolge artikel 3 van die Wet op Eiendomsbelasting moet 'n munisipale raad 'n beleid in ooreenstemming met artikel 3 van die Wet op Eiendomsbelasting oor die heffing van belastings op belasbare eiendom in die munisipaliteit aanvaar.
- (3) Ingevolge artikel 6(1) van die Wet op Eiendomsbelasting moet 'n munisipaliteit verordeninge aanvaar om uitwerking te gee aan die inwerkstelling van sy beleid oor belasting.
- (4) Ingevolge artikel 6(2) van die Wet op Eiendomsbelasting mag verordeninge wat ingevolge artikel 6(2) aanvaar is, tussen verskillende kategorieë eiendomme, en verskillende kategorieë eienaars van eiendomme wat aanspreeklik is vir die betaling van belastings, differensieer.

**2. UITLEG:**

In hierdie Verordening geld die Engelse teks en in die geval van enige teenstrydigheid met die Afrikaans teks, en, tensy die konteks anders aandui, beteken:-

**“Belasting”** of **“Belastings”** 'n munisipale belasting op eiendom soos beoog in artikel 229 van die Grondwet;

**“Grondwet”** die Grondwet van die Republiek van Suid-Afrika;

**“Munisipaliteit”** die Munisipaliteit Oudtshoorn;

**“Munisipaliteit se belastingbeleid”** 'n belastingbeleid wat deur die munisipaliteit ingevolge hierdie verordening aanvaar is;

**“Verordening op en Beleid oor Kredietbeheer en Skuldinvordering”** die Munisipaliteit se Verordening op en Beleid oor Kredietbeheer en Skuldinvordering ingevolge artikels 96(b), 97 en 98 van die Munisipale Stelselwet;

**“Wet op Eiendomsbelasting”** die Wet op Plaaslike Regering: Munisipale Eiendomsbelasting No 6 van 2004 asook gewysigde No 29 van 2014.

### **3. AANVAARDING EN INWERKINGSTELLING VAN DIE BELASTINGBELEID:**

- (1) Die Munisipaliteit moet 'n belasting beleid in ooreenstemming met die Wet op Eiendomsbelasting vir die heffing van belasting op belasbare eiendom in die munisipaliteit aanvaar en in werking stel.
- (2) Die Munisipaliteit is nie geregtig om belasting te hef behalwe ingevolge 'n geldige belastingbeleid nie.

### **4. INHOUD VAN BELASTINGBELEID:**

Die Munisipaliteit se belastingbeleid moet, onder meer:

- (1) Van toepassing wees op alle belasting wat deur die Munisipaliteit gehef word nadat die munisipaliteit se jaarlikse begroting aanvaar is;
- (2) Voldoen aan die volgende vereistes:-
  - (a) die aanvaarding en inhoud van 'n belastingbeleid ingevolge artikel 3 van die Wet op Eiendomsbelasting;
  - (b) die proses van gemeenskapdeelname ingevolge artikel 4 van die Wet op Eiendomsbelasting;
  - (c) die jaarlikse hersiening van 'n belastingbeleid ingevolge artikel 5 van die Wet op Eiendomsbelasting;
- (3) Die spesifisering van enige verdere beginsels, maatstawwe en maatreëls in ooreenstemming met die Wet op Eiendomsbelasting vir die heffing van belasting wat die Munisipaliteit mag wens om te aanvaar;

- (4) Die insluiting van sodanige verdere toepassingmeganismes, indien enige, wat die Munisipaliteit mag wens om op te lê bykomend tot daardie in die Verordening op en Beleid oor Kredietbeheer en Skuldinvordering vervat.

**5. TOEPASSING VAN DIE BELASTINGBELEID:**

Die Munisipaliteit se belastingbeleid moet deur middel van die Verordening op en Beleid oor Kredietbeheer en Skuldinvordering en enige verdere toepassingsmeganismes ingevolge die Munisipaliteit se belastingbeleid toegepas word.

