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KWAZULU-NATAL PROVINSIE
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MUNICIPAL NOTICES

No. 40**18 June 2008****GREATER KOKSTAD MUNICIPALITY**
CREDIT CONTROL AND DEBT COLLECTION BY-LAW

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act 108 of 1996], the Credit Control and Debt Collection By-law.

Purpose of By-law

The purpose of the by-law is to give effect to the municipality's credit control and debt collection policy and the implementation and enforcement thereof.

CHAPTER 1
DEFINITIONS AND ADOPTION OF POLICY

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

'arrangement' means an agreement entered into between the municipality and a debtor in terms of which payment terms for the settlement of an outstanding debt are agreed upon and expressly stipulated, subject to the requirements of the National Credit Act, 2005 [Act No. 34 of 2005];

'billing date' means the date upon which a monthly statement is generated and debited to a customer's account;

'business premises' means premises utilised for purposes other than residential purposes, and excludes the following -

- (a) hospitals, clinics and institutions for mentally ill persons which are not operated for gain;
- (b) museums, art galleries, libraries and botanical gardens which are registered in the names of private persons and are open to the public, whether admission fees are charged or not;
- (c) sports grounds used for the purpose of amateur sports and any social activities connected with such sports;
- (d) any property registered in the name of an institution or organisation which, in the reasonable opinion of the municipality, performs charitable work;
- (e) any property utilised for bona fide church or religious purposes;

'chief financial officer' means the official accountable and responsible to the municipal manager for the implementation, administration and enforcement of the municipality's credit control and debt collection policy;

'credit control' means all the functions relating to the collection of monies owed by debtors;

'customer' means the occupier of any premises to whom the municipality has agreed to supply, or is actually supplying, services, or, if there is no occupier, then the owner of the premises;

'day' means a calendar day, inclusive of Saturdays, Sundays and public holidays;

'debtor' means any person who is liable to the municipality for payment of any amount, including –

- (a) rates;

- (b) fees for municipal services provided by the municipality or another institution or person in terms of a service delivery agreement; or
- (c) any other tax, duty or levy imposed by the municipality;

'dependant' means any person who relies on any other person for financial support;

'due date', with regard to –

- (a) rates due in respect of any immovable property, means the first day of July of the financial year for which such rate is applicable; and
- (b) service charges due in respect of any immovable property, means the seventh day of the month succeeding the month during which municipal services were supplied,

provided that a date falling on a Saturday, Sunday or public holiday shall result in the due date being determined as the next working day;

'immovable property' includes –

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

'indigent debtor' means the head of an indigent household -

- (a) who applies to the municipality for the provision of services;
- (b) who makes application for, and is accorded, indigent support in terms of this by-law; and

(c) who shall be regarded as the representative of all members of his or her household, including all dependants;

'indigent support policy' means the indigent support policy approved and adopted by the municipal council of the municipality;

'indigent support programme' means a structured programme for the provision of indigent support subsidies to qualifying indigent debtors in terms of the municipality's indigent support policy;

'month' means a calendar month;

'average monthly consumption' means the monthly consumption in respect of any immovable property, calculated on the basis of average consumption over the preceding 6 (six) months;

'municipal account' means an account recording the transactions associated with the rates and service charges applicable to a customer;

'municipal pay point' means any municipal office in the area of jurisdiction of the municipality, or any such other place as the chief financial officer may from time to time designate for the payment of municipal accounts;

'municipal services' means services provided either by the municipality, or by an institution or person in terms of a service delivery agreement, and may include the provision of water, electricity, sewerage, refuse and fire protection services, subject to the allocation of functions and powers to the municipality in this regard, and **'services'** shall have a corresponding meaning;

'municipality' means the Greater Kokstad Municipality, established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998], and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and

delegated to such political structure, political office bearer, councillor, agent or employee;

'occupier' means the person who controls and resides on, or controls and otherwise uses, immovable property, provided that -

- (a) the spouse of the owner of immovable property, which is used by such spouse or owner as a dwelling at any time, shall be deemed to be the occupier thereof;
- (b) where both spouses reside on immovable property and one of them is an occupier thereof, the other shall also be deemed an occupier;

'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 10 (ten) years, whether the lease is registered or not, shall be deemed to be the owner thereof; and
 - (ii) the occupier of immovable property occupied in terms of a servitude, or right analogous thereto, shall be deemed the owner thereof;
- (b) if the owner is deceased, insolvent, has assigned his or her estate for the benefit of his or her creditors, has been placed under curatorship by order of court, or is a company being wound up or under judicial management, then, 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;

- (c) if the owner is absent from the Republic, or if his or her address is unknown to the municipality, then, any person who, as agent or otherwise, receives, or is entitled to receive, the rent in respect of such property; or
- (d) if the municipality is unable to determine who the owner is, then, the person who is entitled to the beneficial use of such property;

'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, 1997 [Act No. 8 of 1997], or in terms of the Deeds Registries Act, 1937 [Act No. 47 of 1937];
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 [Act No. 95 of 1986], and

situated within the jurisdiction of the municipality;

'person' means a natural or juristic person, including any sphere of government, department of state, statutory body or foreign embassy;

'prescribed' means prescribed in terms of this by-law;

'rate' means a municipal rate on property, as contemplated in terms of Section 229(1)(a) of the Constitution;

'ratepayer', in relation to the municipality, means a person who is liable to the municipality for the payment of rates on property in the municipality;

'registered owner' means the person, natural or juristic, in whose name a property is registered in terms of the Deeds Registries Act, 1937;

'service charges' means the fees levied by the municipality in terms of its tariff policy 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; and

'service delivery agreement' means an agreement between the municipality and an institution or persons, contemplated in terms of Section 76(b) of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000].

2 Credit control and debt collection policy

The municipality shall adopt, implement and enforce a policy on credit control and debt collection, to be termed the 'credit control and debt collection policy', and which shall provide for -

- (a) credit control procedures and mechanisms;
- (b) debt collection procedures and mechanisms;
- (c) provision for indigent debtors, which provision is consistent with its rates and tariff policies, and any national policy on indigents;
- (d) realistic targets, consistent with –
 - (i) generally recognised accounting practices and collection ratios; and
 - (ii) the estimates of income set in the budget, less an acceptable provision for bad debts;
- (e) interest on arrears;
- (f) extensions of time for payment of accounts;

- (g) termination of services, or the restriction of the provision of services, when payments are in arrears;
- (h) matters relating to unauthorised consumption of services, theft and damages;
- (i) provision of new services;
- (j) entering into an agreement between a debtor's employer and the municipality, for the deduction of amounts from a debtor's salary or wage;
- (k) sales in execution of any property; and
- (l) any other matter that may be prescribed by regulation in terms of Section 104 of the Local Government: Municipal Systems Act, 2000.

CHAPTER 2

PROVISION OF MUNICIPAL SERVICES

3 Application for provision of municipal services

- (1) All applications for the provision of municipal services in respect of any immovable property shall be made by the owner of the aforesaid property in writing, and in the prescribed form.
- (3) The owner of a property in respect of which application for the provision of municipal services has been made shall enter into a written agreement with the municipality.

- (4) The municipality may, upon the written request of the owner of a property, enter into a written agreement with the occupier of the immovable property in respect of which application for the provision of municipal services has been made.
- (5) Meters for the recording of the quantity of water or electricity supplied may be installed by the municipality, at its own expense, at such point of the plumbing or electricity system as it may determine, and such meters, together with all the fittings connected therewith, shall remain the property of the municipality, and shall at all times be under its sole control.
- (6) The owner of a property in respect of which application has been made for the provision of municipal services shall, at least 5 (five) days prior to taking occupation of the aforesaid property, notify the chief financial officer thereof in writing, and in the prescribed form.
- (7) The chief financial officer shall cause a reading of the meters installed at such premises to be taken on the day preceding the date of occupation of such premises.
- (8) The chief financial officer may, from time to time, require all owners or occupiers of immovable properties in respect of which municipal services are being supplied, to enter into written agreements with the municipality.
- (9) An applicant for the provision of municipal services in respect of immovable property shall be required by the chief financial officer to pay a deposit equivalent to 1 ½ (one and a half) times the average monthly consumption of that property, before municipal services will be provided.

- (10) The chief financial officer may, upon written notice to the owner of an immovable property, and after the conclusion of a written agreement, either increase or decrease the deposit payable.
- (11) 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.
- (12) An aggrieved owner may, within a period of 21 (twenty one) 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.
- (13) 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.
- (14) The chief financial officer may, in respect of business premises, accept an irrevocable bank guarantee in lieu of a deposit.
- (15) Owners of business premises shall be required to pay an amount equivalent to 250% (two hundred and fifty percent) of the average monthly consumption, provided that the aforesaid amount shall be not less than R500.
- (16) An owner of business premises, in respect of which a deposit in excess of R100 000 is payable, has the option to –
 - (a) pay 250% (two hundred and fifty percent) of the average monthly consumption charges for municipal services; or

- (b) the equivalent of 1 ½ (one and a half) months' estimated average monthly consumption charges in cash, and the balance in the form of an irrevocable bank guarantee acceptable to the chief financial officer, provided that the owner shall agree in writing to pay the monthly account not later than 14 (fourteen) days after the billing date.

4 Power to limit or discontinue supply of service

- (1) Subject to the requirements of section 16 and the allocation of functions and powers to the municipality in this regard, the municipality may limit, discontinue or disconnect the supply of electricity, water or any other service to any premises, whenever a customer, in respect of a particular service –
 - (a) fails to make full payment on the due date, or fails to make an acceptable arrangement for the repayment of any amount for such particular service;
 - (b) fails to comply with a condition of supply imposed by the municipality;
 - (c) obstructs the efficient supply of water, electricity or any other municipal service to another customer;
 - (d) supplies such municipal service to any person who is not entitled thereto, or permits such a service to continue;
 - (e) tampers with any municipal supply meter, or bypasses any metering equipment, in order to obtain an un-metered service;
 - (f) causes a situation which, in the reasonable opinion of the municipality, is dangerous, or a contravention of relevant

legislation;

- (g) is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 [Act No. 24 of 1936] or any other applicable law; or
 - (h) if an administration order is granted in terms of Section 74 of the Magistrates Court Act, 1944 [Act No. 32 of 1944] in respect of such a customer.
- (2) The right of the municipality to limit, discontinue or disconnect the supply of electricity or water to any premises or consumer shall be subject to the provisions of Section 4(3) of the Water Services Act, 1997 [Act No. 108 of 1997] and Section 11 of the Electricity Act, 1987 [Act No. 41 of 1987] and any regulations promulgated in terms of the aforesaid legislation.