**6. EFFEKTIEWE DATUM:**

Hierdie Verordening tree in werking op 1 Julie 2020 en sodra dit in die Provinsiale Staatskoerant afgekondig was.



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## FINAL CREDIT CONTROL DEBT COLLECTION

### BY-LAW

Council Resolution No: 63.44/05/20

Date: 29 May 2020

**DRAFT CREDIT CONTROL AND DEBT COLLECTION BY-LAW FOR OUDTSHOORN**  
**MUNICIPALITY FOR OUDTSHOORN MUNICIPALITY**

**PREAMBLE**

In an attempt to ensure that the communities residing within the Oudtshoorn Municipal area of jurisdiction pay for services rendered by the municipality, the Oudtshoorn Municipality hereby approves the Credit Control and Debt Collection *By-Law*, in order to ensure that all communities pay for basic services that are provided by the municipality, as required by the Municipal Systems Act No. 32 of 2000 and other government regulations, and also to ensure that the levels of non-payment for municipal services are minimized. Payment for services rendered by the municipality will enable the municipality to provide services as planned in its annual Budget and the annual Integrated Development Plan (IDP).

**DEFINITION OF KEY WORDS**

In this policy the following words shall have the meanings assigned as follows: -

“**Act**” means the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003),

“**Accounting Officer**” refers to the Municipal Manager of the municipality,

“**By-law**” refers to the legislation passed by the council of a municipality binding in the municipality on the persons to whom it applies,

“**Chief Financial Officer**” refers to the head of the Budget and Treasury Business Unit,

“**Finance Department**” refers to the municipal department dealing with the financial affairs of the municipality,

“**Finance and Service Delivery Committee**” refers to the committee of council dealing with the financial affairs of the municipality,

“**Indigent Households**” These are households or ratepayers that fall within the qualifying criteria of being declared a poor household and qualify for financial assistance through the Indigent Policy.

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## 1. LEGAL COMPLIANCE

In terms of the Constitution of the Republic of South Africa, everybody has the right to access to certain municipal services. A local authority can therefore not refuse a person his or her constitutional right on the basis that he/she constitutes an unacceptably high credit risk. It is in any event, not in the spirit of the developmental local government in South Africa to exclude people from basic services, especially those residents in the long neglected communities. However, it is in nobody's interest that these basic rights be abused (for example, by not paying or by abusing usage). A national disaster could follow in the wake of a general collapse in local government. The right of access to basic services should be protected but, on the other hand, local government should be given protection against abuse and "misconduct".

The Constitution states in section 152 (1) (b) that local government must strive within its financial and administrative capacity, to ensure the provision of services to communities in a sustainable manner. Services should be rendered within the following eight principles, as outlined in the White Paper on Transforming Public Services (**Batho Pele Principles**):

- ✓ Consultation with community;
- ✓ Agreement on service standards;
- ✓ Equal access to services;
- ✓ Courtesy in rendering of services;
- ✓ Provision of information to all;
- ✓ Openness and transparency regarding cost of services;
- ✓ Communities' right to redress; and
- ✓ Value for money.

The above could only be realised if local government obtains sufficient revenue to fund its activities and tasks in order to provide services. Presently, local revenue comes from two sources, namely:

- ✓ Own generation through taxes, levies and tariffs.
- ✓ An equitable share of revenue raised nationally in terms of section 214 and 227 (1)(a) and (b) of the Constitution.

Section 227 (2), of the Constitution also states that additional revenue raised by the municipalities may not be deducted from their equitable share of revenue raised nationally or from any other allocations made to them out of national government revenue. Equally, there is no obligation on the

national government to compensate municipalities that do not raise revenue commensurate with their fiscal capacity and tax base. The National Credit Control Guidelines issued by the Department of Constitutional Development on 13 March 1998, expresses the following concerns:

- ✓ Tariffs in many cases are not cost reflective, and therefore the true potential debtors is substantially reduced;
- ✓ Extending service delivery to the low income communities in the form of basic services, without an accompanying improvement in economic circumstances, will increase the negative result;
- ✓ In many cases, amalgamation has placed immense pressure on municipal administrative structures. Adjustments to accommodate the changed circumstances may be lagging in favour of showing progress with service delivery;
- ✓ Lenient approaches to debtors, in terms of extended payment periods, is contributing to the debtor's accumulation of debt and is not producing any improvement to the situation on the ground or to substantial cash inflows.