CHAPTER 3 INDIGENT DEBTORS

5 Indigent support policy

- (1) The municipality shall adopt, implement and enforce an indigent support policy, which shall embody an indigent support programme providing procedures and guidelines for the subsidisation of service charges to indigent households in its jurisdiction.
- (2) The object of the indigent support policy will be to ensure –

- (a) the provision of municipal services to the community in a sustainable manner within the financial and administrative capacity of the municipality; and
- (b) the provision of procedures and guidelines for the subsidisation of service charges to indigent households.

6 Qualification criteria

- (1) Qualification criteria for indigent support and the municipal services qualifying for such support shall be determined by resolution of the municipality from time to time, provided that, until the municipality determines otherwise, registered customers shall qualify for indigent support, subject to the following conditions –
 - (a) the combined or joint gross income of all occupants or dependants over the age of 18 (eighteen) years in a single household which receives services from the municipality does not exceed an amount to be determined by resolution of the municipality;
 - (b) the municipality must be satisfied that the single household referred to in subsection (a) cannot afford to pay for the services provided to it by the municipality;
 - (c) the single household referred to in subsection (a) must be registered on the municipal database of households receiving indigent support from the municipality;
 - (d) any occupant or dependant of the single household referred to in subsection (a) does not own any property in addition to the property in respect of which indigent

support is provided in terms of the municipality's indigent support programme;

- (e) any occupant or dependant in the single household referred to in subsection (a) does not receive any significant monetary benefit or regular monetary payment from any source whatsoever.
- (2) The extent of the monthly indigent support granted by the municipality to indigent households in its jurisdiction will be determined by resolution of the municipality, regard having been given to its budgetary provisions, any applicable amount received by it from national government, the number of recipients and average monthly consumption, or service charges and rates, as the case may be, in respect of the municipal services provided by the municipality.
 - (3) The municipality will, on a 6 (six)-monthly basis, assess the level of support to indigent households in its jurisdiction, depending on the number of applicants qualifying for indigent support and the municipality's general financial position.
 - (4) The level of indigent support granted by the municipality shall not exceed the monthly billings to the accounts of indigent debtors.

7 Distribution of indigent support subsidies

Indigent support subsidies will be distributed by the municipality on the following basis -

- (a) relief will only be distributed to those indigent households who apply and qualify therefor;

- (b) the relief must be significant, so as to relieve the recipient from the financial hardship of paying in full for services received from the municipality during a specific period;
- (c) all registered indigent households will be charged for the service in accordance with any tariff approved and adopted by the municipality;
- (d) the recipient's monthly account will be credited with the amount of the indigent support subsidy, as determined by the municipality on a monthly basis; and
- (e) indigent relief will continue for a period determined by the municipality in terms of its indigent support policy.

8 Application for indigent support

- (1) An application for indigent support in terms of this by-law must be made on a prescribed form, which must contain at least the following information, to be certified as correct by the applicant -
 - (a) details of the applicant's municipal service account or accounts;
 - (b) proof of income;
 - (c) proof of residence;
 - (d) identity number of applicant; and
 - (e) number, names and identity numbers, where applicable, of dependants in the applicant's household.
- (2) At all times, an indigent debtor shall be responsible for any re-application necessary and for the submission of proof regarding a change in circumstances that affects the information provided in terms of subsection (1).

9 Indigent support committee

The municipality may appoint a committee to be known as the indigent support committee, for the purpose of administering its indigent support programme, and such committee shall -

- (a) scrutinise, with the aid of ward councillors, all applications received for indigent support in terms of the municipality's indigent support programme;
- (b) recommend to the municipality that any application received in terms of subsection (a) either be approved or rejected;
- (c) monitor, in conjunction with ward councillors, ward committees and other persons or organisations it may appoint, the implementation of the indigent support programme, subject to the policy directions of the municipality and in consultation with the municipal manager;
- (d) recommend to the municipality any amendments, additions or altered procedures in respect of the application of the municipality's indigent support programme;
- (e) undertake such inspections and issue such instructions as it may deem necessary, in order to verify the information provided by any indigent debtor;
- (f) perform such other duties as the municipality may direct, provided that the municipality may delegate any of its responsibilities in terms of this by-law and its indigent support programme to the committee either wholly or in part and subject to such conditions as it may determine.

10 Balance owing by indigent debtor

Any balance owing by an indigent debtor, after deduction of the indigent support subsidy, shall be recovered from him or her, in accordance with the credit control and debt collection policy of the municipality.

11 Withdrawal of indigent status

The indigent status of a debtor shall not be withdrawn, suspended or altered in terms of this by-law, unless such debtor has been given an opportunity to be heard and to make representations on the contemplated action against him or her.

12 Responsibilities of municipal manager

It shall be the responsibility of the municipal manager to –

- (a) create, maintain and update a register of all debtors receiving indigent support subsidies from the municipality in terms of this by-law;
- (b) reflect the indigent status of debtors in the accounting records of the municipality;
- (c) advise and keep indigent debtors informed of the approval, amendment, suspension or withdrawal of an application for indigent support in terms of this by-law, and the conditions under which such support will be granted, including the renewal of indigent support applications;
- (d) report any incidents of misuse of the municipality's indigent support programme to the indigent support committee for attention in terms of this by-law;

- (e) report, at regular intervals, or as may be required by the indigent support committee, on the progress or otherwise of the implementation of the council's indigent support programme.

13 Budgeting for indigent support

- (a) The municipality shall budget annually for the total indigent support subsidy to be granted to indigent debtors in terms of this by-law.
- (b) The amount contemplated in terms of subsection (a) shall be credited to indigent debtors, by application of generally accepted accounting principles.

CHAPTER 4

RATES AND SERVICE CHARGES

14 Billing

- (1) The municipality shall provide every customer with a consolidated account in respect of all rates and service charges owed to the municipality.
- (2) Accounts will be rendered on a monthly basis in cycles of 30 (thirty) days.
- (3) Any account rendered by the municipality shall be payable within a period of 30 (thirty) days from the billing date appearing on the account.
- (4) Any amount which remains due and payable after the aforesaid period of 30 (thirty) days shall attract interest, in accordance with the provisions of section 23.

- (5) A payment shall be deemed to be late, unless received on or before the due date at a municipal pay point by 14h00.
- (6) Electronic payments or payments made via duly authorised agents must -
 - (a) be received in the municipal bank account by 16h00 on the due date; and
 - (b) clearly indicate the details of the customer on behalf of whom the payment is made.

15 Rates

- (1) The municipality shall adopt, implement and enforce a policy on the levying of rates on rateable property within the jurisdiction of the municipality.
- (2) For the purposes of this by-law the following provisions are applicable to ratepayers –
 - (a) annual rates levied on any property as at the first day of July of any year become due and payable by no later than the last day of November in the same year, provided that –
 - (i) a ratepayer may enter into an arrangement with the municipality to effect payment of rates by way of monthly instalments; and
 - (ii) any such arrangement shall provide that the final instalment must be paid by no later than the last day of June in the said succeeding year;

- (b) rates which are paid on a monthly basis, by arrangement, shall be due by the seventh day of each and every month;
- (c) the chief financial officer shall ensure that a written notice is issued to all ratepayers, detailing the available methods for the settlement of outstanding rates;
- (d) in the event of a ratepayer's failing to pay outstanding rates by the due date, the chief financial officer, or any person duly authorised thereto, shall issue a letter of demand by registered post, requiring that the outstanding amount, together with any interest which may have accrued, be settled within 14 (fourteen) days from the receipt of the letter;
- (e) If the amount remains outstanding, despite a demand issued in terms of subsection (d), then the chief financial officer, or any person authorised thereto, shall cause the institution of legal proceedings, so as to recover the outstanding amount;
- (f) any disbursement incurred by the municipality in connection with the foregoing procedures shall be debited to the ratepayer's account;
- (g) subject to subsection (a) -
 - (i) the chief financial officer may allow ratepayers, who have been declared indigent in terms of the municipality's indigent support policy, to settle any arrear rates over a period not exceeding 12 (twelve) months, provided that the said ratepayer

- pays the current rates together with the arrears by the seventh day of each and every month; and
- (ii) interest shall accrue on all monthly rates accounts, in the event that they are not paid by the seventh day of each and every month;
- (h) with regard to a ratepayer who has made an arrangement to settle his or her rates account on a monthly basis –
- (i) the ratepayer shall maintain payments regularly, and in accordance with the arrangement; and
 - (ii) the ratepayer's failure to adhere to the arrangement, or omission to pay monthly instalments for 2 (two) consecutive months, shall have the result that -
 - (aa) the arrangement shall be terminated with immediate effect; and
 - (bb) the outstanding balance shall immediately become due and payable;
- (i) a ratepayer who has defaulted on a monthly payment arrangement shall not be allowed to enter into a further arrangement, for a period determined by the chief financial officer or any person duly authorised thereto, and which period shall not exceed 3 (three) years;
- (j) any arrangement relating to the payment of rates on a monthly basis shall endure for a period of 1 (one) year, and shall terminate on the last day of June of each year;

- (k) a ratepayer who wishes to apply for a certificate in terms of Section 118 of the Local Government: Municipal Systems Act, 2000 shall first ensure that the outstanding rates, services charges and other amounts owed in respect of the property in question for the 2 (two) years preceding the date of application have been fully paid.
- (3) Where a company, closed corporation or a body corporate in terms of the Sectional Titles Act, 1986 is responsible for the payment of any arrear amount to the municipality, the liability of such entity shall be extended jointly and severally to the directors or members, as the case may be, of said company, closed corporation or body corporate.
- (4) Nothing contained in this section shall be construed so as to detract from the requirements of –
 - (a) the Local Government : Municipal Property Rates Act, 2004 [Act No. 6 of 2004]; and
 - (b) the National Credit Act, 2005 and any regulations promulgated in terms of the aforestated legislation.

16 Water, electricity and other municipal services

- (1) This section must be interpreted and applied subject to the allocation of functions and powers to the municipality in terms of Chapter 5 of the Local Government : Municipal Structures Act, 1998 [Act No. 117 of 1998].
- (2) Accounts rendered by the municipality in respect of electricity, water and other municipal services shall be paid by the seventh day of each month.

- (3) The chief financial officer or any person duly authorised thereto shall, where an account has not been paid by the due date, issue a written demand by registered post, requiring the debtor to settle the arrears within a period of 14 (fourteen) days from the receipt of the aforesaid written demand.
- (4) If the debtor fails to pay the outstanding account within the period of 14 (fourteen) days, then -
 - (a) the municipality may proceed to implement the measures required to effect the limitation, discontinuation or disconnection of either the electricity or water supply, as the case may be, and as contemplated in terms of subsection (5); and
 - (b) the chief financial officer or any person duly authorised thereto shall instruct attorneys to recover the outstanding balance, by way of legal action.
- (5) If any amount has not been paid by the due date for service charges in respect of any property, and provided that the municipality has complied with the requirements of subsection (3), then -
 - (a) where an amount is owed in respect of electricity supplied, the municipality may limit, discontinue or disconnect the electricity supply to the property, in which event -
 - (i) a disconnection shall be effected by disconnecting the pole fuse, and removing the circuit breaker and the bridge piece, or taking such reasonable and

- lawful steps as may be necessary to result in the disconnection of the supply; and
- (ii) any disbursements and charges relating to the disconnection or reconnection of the electricity supply shall be debited to the debtor's account;
- (b) where an amount is owed in respect of water supplied, the municipality may limit, discontinue or disconnect the water supply to the property, in which event -
- (i) a disconnection shall be effected by closing the water supply and removing the tailpiece from the meter, plugging the pipe with a brass plug, removing the stopcock top and fitting an anti-tamper device, or taking such reasonable and lawful steps as may be necessary to result in the disconnection of the supply; and
 - (ii) any disbursements and charges relating to the disconnection or reconnection of the water supply shall be debited to the debtor's account.
- (6) Where an owner or occupier of a property unlawfully reconnects or attempts to reconnect a supply of electricity or water that has been limited, discontinued or disconnected -
- (a) the municipality shall disconnect the supply entirely by removing the service connection from the property; and
 - (b) all disbursements, penalties and reconnection charges, together with any outstanding amounts in respect of the service charges in question, must be paid in full, before a reconnection can be effected.

- (7) Before disconnecting the water supply to a property, as contemplated in terms of subsection (5), the municipality must ensure that –
- (a) a debtor is provided with -
 - (i) 14 (fourteen) days' notice of the municipality's intention to disconnect the water supply;
 - (ii) reasonable opportunity to make representations to the municipality as to why the disconnection should not be effected;
 - (b) any intended disconnection will not conflict with the debtor's right to free basic water services.
- (8) The provisions of subsection (7)(a) shall not apply where –
- (a) other customers will be prejudiced;
 - (b) an emergency situation exists; or
 - (c) the debtor has interfered with a limited, discontinued or disconnected water supply.
- (9) Upon good cause shown, and subject to the provisions of section 25, the chief financial officer or any person duly authorised thereto may enter into an arrangement with the debtor for the payment of an outstanding account, in which event –
- (a) payment may be made by way of instalments, provided that these shall be effected in terms of debit orders; and

- (b) the electricity or water supply to the property in question shall be continued.

- (10) In the case of an indigent debtor -
 - (a) where the account of such indigent debtor is outstanding and his or her electricity or water supply has been disconnected, the chief financial officer may enter into an arrangement in terms of which the indigent debtor effects immediate payment of at least 5% (five percent) of the outstanding amount and pays the balance over a period of 24 (twenty-four) months; and
 - (b) where the indigent debtor utilises a credit electricity metering system –
 - (i) application may be made for a pre-payment electricity metering system, provided that the required conversion fee is paid; and
 - (ii) any arrears owed in respect of the supply of electricity shall be transferred to the pre-payment electricity account, and recovered at a rate as determined from time to time by the municipality.

- (11) Any debtor 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 arrangements with the municipality.

- (12) The chief financial officer may, in respect of an owner or occupier of a property where the electricity or water connections have been disconnected at least twice during the preceding

period of 12 (twelve) months, give notice, in terms of the provisions of this by-law, of his or her intention to review the amount of the deposit required from that owner or occupier.

(13) Nothing contained in this section shall be construed so as to detract from the requirements of -

(a) section 4(3) of the Water Services Act, 1997;

(b) section 11 of the Electricity Act, 1987; and

(c) the National Credit Act, 2005,

and any regulations promulgated in terms of the aforesaid legislation.

17 Reconnection of services

The chief financial officer shall authorise the reconnection of services or the reinstatement of service delivery, after satisfactory payment, or arrangement for payment, has been made by a debtor.

18 Metering

(1) The municipality shall take readings of all meters measuring consumption of municipal services, on a monthly basis, or at such other interval as may be determined.

(2) The chief financial officer or any person duly authorised thereto may direct that if circumstances prevent the reading of a meter, then the customer be charged an amount equal to the average monthly consumption in respect of that property.

- (3) A customer shall ensure that duly authorised representatives of the municipality are able to gain access to metering equipment on the property in question at all reasonable times.

19 Payment facilities and methods

- (1) Payments on accounts rendered may be effected at any municipal pay point.
- (2) The chief financial officer may, at his or her discretion, and from time to time, designate certain payment methods, which will be acceptable to the municipality.

20 Enquiries and appeals

- (1) A customer may address any grievance or query regarding rates or service charges, to the chief financial officer, in the prescribed manner.
- (2) A customer shall clearly state the basis for his or her dissatisfaction, and the desired outcome.
- (3) The lodging of an enquiry in the prescribed form shall not relieve the customer of the responsibility of settling the account, provided that the chief financial officer may, upon receipt of written application, direct that interim payments be made, pending the finalisation of the enquiry.
- (4) The chief financial officer shall respond to such an enquiry in writing, within a period of 14 (fourteen) days from the date of the lodgement of the enquiry.

21 Tenders for business

- (1) The municipality may require any person reacting to a tender published by the municipality or intending to enter into a contract with the municipality for the provision of goods or services, to produce a certificate issued by the chief financial officer, stating that the said person maintains regular payments on all his or her accounts.
- (2) Where a person fails to provide such certificate, the municipality may recover any outstanding amounts owed for rates or service charges, by way of deductions from all monies due and owing to such person and arising from a tender awarded to or contract concluded with the said person.
- (3) In the application of this section, the municipality shall interpret the provisions hereof so as to be consistent with the principles and contents of its supply chain management policy, as the case may be.

[Note : section 22-27 of the previous draft have been omitted. The aforesaid provisions dealt with the adoption, implementation and enforcement of a tariff policy. This is addressed, separately, in terms of the By-law Relating to Municipal Tariffs.]

CHAPTER 6 OUTSTANDING ACCOUNTS

22 Application of National Credit Act, 2005

The provisions of this chapter must be interpreted and applied in accordance with the requirements of the National Credit Act, 2005.

23 Interest on outstanding balances

- (1) All outstanding accounts of a debtor that are not paid within 30 (thirty) days of the billing date shall attract interest at a rate to be determined by resolution of the municipality.
- (2) No interest shall be payable on any outstanding accounts in respect of which an arrangement has been entered into by the municipality and a debtor for payment by way of instalments, provided that the said arrangement is honoured.
- (4) For the purposes of this section, interest shall be calculated for each month in respect of which an account remains unpaid, and a part of a month shall be deemed to be a complete month.

24 Extension of time for payment of outstanding accounts

- (1) Any debtor who, for any reason whatsoever, is unable to settle an account in respect of rates or service charges by the due date, may apply in writing and on a prescribed form to the chief financial officer for an extension of time to be granted for the payment of the said account, provided that there are no other outstanding accounts in respect of the property in question.
- (2) The chief financial officer or any person duly authorised thereto may allow such an extension of time for any period not exceeding 1 (one) month.
- (3) If the debtor has failed to honour an arrangement concluded, as contemplated in terms of subsections (1) and (2), then the total amount due, together with any interest which may have accrued, shall become due and payable with immediate effect.

- (4) An application for an extension of time in respect of outstanding rates or service charges must be lodged with the chief financial officer or any person duly authorised thereto at least 10 (ten) days before the said account becomes due and payable.

25 Arrangements to pay by way of instalments

- (1) A debtor may enter into an arrangement with the municipality to repay any outstanding and due amount to the municipality, under the following conditions, or as otherwise determined by the credit control and debt collection policy of the municipality -
 - (a) the outstanding balance, any interest thereon and any additional costs shall be paid in regular and consecutive monthly instalments;
 - (b) the arrangement shall be recorded as a written agreement, and shall be signed on behalf of the municipality by a duly authorised official;
 - (c) in the event of any dispute arising as to the amount owing by a debtor in respect of rates or service charges, such debtor shall, notwithstanding such dispute, proceed to make regular minimum payments based on the calculation of the average municipal account for the 3 (three) months prior to the occurrence of the dispute, taking into account inflation, as well as annual amendments of tariffs by the municipality.

26 Agreements with employers

- (1) Subject to the consent of a debtor, the chief financial officer may enter into a written agreement with the aforesaid debtor's employer to deduct outstanding rates and service charges, or to

settle regular monthly accounts, through deductions from the aforesaid debtor's salary or wages.

- (2) The municipality may, from time to time, provide special rebates, incentives or benefits to the employer or debtor, with regard to the aforestated agreement.

27 Appropriation of payments and acceptance of lesser amounts

- (1) The chief financial officer may appropriate monies received in respect of any rates or service charges, in a manner he or she deems fit, and in accordance with the credit control and debt collection policy of the municipality.
- (2) Where the exact amount due and payable to the municipality has not been paid in full, any lesser amount tendered to and accepted by the municipality shall not be deemed to be in final settlement of such an amount, unless permitted by the credit control and debt collection policy of the municipality.
- (3) The provisions in subsection (1) shall apply, notwithstanding that a lesser payment was tendered or accepted in full settlement.

28 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.

29 Delegated authority

The chief financial officer shall be responsible to the municipal manager for the implementation, administration and enforcement of the credit control and debt collection policy, contemplated in terms of this by-law, within the financial and other capacity constraints of the municipality.

30 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 to 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.

31 Authentication of documents

- (a) Every order, notice, or other document, requiring authentication by the municipality shall be deemed sufficiently authenticated if signed by the municipal manager or by a duly authorised representative of the municipality;
- (b) Delivery of a copy of the document shall be deemed to be delivery of the original.

32 *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.

33 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;
 - (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, 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.

34 Application of by-law

This by-law shall be binding on all persons who own or occupy immovable property within the jurisdiction of the municipality.

35 Regulations

The municipality may make regulations regarding –

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

- (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.

36 Repeal of by-laws

Any by-laws relating to credit control and debt collection adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

37 Short title

This by-law is called the Credit Control and Debt Collection By-law, 2007, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

No. 41

18 June 2008

MUNICIPALITY OF GREATER KOKSTAD**TRADING BY-LAW**

The Municipal Manager hereby publishes in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996], the Trading By-law.

Purpose of By-law

The purpose of this by-law is to regulate trading, for the benefit of the public residing and carrying on business within the municipal boundaries of the municipality.