Chapter 9 of the Municipal Systems Act (MSA) No. 32 of 2000 deals with the subject of "Credit Control and Debt Collection" by municipalities in the Republic of South Africa, and states inter-alia the following: -

Section 95 of the MSA obliges the municipalities to establish a sound customer management system that aims to create a positive and reciprocal relationship between persons liable for these payments and the municipality,

Section 96 of the MSA provides that a municipality must collect all monies due and payable to it, and for this purpose, must adopt, maintain and implement a credit control and debt collection policy which is consistent to its rates and tariffs policy,

Section 97 of the MSA provides that the credit control and debt collection policy of the municipality must provide for credit control and debt collection procedures and mechanisms as well as provision for indigent debtors that is consistent with its policies on indigent households and any national policies or government regulations on indigent households.

Section 97(1) of the MSA requires that the credit control and debt collection policy of the municipality to provide for the following: -

- (i) Credit control procedures and mechanisms,
- (ii) Debt collection procedures and mechanisms,

- (iii) Provision for indigent debtors that is consistent to its indigent policy, and any other government regulations relating to indigent households,
- (iv) Realistic targets consistent with (a) General Recognised Accounting Practices and collection ratios, and (b) the estimates of income as set in the budget less an acceptable provision for bad debts.
- (v) Interest on arrears, where appropriate,
- (vi) Extension of time for payment of accounts,
- (vii) Termination of services or the restriction of the provision of services when payments are in arrears,
- (viii) Matters relating to unauthorised consumption of services, theft and damages, and
- (ix) Any other matters that may be prescribed by regulation in terms of Section 104.

Section 97(2) of the MSA further states that the municipality's credit control and debt collection policy may differentiate between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters as long as the differentiation does not amount to unfair discrimination.

Section 99 of the MSA places the legal responsibility on the executive mayor or executive committee, of monitoring and supervising the application of the credit control and debt collection policy, and of reporting to council on the extent and success of credit control actions.

Section 99 of the MSA assigns the legal responsibility for implementing the credit control and debt collection policy and by-laws to the municipal manager.

## **2. SCOPE OF THE BY-LAW**

This By-Law applies to the Oudtshoorn Municipality's area of jurisdiction, and is only applicable to the ratepayers of Oudtshoorn Municipal area, who are excluded from the assistance Indigent Policy of the municipality, as determined or revised from time to time by Council.

## **3. OBJECTIVES OF THE BY-LAW**

The objectives of the Credit Control and Debt Collection By-Law of the Oudtshoorn Municipality are as follows: -

- (i) Ensuring that households pay for the basic services that they are afforded by the municipality,

- (ii) Ensuring that the municipality is able to provide services as approved in its annual budget or its annual Integrated Development Program (IDP), and
- (iii) Ensuring that the non-payment of services is minimised.

#### **4. DEFINITION OF CREDIT CONTROL**

Credit control is the process utilised by a municipality to ensure collection of revenue from rates, fees levied and for services rendered and entails in the main, metering/measurement, billing/invoicing and debt collection.

#### **5. CREDIT CONTROL PRINCIPLES**

The following principles are to be considered:

- ✓ Enforcement is a local matter subject only to relevant legislation;
- ✓ The municipal manager who is entrusted with the determination and execution of credit control measures must report to the municipal council;
- ✓ Enforcement and policy-making must be independent to ensure accountability;
- ✓ Credit control must be understandable, uniform, fair and consistently applied;
- ✓ Credit control must be effective, efficient and economical;
- ✓ The credit control measures employed must be sustainable in the long term; and
- ✓ A proper indigent policy must be in place to ensure that the circumstances of the poor are accommodated.