1. **Definitions** – In this by-law, the singular includes the plural and vice versa, and, unless the context otherwise indicates -

"the Act" means the Businesses Act, 1991 [Act No. 71 of 1991], and includes the regulations promulgated thereunder; and

"approval" means approval by the municipality, and "approved" shall have a corresponding meaning;

"authorised official" means –

- (a) an official of the municipality who has been authorised by it to administer, implement and enforce the provisions of this by-law;
- (b) a traffic officer appointed in terms of Section 3A of the National Road Traffic Act, 1996 [Act No. 93 of 1996];

(c) a member of the police service, as defined in terms of Section 1 of the South African Police Service Act, 1995 [Act No. 68 of 1995]; or

(d) a peace officer, contemplated in terms of Section 334 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];

"foodstuff" means any article or substance, except a drug, as defined in the Drugs and Drug Trafficking Act, 1992 [Act No. 140 of 1992], ordinarily eaten or drunk by persons, or purporting to be suitable, or manufactured or sold for, human consumption, and includes any part or ingredient of any such article or substance, or any substance used, or intended or destined to be used, as a part or ingredient of any such article or substance;

"garden or park" means a garden or park to which the public has a right of access;

"goods" means any movable property, and includes a living thing;

"intersection" means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act, 1996 [Act No. 93 of 1996];

"kerb line" means a kerb line as defined in Section 1 of the National Road Traffic Act, 1996;

"licence" means a licence referred to in Section 2(3) of the Act;

"litter" includes any receptacle, container, or other matter, which has been discarded, abandoned, or left behind, by a street trader, or by his or her customers;

"motor vehicle" means a motor vehicle as defined in Section 1 of the National Road Traffic Act, 1996;

"municipal services" means any system conducted by or on behalf of a the municipality, for the collection, conveyance, treatment or disposal of refuse, sewage or storm water, or for the generation, impounding, storage, purification or supply of water, electricity or other services;

"municipal service works" means all property or works of whatever nature necessary for or incidental to any municipal services;

"municipality" means the Municipality of Greater Kokstad, established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 [Act 117 of 1998], and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, councillor, agent or employee;

"nuisance" means, without limiting the generality of the term, an act, omission, condition or state of affairs that-

- (a) impedes, offends, endangers or inconveniences the public at large; or
- (b) causes material inconvenience in the ordinary and comfortable use or enjoyment of private property,

and **"public nuisance"** shall have a corresponding meaning;

"prescribed" means determined, from time to time, by resolution of the municipality;

"property", in relation to a trader, means any article, container, vehicle or structure used, or intended to be used, in connection with such business, and includes goods in which he or she trades;

"public building" means a building belonging to, or occupied solely by, any sphere of the government, including the municipality;

"public monument" means any one of the "public monuments and memorials", as defined in terms of Section 2 of the National Heritage Resources Act, 1999 [Act No. 25 of 1999];

"public place" means any square, park, recreation ground or open space which is vested in the municipality or to which the public has the right to use, or which is shown on a general plan of a township filed in the deeds registry or a Surveyor-General's office, and has been provided for the use of the public or the owners of erven in such township;

"public road" means a public road as defined in Section 1 of the National Road Traffic Act, 1996;

"roadway" means a roadway as defined in Section 1 of the National Road Traffic Act, 1996;

"sell" includes -

- [a] barter, exchange or hire out;
- [b] display, expose, offer or prepare for sale;
- [c] store on a public road or public place with a view to sell; or
- [d] provide a service for reward;

and **"hawk"** has a corresponding meaning;

"sidewalk" means a sidewalk as defined in Section 1 of the National Road Traffic Act, 1996;

"street furniture" means any furniture installed by the municipality on the street, for public use;

"trader" means a person who carries on the business of trading, and includes any employee of such person;

"trading" means the selling of any goods or the supplying or offering to supply of any service for reward, in a public road, or public place, by a trader;

"verge" means a verge as defined in Section 1 of the National Road Traffic Act, 1996.

2. Meaning of words and expressions in Businesses Act incorporated in this by-law

Unless the context otherwise indicates, any words or expressions to which a meaning has been assigned in the Act shall have a corresponding meaning in this by-law.

3. Single act constitutes trading

For the purpose of this by-law, a single act of selling or offering or rendering of services in a public road or public place shall constitute trading.

4. Reference to legislation includes regulations made thereunder

For the purpose of this by-law, a reference to any legislation shall be a reference to that legislation and the regulations promulgated thereunder.

5. Assigning responsibilities of a municipal employee to an employee of a service provider, where a service provider has been appointed

If any provision in this by-law imposes any responsibility of the municipality in or on an employee of the municipality and such responsibility has, in terms of

Section 76(b) of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] or any other law, been assigned to a service provider, then the reference in such a provision to such employee must be read as a reference to the service provider or a duly authorised employee of the service provider.

6. Prohibited conduct

- [1] No person shall carry on the business of a trader -
- [a] at a place or in an area declared by the municipality in terms of Section 6A(2)(a) of the Act as a place or area in which trading is prohibited;
 - [b] in a garden or park to which the public has a right of access;
 - [c] on a verge contiguous to -
 - [i] a building belonging to, or occupied solely by, the municipality, or any other sphere of government;
 - [ii] a church, mosque, synagogue, or other place of worship;
 - [iii] a building declared to be a public monument;
 - [iv] an autoteller bank machine;
 - [d] at a place where it causes an obstruction in respect of -
 - [i] a fire hydrant; or
 - [ii] any entrance to, or exit from, a building;
 - [e] at a place where it is likely to obstruct vehicular traffic;

- [f] at a place where it could substantially obstruct a pedestrian, in his or her use of a sidewalk;
 - [g] on that half of a public road contiguous to a building used for residential purposes, if the owner or person in control, or any occupier, of that building objects thereto, and such objection is made known to the trader by an authorised official;
 - [h] on a stand or in any area demarcated by the municipality in terms of Section 6A(3)(b) of the Act, if he or she is not in possession of proof that he or she has hired such stand or area from the municipality, or that such stand has otherwise been allocated to him or her by the municipality; and
 - [i] on a sidewalk contiguous to a building in which business is being carried on by any person who sells goods of the same or of a similar nature to the goods being sold on such sidewalk by the trader, if the goods are sold by the street without the prior consent of first-mentioned person, and an authorised official has informed the trader that such consent does not exist.
- [2] A person who has hired a stand from, or who has been allocated a stand by, the municipality, as contemplated in terms of subsection (1)(h), may not trade in contravention of the terms and conditions of such lease or allocation.

[Note : In terms of Section 6A(1)(b) of the Act, a by-law shall not, *inter alia*, restrict the carrying on of the business of a trader to :

- (a) specified hours or places; or
- (b) specified goods or services.]

7. Licensing of businesses

- [1] Any person required to obtain a licence for the carrying on of a business shall comply with the relevant requirements contained in the Act.
- [2] The municipality may establish a procedure for obtaining such licence, including the payment of any fee.

8. Restrictions in respect of trading

A person carrying on the business of a trader -

- [a] may not sleep overnight at the place of such business;
- [b] may not erect any structure for the purpose of providing shelter, other than a structure provided or approved by the municipality;
- [c] may not place his or her property on a public road or public place, with the exception of his or her motor vehicle or trailer from which trade is conducted, provided that such vehicle or trailer does not obstruct pedestrian or vehicular traffic movement and complies with the provisions of the National Road Traffic Act, 1996;
- [d] must ensure that his or her property or area of activity –
- [i] does not cover an area of a public road, or a public place which is greater than 6 (six) square metres (with a maximum length of 3 (three) metres) in extent, unless otherwise approved by the municipality; and,
 - [ii] in respect of any sidewalk, leaves an unobstructed space for pedestrian traffic, being not less than 1.5 (one and a half) metres wide when measured from any contiguous building to the

property or area of activity, and not less than 0.5 (one half) metres wide when measured from the kerb line to the property or area of activity;

- [e] may not trade on a sidewalk where the width of such sidewalk is less than 3 (three) metres;
- [f] may not place or stack his or her property in such a manner that it constitutes a danger to any person or property, or is likely to injure any person, or cause damage to any property;
- [g] may not display his or her goods or other property on or in a building, without the consent of the owner, lawful occupier, or person in control of such building or property;
- [h] must, on request by an authorised official or supplier of telecommunications or electricity, or other municipal services, move his or her property so as to permit the carrying out of any work in relation to a public road, public place, or any such service;
- [i] may not attach any of his or her property by any means to any building, structure, pavement, tree, parking meter, lamp, pole, electricity pole, telephone booth, postbox, traffic sign, bench or any other street furniture in or on a public road or public place;
- [j] may not carry on such business in such a manner as to -
 - [i] create a nuisance;
 - [ii] damage or deface the surface of any public road or public place, or any public or private property; or
 - [iii] create a traffic or health hazard, or health risk, or both;

- [k]** may not make an open fire on a public road or public place, except at a facility designated for such purpose;
- [l]** may not interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop display window, or obscure such goods from view;
- [m]** may not obstruct access to a pedestrian crossing, a parking or loading bay, or other facility for vehicular or pedestrian traffic;
- [n]** may not obstruct access to, or the use of, street furniture and any other facility designed for the use of the general public;
- [o]** may not obscure any road traffic sign displayed in terms of the National Road Traffic Act, 1996, or any marking, notice or sign displayed or made in terms of this by-law;
- [p]** may not carry on business, or take up a position, or place his or her property on a portion of a sidewalk or public place, in contravention of a notice or sign erected or displayed by the municipality for the purposes of this by-law;
- [q]** may not, other than in a refuse receptacle approved or supplied by the municipality, accumulate, dump, store, or deposit, or cause or permit to be accumulated, dumped, stored or deposited, any litter on any land or premises or any public road or public place or on any public property;
- [r]** may not place, on a public road or public place, such of his or her property that is not capable of being easily removed to a storage place away from such public road or public place, at the end of the day's business;

- [s] must, on concluding business for the day, remove his or her property, except any structure provided or approved by the municipality, to a place which is not part of a public road or public place;
- [t] may not store his or her property in a manhole, storm water drain, public toilet, bus shelter or tree; and
- [u] may not carry on such business in a place or area in contravention of any prohibition or restriction approved by the municipality in terms of Section 6A(2)(a) of the Act.

9. Cleanliness

A trader must -

- [a] keep the area or site occupied by him or her for the purposes of such business in a clean and sanitary condition;
- [b] keep his or her property in a clean, sanitary and well-maintained condition;
- [c] dispose of litter generated by his or her business in whatever refuse receptacle is provided by the municipality for the public, or at a dumping site of the municipality;
- [d] not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;
- [e] ensure that on completion of business for the day, the area or site occupied by him or her for the purposes of trade is free of litter;
- [f] take such precautions in the course of conducting his or her business as may be necessary to prevent the spilling of any fat, oil or grease onto a public road, or public place, or into a storm water drain;

- [g] ensure that no smoke, fumes or other substance, odours, or noise, emanating from his or her activities, causes pollution of any kind; and,
- [h] on request by an authorised official, move his or her property, so as to permit the cleansing of the space, or the area or site where he or she is trading, or the effecting of municipal services.

10. Signs indicating restricted and prohibited areas

- [1] The municipality may, by resolution, and in terms of Section 6A(2) of the Act, declare any place in its area of jurisdiction to be an area in which trading is restricted or prohibited, and must, to enable compliance therewith, prescribe, or make, signs, markings or other devices indicating -
 - [a] specified hours, goods or services in respect of which trading is restricted or prohibited;
 - [b] the location of boundaries in respect of restricted or prohibited areas; and
 - [c] any other restriction or prohibition against trading with regard to the area in question.
- [2] The municipality must display any such sign, marking or device in such a position and manner as will indicate any restriction or prohibition and the location or boundaries of the area concerned.
- [3] Any sign erected in terms of this by-law or the Act shall serve as sufficient notice to a street trader, of the prohibition or restriction in respect of the area concerned.