#### **6. ELEMENTS OF CREDIT CONTROL**

##### **6.1 Metering/Measurement**

Service metering or measurement is the determination of the amount of service rendered to each customer in each category. This may vary from flat rates, such as refuse removal, to metered consumption of water and electricity, to deemed consumption such as sewerage disposal.

##### **6.2 Billing / Invoicing**

Billing refers to the process of preparing and presenting a claim or invoice to each consumer, which is based on the quantity of service, which is consumed by, and delivered to the consumer in a specified time.

### **6.3 Arrear Collection**

Arrear collection, commonly known as credit control in local government, refers to the process of recovery of outstanding amounts from customers by taking the necessary steps and actions which include among others, interruption of services, litigation and attachment of assets.

## **7. CONTRACT OF AGREEMENT FOR THE SUPPLY OF SERVICES**

Before being supplied with a service, a consumer must enter into a contract of agreement. The contract must stipulate and be accompanied by a deposit as determined by Council from time to time (**on a financial year basis**). Consumers shall not be entitled to interest on deposits lodged with the municipality. Upon termination of the consumer agreement with the municipality, the deposit shall first be offset against any outstanding balances and the remaining balance of the deposit (if any), refunded to the consumer. No tenants are allowed to enter an agreement with the municipality, and all services will be for the account of the owner.

## **8. RENDERING OF ACCOUNTS**

The municipality shall render a regular account for the amount owing by a debtor for rates, fees and service charges but failure by the municipality to render such accounts shall not absolve the debtor of his obligation to pay for rates, fees and/or services received.

Accounts must show the following:

- ✓ If measured, details of consumption for the period being charged and the amount due;
- ✓ If flat rate, the amount due in terms of services rendered;
- ✓ The amount due for other services rendered;
- ✓ Other amounts due;
- ✓ The amount due for property tax;
- ✓ The final date for payment of amount due, which shall be on or before the 10<sup>th</sup> of each month from date of invoice.

## **9. CREDIT CONTROL PROCEDURE**

If payment for the amount due is not received by the municipality by the due date, then the following procedure shall be instituted:

- ✓ Immediately after due date, disconnect and/or restrict all water and/or electricity services for all overdue amounts relating to rates, service charges or any charges for services rendered by the municipality in terms of the procedures laid down in Section 7.5 of the Credit Control Debt Collection Policy;
- ✓ Reconnection fee applicable in case of disconnection of service;
- ✓ In the event of disconnection, the review of amount of deposit at the discretion of the Chief Financial Officer.
- ✓ Should payment still not be received after "cut-off", relevant municipal official shall visit the premises to ensure that unauthorised consumption is not taking place;
- ✓ At this stage, the procedure for collection of arrears shall be instituted against the debtor.

#### **10. PROCEDURES FOR COLLECTION OF ARREARS**

Arrangement for payment of arrears should be made as follows but only after an Acknowledgement of Debt (the Agreement), has been signed by the debtor who should provide positive proof of identity or an authorised agent with a Power of Attorney. The agreement must be completed entailing details of all arrangements for paying off arrear account (**as detailed hereunder**). A copy of the agreement must be handed to the client and a copy filed in the debtor's file.

**For consumers earning between R0 – R3 800,00 per month or less, the following is to apply: -**  
(Consumers refer to the entire household, based on gross income)

- ✓ Consumers in arrears for 2 months and more must pay a minimum amount equal to 10% of their arrears with the remaining 90% to be settled in 36 equal instalments commencing from the month following the month in which the initial 10% payment was made. The reconnection fee is also to be paid over and above the 10% payment in order for the service to be reinstated.

**For consumers earning between R3 801.00 – R5 500,00 per month or less, the following is to apply: -**  
(Consumers refer to the entire household, based on gross income)

- ✓ Consumers in arrears for 2 months and more must pay a minimum payment equal to 20% of their arrears with the remaining 80% to be settled in 36 equal monthly instalments commencing from the month following the month in which the initial 20% payment was made. The reconnection fee is also to be paid over and above the 20% payment in order for the service to be reinstated.