- [4] Any sign may be amended from time to time and displayed by the municipality for the purpose of this by-law, and shall have the same effect as a road sign in terms of the National Road Traffic Act, 1996.

11. Leasing of verge and designation of stands or areas for purposes of trading

- [1] The municipality may, by resolution, and in terms of Section 6A(3)(a) to (c) of the Act –
- [a] lease any verge, or any portion thereof, to the owner or occupier of the contiguous land, on the condition that such owner or occupier shall admit a specified number of traders in stands or places on such verge designated by such owner or occupier;
 - [b] set apart and demarcate stands or areas for the purposes of trading on any public road, the ownership or management of which is vested in the municipality, or on any other property in the occupation and under the control of the municipality.
 - [c] extend, reduce or disestablish any stand or area referred in the previous subsections; and
 - [d] let or otherwise allocate any such stand or area.
- [2] Any such stands or areas may be extended, reduced or disestablished, by resolution of the municipality.

12. Removal and impoundment

- [1] An authorised official may remove and impound any property of a trader which -

- [a] he or she reasonably suspects is being used, or which is intended to be used, or has been used, for or in connection with trading; and
 - [b] is found at a place where trading is restricted or prohibited.
- [2] The removal and impoundment of property in terms of subsection [1] may be effected irrespective of whether or not such property is in the possession or under the control of any third party at the time.
- [3] Any authorised official acting in terms of subsection [1] must, except where goods have been left or abandoned, issue to the person carrying on the business of a trader, a receipt for any property so removed and impounded, which receipt must -
 - [a] itemise the property to be removed and impounded;
 - [b] provide the address where the impounded property will be kept, and the period of such impoundment;
 - [c] state the terms and conditions for the release of the impounded property;
 - [d] state the terms and conditions relating to the sale of unclaimed property by public auction; and
 - [e] provide the name and contact details of a municipal official to whom any representations regarding the impoundment may be made, and the date and time by which this must be done.
- [3] If any property about to be impounded is attached to any immovable property or structure, and such property or structure is under the apparent control of a person present thereat, then any authorised official may order such person to remove the property, and if such

person refuses or fails to comply, then he or she shall be guilty of an offence.

- [4] When any person fails to comply with an order to remove the property referred to in subsection [3], any authorised official may take such steps as may be necessary to remove such property.

13. Duty and liability of municipality with regard to removal and impoundment

- [1] In the event that an authorised official removes and impounds any property in terms of the preceding section, the authorised official shall take reasonable steps to ensure that such property is not damaged or lost.

- [2] The municipality shall not be liable for any damage or loss caused to any such property that is removed and impounded, unless such damage or loss is caused as a result of the negligence of the municipality.

14. Vicarious responsibility of persons carrying on business

- [1] When an employee or agent of a trader contravenes a provision of this by-law, the trader shall be deemed to have committed such contravention him- or herself unless such trader satisfies the court that he or she took reasonable steps to prevent such contravention.

- [2] The fact that the trader issued instructions to the employee or agent, prohibiting such contravention, shall not in itself constitute sufficient proof of such reasonable steps.

15. Offences and penalties

- [1] Any person who –

- [a] contravenes, or fails to comply with, any provision of this by-law;
- [b] fails to comply with any notice issued in terms of this by-law;
- [c] fails to comply with any lawful instruction given in terms of this by-law; or
- [d] who obstructs or hinders any authorised official in the execution of his or her duties under this by-law -

is guilty of an offence, and liable, on conviction, to a fine not exceeding R1 000 or, in default of payment, to imprisonment for a period not exceeding 3 (three) months, and in the case of a continuing offence, to a further fine not exceeding R10 or, in default of payment, to imprisonment not exceeding one day, for every day during the continuation of such offence, after written notice has been issued by the municipality and served on the person concerned, requesting the discontinuation of such offence.

- [2] An admission of guilt fine may be paid by any person in respect of whom a summons or written notice has been issued for any contravention of this by-law, as contemplated in terms of Sections 56 and 57 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977].

16. Regulations

- [1] The municipality may make regulations regarding –
 - [a] the procedure for obtaining a licence, the form of any application to this effect and a tariff of fees payable, as contemplated in terms of section 7(2);
 - [b] the provision or approval of any structure for purposes of providing shelter, as contemplated in terms of section 8(b) and (s);

- [c] the declaration of any place to be an area in which trading is restricted or prohibited, and the prescription or making of signs, markings or other devices, as contemplated in terms of section 10;
 - [d] the leasing of any verge or any portion thereof, and the setting apart, demarcation, letting or allocation of stands or areas for the purposes of trading, and the extension, reduction or disestablishment thereof, as contemplated in terms of section 11;
 - [e]
 - [i] the disposal of any property which has been removed and impounded, as contemplated in terms of section 12; and
 - [ii] the liability of any person for any reasonable expenses incurred in connection with such removal, impoundment and disposal;
 - [f]
 - [i] the prescription of penalties for the offences contemplated in terms of section 15(1);
 - [ii] the issuing of any summons or written notice and payment of an admission of guilt fine, as contemplated in terms of section 15(2); and
 - [iii] the amendment of such penalties or fines from time to time;
 - [g] any matter which may be prescribed in terms of this by-law, and any matter which may facilitate the application of this by-law.
- [2] [a] The municipality shall, not less than 1 (one) month before promulgating a regulation in terms of subsection [1], cause a draft of the regulation to be communicated to the local community and to be made public in terms of Sections 21 and 21A of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], together with a

notice declaring the intention of the municipality to issue such a regulation and inviting comments or representations.

- [b]** If the municipality decides to alter the draft regulation as a result of comments or representations received pursuant to such invitation, then it shall not be necessary to communicate and make public the alteration before the amended draft is promulgated as a regulation.

17. Repeal of by-laws

Any by-laws promulgated by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality, and pertaining to any matter regulated in this by-law, shall be repealed from the date of promulgation of this by-law.

18. Short title

This by-law is called the Trading By-law, 2007, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

No. 42

18 June 2008

GREATER KOKSTAD MUNICIPALITY**BY-LAW RELATING TO MUNICIPAL TARIFFS**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act, 1996, the By-law Relating to Municipal Tariffs.

Purpose of By-law

The purpose of this by-law is to adopt a framework of tariffs applicable to the levying of fees for municipal services provided either by the municipality, or in terms of service delivery agreements.

1. 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" means the Greater Kokstad Local Municipality, and when referred to as-

- (a) a legal entity, means Greater Kokstad Local Municipality, established in terms of Section 12 of the Municipal Structures Act, 1998 [Act No. 117 of 1998]; and
- (b) a geographic area, means the municipal area in respect of which the Greater Kokstad Local Municipality has legislative and executive authority, as may be amended from time to time;

"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 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 direct 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.

2. **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.

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

- (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) Services must be rendered in a manner that is economical, efficient and indicative of an effective use of resources.
- (3) Tariffs should be applied consistently and in an equitable manner to all consumers within the municipal area.
- (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.
- (5) Tariffs may make special provisions for certain categories of commercial and industrial consumers in order to promote local economic development.

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

4. Determination of tariffs

- (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.
- (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) In setting a tariff structure, the municipality shall ensure that the tariff fairly reflects the costs of providing the service.
- (4) 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.

6. Subsidisation of tariffs

- (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.
- (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.

7. Review of tariffs

Council shall review the applicable tariffs for services prior to the adoption of its annual budget.

8. Procedure for the implementation of tariffs

- (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.
- (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.

- (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 subsection (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.
- (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.
- (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 KwaZulu-Natal.
- (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.

9. Delegated authority

The chief financial officer shall be responsible to the municipal manager for the implementation, administration and enforcement of

this by-law, within the financial and other capacity constraints of the municipality.

10. 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.

11. 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 the date of promulgation of this by-law.

12. Short title and commencement

This by-law is called the By-law Relating to Municipal Tariffs, 2007, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

GREATER KOKSTAD MUNICIPALITY
BY-LAW RELATING TO ELECTRICITY SUPPLY

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act, 1996, the By-law Relating to Electricity Supply.

Purpose of By-law

The purpose of this by-law is to adopt a framework for the supply of electricity to consumers within the municipal area, either by the municipality or in terms of service delivery agreements.

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CHAPTER 1 INTERPRETATION

1. Definitions

- (1) In this by-law, unless inconsistent with the context -

"accredited person" means a person registered in terms of the Installation Regulations as an electrical tester for single phase, an installation electrician or a master installation electrician, as the case may be;

"applicable standard specification" means the standard specifications generally accepted by electrical practitioners as standard in the electricity environment;

"certificate of compliance" means a certificate in the form prescribed in the Installation Regulations, issued by an accredited person in respect of an electrical installation or part of an electrical installation;

"consumer" in relation to premises means:

- (a) any occupier thereof or any other person with whom the service provider has contracted to supply or is actually supplying electricity or
- (b) if such premises are not occupied, any person who has a valid existing agreement with the service provider for the supply of electricity to such premises; or
- (c) if there is no such person or occupier, the owner of the premises;

"credit meter" means a meter where an account is issued subsequent to the consumption of electricity;

"electrical contractor" means a person who undertakes to perform electrical installation work on behalf of any other person, but excludes an employee of such first-mentioned person;

"electrical installation" means any machinery, in or on any premises, used for the transmission of electricity from a point of control to a point of consumption anywhere on the premises, including any article forming part of such an installation irrespective of whether or not it is part of the electrical circuit, but excluding :

- (a) any machinery of the service provider related to the supply of electricity on the premises;
- (b) any machinery used for the transmission of electricity of

which the voltage shall not exceed 50 V where such electricity is not derived from the main supply of the Service provider;

- (c) any machinery which transmits electrical energy in telecommunication, television or radio circuits;
- (d) an electrical installation on a vehicle, vessel, train or aircraft.

"electricity supply" means the supply of electricity by the service provider to a consumer by connecting the electrical installation to the point of supply;

"high voltage" means the set of nominal voltage levels that are used in power systems for bulk transmission of electricity in the range of 44kV Un = 220kV in accordance with SANS 1019;

"indigent consumer" means the head of an indigent household-

- (a) who has applied to the service provider for the provision of electricity;
- (b) who has made application for, and is accorded, indigent support in terms of the municipality's indigent support policy; and
- (c) who shall be regarded as the representative of all members of his or her household, including all dependents;

"indigent support policy" means the indigent support policy

approved and adopted by the municipal council of the municipality;

"Installation Regulations" mean the Electrical Installation Regulations published in Government Gazette No R2920 of 23 October 1992;

"low voltage" means the set of nominal voltage levels that are used for the distribution of electricity and the upper limit is generally accepted to be an actual voltage of 1000V (or a direct current voltage of 1500 V) in accordance with SANS 1019;

"the law" means any applicable law, proclamation, ordinance, act of parliament or enactment having the force of law;

"medium voltage" means the set of nominal voltage levels that lie above low voltage and below high voltage in the range of $1 \text{ kV} < U_n = 44 \text{ kV}$ in accordance with SANS 1019;

"meter" means a device, owned by the service provider, which records the demand and the electrical energy consumed and includes conventional and prepayment meters;

"motor load, total connected" means the sum total of the kW input ratings of all the individual motors connected to an electrical installation;

"motor rating" means the maximum continuous kW output of a motor as stated on the maker's rating plate;

"motor starting current" in relation to alternating current motors means the root mean square value of the symmetrical current taken

by a motor when energised at its rated voltage with its starter in the starting position and the rotor locked;

"municipality" means the Greater Kokstad Municipality, established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998], and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality;

"NER" means the National Energy Regulator established in terms of the National Energy Regulator Act, 2004 (Act No. 40 of 2004);

"NRS 047" means the national rationalised specification NRS 047-1:1999 - Electricity supply - Quality of service Part 1: Minimum standards, as amended from time to time;

"NRS 048" means the national rationalised specifications NRS 048-1:1996-Electricity supply Quality of supply Part 1, NRS 048-2:1996 – Electricity supply - Quality of supply Part 2, NRS 048-3:1998 - Electricity supply -Quality of supply Part 3, NRS 048-4:1999 - Electricity supply - Quality of supply Part 4, NRS 048 - 5:1998 - Electricity supply - Quality of supply Part 5, as amended from time to time;

"NRS 057" means the national rationalised specification NRS 057-2.2000-Electricity metering Part 2: Minimum requirements, as amended from time to time;

"occupier" in relation to any premises means:

- (a) any person in actual occupation of such premises;
- (b) any person legally entitled to occupy such premises;
- (c) in the case of such premises being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants, whether for his or her own account or as agent for any person entitled thereto or interested therein, or
- (d) any person in control of such premises or responsible for the management thereof, and includes the agent of any such person when he or she is absent from the Republic of South Africa or his or her whereabouts are unknown;

"owner" in relation to premises means the person in whom is vested the legal title thereto: Provided that:

- (a) in the case of immovable property-
 - (i) leased for a period of not less than 30 years, whether the lease is registered or not, the lessee thereof, or
 - (ii) beneficially occupied under a servitude or right analogous thereto, the occupier thereof;
- (b) if the owner as hereinbefore defined –
 - (i) is deceased or insolvent, has assigned his or her estate for the benefit of his or her 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, or

- (ii) is absent from the Republic of South Africa, or if his or her address is unknown to the service provider, any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property, and

- (c) if the service provider is unable to determine who such person is, the person who is entitled to the beneficial use of

such property, shall be deemed to be the owner thereof to the exclusion of the person in whom is vested the legal title thereto;

"point of consumption" means any point of outlet or the supply terminals of machinery which is not connected to a point of outlet and which converts electrical energy to another form of energy: Provided that in the case of machinery which has been installed for any specific purpose as a complete unit, the point of consumption shall be the supply terminals which have been provided on the unit of machinery for that purpose;

"point of metering" means the point at which the consumer's consumption of electricity is metered and which may be at the point of supply or at any other point on the distribution system of the service provider or the electrical installation of the consumer, as specified by any duly authorised official of the Service provider:

Provided that it shall meter all of, and only, the consumer's consumption of electricity;

"point of supply" means the point determined by the service provider or any duly authorised official of the service provider at which electricity is supplied to any premises by the service provider;

"premises" means any land or any building or structure above or below ground level and includes any vehicle, aircraft or vessel;

"prepayment meter" means a meter that can be programmed to allow the flow of pre-purchased amounts of energy in an electrical circuit;

"SANS 10142 -1" means the code of practice SANS 10142-1/SABS 0142-1:2003 - The wiring of premises Part 1: Low-voltage installations, as issued by Standards South Africa of the South African Bureau of Standards, and as incorporated in the regulations and amended from time to time;

"SANS 1019" means the specification SANS 1019/SABS 1019:2001 – Standard voltages, currents and insulation levels for electricity supply, as issued by Standards South Africa of the South African Bureau of Standards and as amended from time to time;

"SANS 1507" means the specification SANS 1507/SABS 1507:2002 – Electric cables with extruded solid dielectric insulation for fixed installations (300/500 V to 1900/3 300 V), as issued by Standards South Africa of the South African Bureau of Standards and as amended from time to time;

"service connection" means all cables and equipment required to connect the supply mains to the electrical installation of the consumer at the point of supply;

"service protective device" means any fuse or circuit breaker installed for the purpose of protecting the service provider's equipment from overloads or faults occurring on the installation or on the internal service connection;

"service provider" means the municipality, its legal successors in title and its delegates, or in the event that the municipality has concluded a service delivery agreement with another person or institution which provides the right to such person or institution to supply electricity on behalf of the municipality, then it means that person or institution;

"standby supply" means an alternative electricity supply not normally used by the consumer;

"supply mains" means any part of the service provider's electricity network;

"tariff" means the service provider's tariff of charges for the supply of electricity as determined from time to time by means of resolution;

"token" means the essential element of a prepayment metering system used to transfer information from a point of sale for electricity credit to a prepayment meter and vice versa;

"voltage" means the difference in electrical potential between any two conductors or between a conductor and the earth.

- (2) In this by-law, unless the context indicates otherwise, words and expressions denoting the singular shall include the plural and vice versa, words and expressions denoting the male sex shall include the female sex and vice versa and reference to a natural person shall include a legal person and vice versa.
- (3) The headings and titles in this by-law shall not affect the construction thereof.

CHAPTER 2

GENERAL CONDITIONS OF SUPPLY OF ELECTRICITY

2. Electricity supply

- (1) Only the service provider shall supply or contract for the supply of electricity within the jurisdiction of the municipality.
- (2) The service provider will supply electricity subject to the conditions of the licence issued to it by the NER and will furthermore specifically adhere to the stipulations of : NRS 047, NRS 048, NRS 057, SANS 10142-1, SANS 1019 and SANS 1057.
- (3) If at any time any consumer wants to test the service delivery levels of the service provider, enquiries into the stipulations of the NRS and SANS documents may be directed to the NER.

3. Supply by agreement, excluding prepaid meters

- (1) No person shall use or be entitled to use electricity, unless or until such person have entered into an agreement in writing with the service provider for the supply of electricity, and such agreement together with the provisions of this by-law shall in all respects govern such supply: Provided that persons using prepayment electricity will not be required to complete the agreement stipulated in this section, but shall comply with the stipulations of section 23 of this by-law.
- (2) If a person uses electricity without entering into an agreement with the service provider then he or she shall be liable for the cost of electricity used.
- (3) If a consumer, including a consumer with a prepayment meter, tampers or interferes with the devices stipulated in section 44, then the electricity supply may be disconnected without prior notice on the terms referred to in the supply agreement.

4. **Application for supply**

- (1) (a) Application for the supply of electricity shall be made in writing by the prospective consumer on the prescribed form obtainable at the offices of the service provider, and the estimated load, in KVA, of the installation, shall be stated therein.
- (b) Such application shall be made as early as possible before the supply of electricity is required in order to facilitate the work of the service provider.
- (2) An application for an electricity supply for a period of less than one year shall be regarded as an application for a temporary supply of electricity and shall be considered at the discretion of the service provider or any duly authorised official of the service provider, which may specify any special conditions to be satisfied in such case, subject further to the stipulations of section 15.

5. **Processing of requests for supply**

Applications for the supply of electricity will be processed and finalized as soon as possible and in any event within a reasonable time as stipulated in NRS 047.

6. **Wayleaves**

- (1) The service provider may refuse to lay or erect a service connection above or below ground on any thoroughfare or land not vested in the service provider or on any private property, unless and until the prospective consumer has obtained and deposited,

with the service provider, written permission granted by the owner of the said private property or by the person in whom is vested the legal title to the land or thoroughfare as aforesaid, authorising the laying or erection of a service connection thereon.

- (2) If the permission referred to in sub-section (1) is withdrawn at anytime or if the property or land changes ownership and the new owner refuses to grant or uphold the permission, then the consumer to whose premises the supply is required to be continued must bear the cost of -
- (a) any alteration of the electricity service connection or supply mains that may become necessary in order that the supply may be continued; and
 - (b) any removal of an electricity service connection or supply mains that may become necessary in order that the supply may be continued.
- (3) The municipality may remove any object or rectify any activity that may endanger the integrity of the distribution system of the municipality.

CHAPTER 3

RIGHTS AND OBLIGATIONS OF THE SERVICE PROVIDER

7. Statutory servitude

- (1) Subject to the provisions of subsection (3), the service provider may within the municipal area:

- (a) provide, establish and maintain electricity services;
 - (b) acquire, construct, lay, extend, enlarge, divert, maintain, repair, discontinue the use of, close up and destroy electricity supply mains;
 - (c) construct, erect or lay any electricity supply main on, across, through, over or under any street or immovable property and the ownership of any such main shall vest in the service provider;
 - (d) do any other thing necessary or desirable for or incidental, supplementary or ancillary to any matter contemplated by paragraphs (a) to (c).
- (2) For the purposes of sub-section (1), earth, paving bricks, stone, iron work or woodwork or other surface covering on any portion of any premises may be removed for the purposes of upgrading, inspection or maintenance work.
- (3) In executing any *bona fide* duties, the municipality must endeavour to restore the premises as far as possible to its previous level.
- (4) The service provider shall, before commencing any work other than repairs or maintenance on or in connection with any electricity supply main on immovable property, not owned by the service provider or under the control or management of the service provider, give the owner or occupier of such property reasonable notice of the proposed work and the date on which it proposes to commence such work.

8. Right of admittance to inspect, test and do maintenance work

- (1) The service provider shall, through its employees, contractors and their assistants and advisers, have access to or over any property for the purposes of:
 - (a) doing anything authorised or required to be done by the service provider under this by-law;
 - (b) inspecting and examining any service mains and anything connected therewith;
 - (c) enquiring into and investigating any possible source of electricity supply or the suitability of immovable property for any work, scheme or undertaking of the service provider and making any necessary survey in connection therewith;
 - (d) ascertaining whether there is or has been a contravention of the provisions of this by-law; and
 - (e) enforcing compliance with the provisions of this by-law.
- (2) An employee of the service provider authorised thereto by the service provider may, by notice in writing served on the owner or occupier of any property, require such owner or occupier to provide, on the day and at the hour specified in such notice, access to such property and for a purpose referred to in sub-section (1).
- (3) The service provider may gain access to or over any property without notice and may take whatever action as may, in its reasonable opinion, be necessary or desirable in consequence of

the existence of a state of war or the occurrence of any calamity, emergency, disaster or if there are reasonable grounds to suspect that the occupier of the premise may be acting in contravention of any provision of this by-law.