**For consumers earning between R5 501.00 – R7 500,00 per month or less, the following is to apply:** - (Consumers refer to the entire household, based on gross income)

- ✓ Consumers in arrears for 2 months and more must pay a minimum payment equal to 25% of their arrears with the remaining 75% to be settled in 24 equal monthly instalments commencing from the month following the month in which the initial 75% payment was made. The reconnection fee is also to be paid over and above the 75% payment in order for the service to be reinstated.

**For consumers earning between R7 501.00 – R12 500,00 per month or less, the following is to apply:** - (Consumers refer to the entire household, based on gross income)

- ✓ Consumers in arrears for 2 months and more must pay a minimum payment equal to 35% of their arrears with the remaining 65% to be settled in 18 equal monthly instalments commencing from the month following the month in which the initial 65% payment was made. The reconnection fee is also to be paid over and above the 65% payment in order for the service to be reinstated.

**For consumers earning between R12 501.00 – R18 001,00 per month or less, the following is to apply:** - (Consumers refer to the entire household, based on gross income)

- ✓ Consumers in arrears for 2 months and more must pay a minimum amount equal to 45% of their arrears with the remaining 55% to be settled in 18 equal monthly instalments commencing from the month following the month in which the initial 55% payment was made. The reconnection fee is also to be paid over and above the 55% payment in order for the service to be reinstated.

**For consumers earning between R18 001 per month and above, the following is to apply:** - (Consumers refer to the entire household, based on gross income)

- ✓ Consumers in arrears for 2 months and more must pay a minimum amount equal to 50% of their arrears with the remaining 50% to be settled in 12 equal monthly instalments commencing from the month following the month in which the initial 50% payment was made. The reconnection fee is also to be paid over and above the 50% payment in order for the service to be reinstated.

- ✓ The reconnection fee is also to be paid over and above 50% payment in order for the service to be reinstated.

**For business consumers the following is to apply:**

- ✓ Consumers in arrears for 2 months and more must pay a minimum amount equal to 50% of their arrears with the remaining 50% to be settled in 6 equal monthly instalments commencing from the month following the month in which the initial 50% payment was made. The reconnection fee is also to be paid over and above the 50% payment in order for the service to be reinstated.

10.1 If a consumer fails to comply with any arrangement, the services will once again be discontinued/restricted and the total arrears due will have to be paid prior to having the services restored. A consumer who fails to comply with any arrangement is automatically excluded from the right to be considered for a further arrangement for a period of twelve months.

10.2 If a consumer fails to comply with any arrangement, such a consumer will also be put on the auxiliary system, whereby the municipality use the prepaid electricity system to recover its outstanding debt from a consumer from time to time.

10.3 All arrangements will automatically include the condition that any future monthly accounts plus interest levied are paid by the standard due date.

10.4 All arrangements are to be entered into and signed by the consumer on a prescribed form designed by the Finance Directorate. No telephonic or verbal arrangements will be allowed.

10.5 No cheques are allowed as a means of a payment instrument.

10.6 The first payment (initial payment) to be made after the signing of the agreement shall be made within 30 days. Agreement will lapse if initial payment is not received within 30 days. The Chief Financial Officer is allowed to apply his / her mind in cases of debtors who cannot afford making these arrangements, due to their financial reasons.

## **11. RIGHT OF ACCESS**

Municipal officials have the legal right of access to any property occupied by a consumer for the purposes of reading, inspecting meters, connections or to disconnect/ discontinue or restrict supply of service and for the evaluation of the property.

## **12. RIGHT OF APPEAL**

An appeal must be submitted in writing to the Municipal Manager prior to the final due date for payment of the contested amount, and must contain details of the specific items on the account which are the subject of appeal, with full reasons. The debtor's obligation to pay that portion of the total amount due represented by the items appealed against. If found that the appeal is successful the debtors account will be rectified accordingly.

Whilst the appeal of the debtor is being dealt with, any further amounts accruing for services rendered to the debtor, shall be payable on due date. If the appeal is in respect of a metered consumption amount, the meter must be tested within 14 days of lodgement of appeal, or as soon as possible thereafter, in order to establish the accuracy. The debtor must be informed in writing of the results of the test of the meter, and of any adjustment to the amount due by him as a result of the meter having been found NOT to be faulty together with the cost of testing the meter. If the meter is found to be faulty, the municipality shall make the necessary adjustments to the debtors account based on the average usage for the past six months prior to the malfunctioning of the meter and shall bear the cost incurred in having the meter tested. If no error is found with the meter, the debtor will be liable for the cost of testing the meter.

## **13. STEPS TO BE TAKEN BEFORE EFFECTING DISCONNECTIONS**

The municipality should as far as is practically possible, ensure that the following steps are in place before effecting disconnections:

- ✓ Reputable and efficient billing distribution systems to ensure that all consumers receive their monthly accounts is available;
- ✓ Sufficient pay points exist;
- ✓ Councillors should consult widely with their constituencies in order to encourage them to pay for services provided;

- ✓ Restriction of services and/or termination should be done within the ambit of the relevant legislation.

#### **14. COMMENCEMENTS AND OR RESUMPTION OF SERVICES**

The underlying principle in the provision of services by the municipality is that the service is provided to a property. Any changes in ownership shall not compromise the municipality's right to demand payment for outstanding amounts due for services rendered before a new connection or a reconnection is made in terms of the following clauses.

##### **14.1 New Service Connections**

Connections and supply of a new service shall only be effected after all charges in respect of deposits and connection fees, and any arrears that may have accrued for services rendered to the property by the municipality, have been paid. No tenants will be allowed to connect services in their respective names, and all services is for the account of the owner.

In terms of Government Owned buildings, such as SAPD, SANF or Provincial Government housing, the municipality will have the discretion to open a new account in the name of the tenant. The applicable Government bodies will be liable to ensure that monthly services are paid by due date as well as any outstanding amounts on such tenant account if the tenant moved out of the premises.

##### **14.2 Resumption of discontinued services**

If the debtor has:

- ✓ Paid the full amount outstanding, or
- ✓ Made a suitable arrangement with the Chief Financial Officer or his delegate for the payment of the amount in arrears, then the service will be resumed, subject to clause 10 of this policy.

#### **15. UNAUTHORISED CONSUMPTION, THEFT, OR WILFULL DAMAGE TO MUNICIPAL PROPERTY**

The following shall constitute UNAUTHORISED consumption, theft or damage:

- ✓ Any connection to, or consumption from, an electricity line that has not been provided to the consumer by the Council;
- ✓ Any consumption of water from, or connected to, a municipal pipeline that has not been provided to the consumer by the Council;

- ✓ Any damage to, or adjustment of any metering instrument which may result in inaccurate data being obtained by the Council or which may lead to a reduced charge being payable by the consumer;
- ✓ Any removal of any metering instrumentation by any person other than a municipal officer or authorised agent;
- ✓ Any tampering with or wilful or malicious damage to any component or any reticulation or metering system as installed by Council.

Where any such illegal activity is detected, the municipal supply shall be immediately suspended. The debtor shall be held responsible for payment of all deemed or calculated consumption on the basis determined by Council as well as for penalties determined by Council from time to time. Such penalties shall be in addition to any penalties imposed by a court of law arising from criminal prosecution for offences committed. For the purposes of this by-law, the penalties as stipulated by the Council, from financial year to financial year, shall apply. The municipality shall have the right to review these penalties at its discretion.