9. **Right to disconnect supply**

- (1) The service provider shall have the right to disconnect the supply of electricity to any premises if the person liable to pay for such supply fails to pay any charge due in connection with any supply of electricity or where any of the provisions of this by-law or any supply agreement have been contravened.
- (2) The service provider shall not disconnect the aforesaid supply unless the person mentioned in sub-section (1) has been provided with written notice, affording him or her a period of 14 (fourteen) days within which to remedy his or her default, and the person has consequently failed to remedy such default.
- (3) If there is a reasonable possibility that injury or harm will be inflicted upon any person or property, or where the circumstances described in terms of section 44 exist, then the aforesaid supply may be disconnected without notice.
- (4) After disconnection has been effected, as contemplated in terms of the preceding sub-sections, a reconnection fee shall be paid, as prescribed by the service provider.
- (5) In the case where an installation has been illegally reconnected on a consumer's premises, after having been previously legally disconnected by the service provider, or in the case where the

service provider's electrical equipment has been tampered with to prevent the full registration of consumption by the meter, the electricity supply may be terminated and the electrical installations may be physically removed from those premises.

- (6) This section shall apply to prepayment meters where any of the provisions of this by-law are contravened, or where there is a reasonable possibility that injury or harm will be inflicted upon any person or property, to person or property, or as envisaged in terms of section 44 of this by-law.

10. Leakage of electricity

Under no circumstances shall any rebate be allowed on the account for electricity supplied and metered in respect of electricity wasted owing to leakage or any other fault in the electrical installation of the consumer.

11. Failure of supply

- (1) The service provider does not undertake to attend to a failure of supply of electricity due to a fault in the electrical installation of the consumer, except when such failure is due to the operation of the service protective device of the service provider.
- (2) When any failure of supply of electricity is found to be due to a fault in the electrical installation of the consumer or to the faulty operation of apparatus used in connection therewith, the service provider shall have the right to charge the consumer the fee as prescribed by the service provider, for each restoration of the supply of electricity, in addition to the cost of making good or repairing any damage which may have been done to the service

main and meter by such fault or faulty operation.

12. Seals of the service provider

The meter, service protective devices and all apparatus belonging to the service provider shall be sealed or locked by a duly authorised official of the service provider, and no person, not being an official of the service provider duly authorised thereto, shall in any manner or for any reason whatsoever remove, break, deface, or tamper or interfere with such seals or locks.

13. Temporary disconnection and reconnection

- (1) The service provider shall, at the request of the consumer, temporarily disconnect and reconnect the supply of electricity to the consumer's electrical installation upon payment of the fee as prescribed by the service provider for each such disconnection and subsequent reconnection.
- (2) In the event of the necessity arising for the service provider to effect a temporary disconnection and reconnection of the supply of electricity to a consumer's electrical installation and the consumer is not responsible for bringing about this necessity, the service provider shall waive payment of the fee hereinbefore referred to.
- (3) The service provider may only under exceptional circumstances temporarily disconnect the supply of electricity to any premises, without notice, for the purpose of effecting repairs or carrying out tests.
- (4) Notice of a planned disconnection or interruption must be given to

the consumer by the municipality in accordance with NRS 047.

- (5) Disconnection contemplated in this section must be effected and handled by the municipality in accordance with NRS 047.
- (6) Should the municipality have to perform tasks in the distribution network for a period not exceeding 45 minutes, the municipality is not required to give a prior notice of the interruption to the consumer, except in the case of electricity supplied to consumers with special agreements with the municipality.

14. **Temporary supplies**

It shall be a condition of the provision of any temporary supply of electricity that if such supply is found to interfere with the efficient and economical supply of electricity to other consumers, the service provider shall have the right, with notice, or under exceptional circumstances without notice, to terminate such temporary supply at any time, and the service provider shall not be liable for any loss or damage suffered by the consumer through such termination.

15. **Temporary work**

- (1) Electrical installations requiring a temporary supply of electricity shall not be connected directly or indirectly to the supply mains except with the prior written approval of the service provider.
- (2) Full information as to the reasons for and nature of such temporary work shall accompany the application for the aforesaid approval, and the service provider may refuse such approval or may grant the same on such terms and conditions as it may desire.

16. Load reduction

- (1) At times of peak load, or an emergency, or when, in the reasonable opinion of the service provider, it is necessary for any reason to reduce the load on the electricity supply system of the service provider, it may without notice interrupt and, for such period as the service provider may deem necessary, discontinue the electricity supply to any consumer's electrically operated thermal storage water heater or any specific appliance or the whole installation.
- (2) The service provider shall not be liable for any loss or damage directly or consequentially due to or arising from such interruption and discontinuance of the electricity supply.
- (3) The service provider may install upon the premises of the consumer such apparatus and equipment as may be necessary to give effect to the provisions of subsection (1), and any duly authorised official of the service provider may at any reasonable time enter any premises for the purpose of installing, inspecting, testing, adjusting or changing such apparatus and equipment.
- (4) Notwithstanding the provisions of subsection (3), the consumer or the owner, as the case may be, shall, when installing an electrically operated water storage heater, provide such necessary accommodation and wiring as the service provider may decide so as to permit the effective installation of the apparatus and equipment referred to in subsection (3).

17. Medium and low voltage switchgear and equipment

- (1) In cases where a supply of electricity is given at either high, medium or low voltage, the supply and installation of the switchgear, cables and equipment forming part of the service connection shall, unless otherwise approved by the service provider or any duly authorised official of the service provider, be paid for by the consumer.
- (2) In the case of a medium voltage supply of electricity, all such equipment shall be approved by any duly authorised official of the service provider and installed by or under the supervision of any duly authorised official of the service provider.
- (3) No person shall operate medium voltage switchgear without the written authority of the service provider.
- (4) All earthing and testing of high or medium voltage equipment linked to the service provider's network shall be conducted by or under the supervision of an employee of the service provider.
- (5) In the case of a low voltage supply of electricity, the consumer shall provide and install a low voltage main switch or any other equipment required by the service provider or any duly authorised official of the service provider.

18. Substation accommodation

- (1) The service provider may, on such conditions as it may deem fit, require the owner to provide and maintain accommodation which shall constitute a substation and which shall consist of a separate

room or rooms to be used exclusively for the purpose of housing medium voltage cables and switchgear, transformers, low voltage cables and switchgear and other equipment necessary for the supply of electricity requested by the applicant.

- (2) The aforesaid accommodation shall be situated at a point to which free, adequate and unrestricted access is available at all times for purposes connected with the operation and maintenance of the equipment.
- (3) The service provider reserves the right to supply its own networks from its own equipment installed in such accommodation, and if additional accommodation is required by the service provider, such additional accommodation shall be provided by the applicant at the cost of the service provider.

19. **Circular letters**

The service provider may, from time to time, issue circulars detailing the requirements of the service provider regarding matters not specifically covered in this by-law, but which are necessary for the safe and efficient operation and management of the supply of electricity.

20. **Metering**

- (1) The service provider shall, at the consumer's cost in the form of a direct charge or prescribed fee, provide, install and maintain appropriately rated metering equipment at the point of metering for measuring the electricity supplied.
- (2) Except in the case of prepayment meters, the electricity used by a

consumer during any metering period shall be ascertained by the reading of the appropriate meter or meters supplied and installed by the service provider and read at the end of such period, except where the metering equipment is found to be defective, or the service provider invokes the provisions of section 22(2) of this by-law, in which case the consumption for the period shall be estimated.

- (3) Where the electricity used by a consumer is charged at different tariff rates, the consumption shall be metered separately for each rate.
- (4) The service provider reserves the right to meter the supply to any premises, blocks of shops and flats, tenement-houses and similar buildings for the buildings as a whole, or for individual units, or for groups of units.
- (5) No alterations, repairs or additions of electrical connections of any description shall be made on the supply side of the point of metering unless specifically approved in writing by the service provider or any duly authorised official of the service provider.

21. Accuracy of metering

- (1) A meter shall be conclusively presumed to be registering accurately if its error, when tested in the manner prescribed in subsection (5) hereof, is found to be within the limits of error as provided for in the applicable standard specifications.
- (2) The service provider shall have the right to test its metering equipment. If it is established by test or otherwise that such

metering equipment is defective, then the service provider shall –

- (a) in the case of a credit meter, adjust the account rendered;
and
 - (b) in the case of prepayment meters, render an account where the meter has been under-registering, or issue a free token where the meter has been over-registering, in accordance with the provisions of subsection (6).
- (3) The consumer shall be entitled to have the metering equipment tested by the service provider on payment of the prescribed fee, subject to the provisions of subsection (10). If the metering equipment is found not to comply with the system accuracy requirements as provided for in the applicable standard specifications, then an adjustment in accordance with the provisions of subsections (2) and (6) shall be made and the aforesaid fee shall be refunded.
- (4)
 - (a) In case of a dispute the service provider shall have the right, at the consumer's cost but subject to the provisions of subsection (10), to have the metering equipment under dispute tested by an approved independent testing authority, and the result of such test shall be final and binding on both parties.
 - (b) If the metering equipment is found not to comply with the system accuracy requirements, then the aforesaid fee shall be refunded.
- (5) Meters shall be tested in the manner as provided for in the

applicable standard specifications.

- (6) (a) When an adjustment is made to the electricity consumption registered on a meter in terms of subsection (2) or (3), such adjustment shall either be based on the percentage error of the meter, as determined by the test referred to in subsection (5), or upon a calculation by the service provider from consumption data in its possession.
- (b) Where applicable, due allowance shall be made for seasonal or other variations which may affect the consumption of electricity.
- (7) (a) When an adjustment is made as contemplated in subsection (6), the adjustment may not exceed a period of 3 (three) years preceding the date on which the metering equipment was found to be inaccurate.
- (b) The application of this section does not bar a consumer from claiming back overpayment for any longer period, up to a maximum of three years, where the consumer is able to prove the claim in the normal legal manner.
- (8) Where the actual load of a consumer differs from the initial estimated load, provided for under section 4(1), to the extent that the service provider deems it necessary to alter or replace its metering equipment to match the load, the costs of such alteration or replacement shall be borne by the consumer.
- (9) (a) Prior to the service provider making any upward adjustment to an account in terms of sub-section (6), the service

provider shall –

- (i) notify the consumer in writing of the monetary value of the adjustment to be made and the reasons therefor;
 - (ii) in such notification provide sufficient particulars to enable the consumer to submit representations thereon, and
 - (iii) call upon the consumer, in such notice, to provide it with reasons in writing, if any, within 21 (twenty one) days or such longer period as the service provider may permit why the account should not be adjusted as notified.
- (b) Should the consumer fail to make any representations during the period referred to in sub-section 9(a)(iii), the service provider shall be entitled to adjust the account as notified in sub-section 9(a)(i).
- (c) The service provider shall consider any reasons provided by the consumer in terms of sub-section (9)(a) and shall, if satisfied that a case has been made out therefor, adjust the account appropriately.
- (d) If a duly authorized official of the service provider decides, after having considered the representations made by the consumer, that such representations do not establish a case warranting an amendment to the monetary value established in terms of sub-section (6), then the service provider shall be entitled to adjust the account as notified in terms of sub-

section 9(a)(i), subject to the consumer's right to appeal the decision of the official in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000).