#### **16. DISCONTINUATION OF SERVICES**

- ✓ Debtors who have ceased to make use of municipal services and still have an outstanding amount owing to the municipality, are classified as inactive debtors;
- ✓ Immediate steps shall be taken to recover outstanding amounts to ensure that debt does not become irrecoverable;
- ✓ Upon discontinuation of service, the deposit held shall be appropriated to off-set outstanding amounts owing and if insufficient to cover debt, a letter of demand shall be written to the debtor demanding payment within 14 days for the balance owing;
- ✓ If no payment is received within the 14-day period, legal action shall be instituted.
- ✓ The municipality will exercise its rights, in terms of its Credit Control Debt Collection Policy, to disconnect supply (e.g. electricity) or restrict services (e.g. water), in cases of debtors who fail to respond to the reminders forwarded to them. This paragraph must be read in conjunction with the Credit Control and Debt Collection Policy.

#### **17. RESPONSIBILITY FOR CREDIT CONTROL**

In terms of Chapter 6, section 29 (d) (1) of the Municipal Finance Management Act No: 56 of 2003, the Municipal Manager must take effective and appropriate steps to collect all moneys due to the municipality.

**18. FINANCIAL IMPLICATIONS**

Implementation of the credit control debt collection policy has to be funded from the operating budget of a municipality. If this has an incremental impact on the budget, it must be offset by the improved cash flow as a result of an efficient collection system.

**19. PERSONNEL IMPLICATIONS**

Where a credit control debt collection function does not exist in a municipality, the responsibility for the function rests with the Chief Financial Officer who must ensure that the function is properly delegated to a responsible official.

**20. ARREAR ACCOUNTS FOR MUNICIPAL EMPLOYEES AND COUNCILLORS**

The code of conduct in the Municipal Systems Act No. 32 of 2000, for municipal employees and councillors requires municipal employees and councillors not to have arrear municipal accounts for a period in excess of 90 days. The Municipal Manager is permitted to deduct such arrears, without any warning from the affected party. Also, Section 124(b) of the Municipal Finance Management Act No. 56 of 2003 requires the municipality to disclose in the financial statements councillors whose accounts were in arrears for a period in excess of 90 days, during the financial year under review.

**21. INDIGENT CONSUMERS**

Indigent consumers are defined as total household's income that earns R 3300 per month or less. The municipality must handle indigent consumers in terms of its Indigent Policy.

**22. POLITICAL SUPPORT**

It is clear that without good administrative processes, good communication and an earnest attempt to change the culture of non-payment and very importantly, total "buy in" from all politicians, no credit control policy will be effective.

**23. CONTROL / WORKING DOCUMENTS**

The following forms, letters or documents is the working documents

- ✓ Application/Agreement for Supply of Services Form;
- ✓ Indigent Support Application Form;

- ✓ Application for Termination of Services Form;
- ✓ Tariff List (penalties, service deposits, connection fee, reconnection fee, etc.)
- ✓ Register to record "Arrangements for Payment".

#### **24. HOW WILL THIS *BY-LAW* BE SUCCESSFULLY COMMUNICATED?**

The success of this By-Law will depend on various key stakeholders that exist within the Oudtshoorn Municipal area of jurisdiction, including the following:

- ✓ Political Leadership (e.g. Executive Mayor, Councillors and Ward Committee Members),
- ✓ Administrative Leadership (e.g. Municipal Manager and Directors of various Directorates or Business Units),
- ✓ All Employees of Council have the responsibility of being the mouthpiece of the municipality or their employer, in as far as informing the members of the public about their benefits resulting from this by-law
- ✓ Lastly, this By-Law must be communicated to the communities residing in Oudtshoorn Municipal area of jurisdiction through community newspapers, notices in the notice boards, municipal websites, municipal accounts, booklets, and any other means of communication deemed to be effective.

#### **25. REVISION OF THE CREDIT CONTROL DEBT COLLECTION BY-LAW**

This By-Law will be reviewed annually, and such must firstly be submitted to the Finance and Service Delivery Committee by the Chief Financial Officer, as well as the Mayoral Committee, and be finally endorsed by the Municipal Council before it can be implemented. This By-Law supersedes any other one adopted by Council previously, including any other resolutions taken.