- (10) In the case of an indigent person, the costs associated with the testing of metering equipment shall be borne by the municipality, subject to application of the municipality's indigent support policy.

22. Reading of credit meters

- (1) Unless otherwise prescribed, credit meters shall normally be read at intervals of one month and the fixed or minimum charges due in terms of the tariff shall be assessed accordingly. The service provider shall not be obliged to effect any adjustments to such charges.
- (2) If for any reason the credit meter cannot be read, then the service provider may render an estimated account. The electrical energy consumed shall be adjusted in a subsequent account in accordance with the electrical energy actually consumed.
- (3) When a consumer vacates a property and a final reading of the meter is not possible, an estimate of the consumption may be made and the final account rendered accordingly.
- (4) If a special reading of the meter is desired by a consumer, then this may be obtained upon payment of the prescribed fee.
- (5) (a) If any calculating, reading or metering error is discovered in respect of any account rendered to a consumer, then the

error shall be corrected in subsequent accounts.

- (b) Any such correction shall only apply in respect of accounts for a period of three years, preceding the date on which the error in the accounts was discovered, and shall be based on the actual tariffs applicable during the period.
- (c) The application of this section does not prevent a consumer from claiming back overpayment for a period of up to three years where the consumer is able to prove the claim in the normal legal manner.

23. Prepayment metering

- (1) Persons wishing to have a prepayment meter installed on their property shall apply for such an installation, in writing, on the prescribed form obtainable at the office of the service provider.
- (2) Copies of previously issued tokens for the transfer of credit to the prepayment meter may be issued at the request of the consumer.
- (3) When a consumer vacates any premises where a prepayment meter is installed, no refund for the credit remaining in the meter shall be made to the consumer by the service provider.
- (4) The service provider shall not be liable for the reinstatement of credit that has been lost due to tampering with, the incorrect use of, or the abuse of a prepayment meter.
- (5) Where a consumer is indebted to the service provider for electricity consumed or to the service provider for any other service supplied

or for any charges previously raised with any service rendered, the service provider may deduct a percentage from the amount tendered to offset the amount owing to the service provider.

- (6) The service provider may, at its discretion, appoint vendors for the sale of credit for prepayment meters and shall not guarantee the continued operation of any vendor.
- (7) If a person uses prepayment electricity supply without completing the prescribed forms, then he or she shall still be liable for the cost of electricity used.
- (8)
 - (a) Where prepayment meters are installed by the service provider with grants received from the National Government, no application forms shall be completed as referred to in subsection (1).
 - (b) It shall be deemed that the consumer applied for a prepayment meter and the by-law shall apply, *mutatis mutandis*, to circumstances where the prepayment meters were installed by the service provider with funds received as grants.

24. Electrical contractors

- (1) Where an application for a new or increased supply of electricity has been made to the service provider, any duly authorised official of the service provider may at his or her discretion accept notification of the completion of any part of an electrical installation.
- (2) The circuit arrangements must permit the electrical installation to be

divided up into well -defined separate portions, and such part of the electrical installation may, at the discretion of any duly authorised official of the service provider, be inspected, tested and connected to the supply mains as though it were a complete installation.

- (3) The examination, test and inspection carried out at the discretion of the service provider, or any duly authorised official of the service provider, in no way relieves the electrical contractor or accredited person or the user or lessor, as the case may be, from responsibility for any defect in the installation.
- (4) Such examination, test and inspection shall not be taken under any circumstances (even where the electrical installation has been connected to the supply mains) as indicating or guaranteeing in any way that the electrical installation has been carried out efficiently, with the most suitable materials for the purpose, or that it is in accordance with this by-law or the safety standard, and the service provider shall not be held responsible for any defect or fault in such electrical installation.
- (5)
 - (a) The service provider shall not be held responsible for any work done by an electrical contractor or a credited person on the consumer's premises.
 - (b) The service provider shall further not be in any way responsible for any loss or damage which may arise from an act or omission in respect of the work done on a consumer's premises by an electrical contractor or a credited person.

25. Cost for repair of damages

- (1) The service provider may repair and make good any damage done in contravention of this by-law or resulting from a contravention of this by-law.
- (2) The cost of any such work, carried out by the service provider, which was necessary due to the contravention of this by-law, shall be for the account of the person who acted in contravention of this by-law.

26. Non-liability of the service provider

- (1) The service provider shall not be liable for any loss or damage, direct or consequential, suffered or sustained by a consumer as a result of or arising from the cessation, interruption or any other abnormality of the supply of electricity, unless caused by negligence on the part of the service provider.
- (2) The service provider accepts no responsibility for any damages or loss originating from or in connection with the installation of an electrical installation or any alteration or addition thereto, or which originates from the condition of the electrical installation.

CHAPTER 4**RIGHTS AND OBLIGATIONS OF THE CONSUMER****27. Improper use of electricity**

- (1) If the consumer uses the electricity for any purpose or deals with

the electricity in any manner which the service provider, on reasonable grounds, believes interferes in an improper or unsafe manner, or is calculated to interfere in an improper or unsafe manner, with the efficient supply of electricity to any other consumer, then the service provider may, with or without notice, disconnect the electricity supply, but such supply shall be restored as soon as the cause for the disconnection has been permanently remedied or removed.

- (2) The fee as prescribed by the service provider for the disconnection and reconnection shall be paid by the consumer before the electricity supply is restored, unless it can be shown that the consumer did not use or deal with the electricity in an improper or unsafe manner.

28. **Wiring diagrams and specifications**

- (1) When more than one electrical installation or electricity supply from a common main or more than one distribution board or meter is required for any building or block of buildings, the wiring diagram of the circuits starting from the main switch and a specification shall be supplied to the service provider, in duplicate, for approval before the work commences.
- (2) Where an electrical installation is to be supplied from a substation on the same premises from which the current is transformed from high voltage, or from one of the substations of the service provider through mains separate from the general distribution system, a complete specification and drawings for the plant to be installed by the consumer shall, be forwarded to the service provider for approval before any material in connection therewith is ordered.

29. Standby supply

No person shall be entitled to a standby supply of electricity from the service provider for any premises having a separate source of electricity supply, except with the written consent of the service provider and subject to such terms and conditions laid down by the service provider.

30. Consumer's emergency standby supply equipment

- (1)
 - (a) No emergency standby equipment provided by a consumer for his/her own operational requirements, shall be connected to any electrical installation without the prior written approval of the service provider.
 - (b) Application for such approval shall be made in writing and shall include a full specification of the equipment and a wiring diagram.
 - (c) The standby equipment shall be so designed and installed that it is impossible for the service provider's supply mains to be energized by means of a back-feed from such equipment.
 - (d) The consumer shall be responsible for providing and installing all such protective equipment.
- (2) Where, by special agreement with the service provider, the consumer's standby generating equipment is permitted to be electrically coupled to, and run in parallel with the service provider's supply mains, the consumer shall be responsible for providing, installing and maintaining all the necessary synchronizing and protective equipment required for such safe parallel operation, to the satisfaction of the service provider.

31. Consumer to erect and maintain electrical installation

Any electrical installation connected or to be connected to the supply mains, and any additions or alterations thereto which may be made from time to time, shall be provided and erected and maintained and kept in good order by the consumer at his or her own expense and in accordance with this by-law.

32. Fault in electrical installation

- (1) If any fault develops in the electrical installation, which constitutes a hazard or danger to persons, livestock or property, then the consumer shall immediately disconnect the electricity supply.
- (2) The consumer shall, without delay, give notice thereof to the service provider and shall immediately take steps to remedy the fault.
- (3) The service provider may require the consumer to reimburse it for any expense to which it may be put in connection with a fault in the electrical installation.

33. Discontinuance of the use of electricity supply

In the event of a consumer desiring to discontinue using the electricity supply, he or she shall give at least 2 (two) full working days' notice in writing of such intended discontinuance to the service provider, failing which he or she shall remain liable for all payments due in terms of the tariff for the supply of electricity until the expiration of 2 (two) full working days after such notice has been given.

34. Change of occupier

- (1) A consumer vacating any premises shall give the service provider not less than 2 (two) full working days' notice in writing of his or her intention to discontinue using the electricity supply, failing which he or she shall remain liable for such supply.

- (2)
 - (a) If the person taking over occupation of the premises desires to continue using the electricity supply, then he or she shall make application in accordance with the provisions of this by-law.

 - (b) Failure to make application for an electricity supply within 14 (fourteen) working days of taking occupation of the premises can lead to the supply of electricity being disconnected, and the occupier shall be liable to the service provider for the electricity supply from the date of occupation until such time as the supply is so disconnected.

- (3)
 - (a) Where premises are fitted with pre-payment meters any person occupying the premises at that time shall be deemed to be the consumer.

 - (b) Until such time as an application is made by this person for a supply of electricity, in terms of this by-law, he or she shall be liable for all charges and fees owed to the service provider for that metering point as well as any outstanding charges and fees whether accrued by that person or not.

35. Service apparatus

- (1) The consumer shall be liable for all costs to the service provider arising from damage to or loss of any metering equipment, service protective device, service connection or other apparatus on the premises, unless such damage or loss is shown to have been occasioned by an Act of God, or an act or omission of an employee of the service provider, or caused by an abnormality in the supply of electricity to the premises.
- (2) If, during a period of disconnection of an electrical installation from the supply mains, property of the service provider, such as the service main, metering equipment or any other service apparatus, that had been removed without permission or that was damaged so as to render reconnection dangerous, then the owner or occupier of the premises, during the specified period, shall bear the cost of overhauling or replacing such equipment.
- (3) Where there is a common metering position, the liability detailed in sub-section (1) shall devolve on the owner of the premises.
- (4) The amount due in terms of subsection (1) shall be proved by a certificate from the service provider, which shall be final and binding.

36. Service connection

- (1) The consumer shall bear the cost of the service connection, as approved by the service provider.
- (2) (a) Notwithstanding the fact that the consumer bears the cost of

the service connection, ownership of the service connection, laid or erected by the service provider, shall vest in it and the service provider shall be responsible for the maintenance of such service connection up to the point of supply.

- (b) The consumer shall not be entitled to any compensation from the service provider in respect of such service connection.
- (3) The work to be carried out by the service provider, at the cost of the consumer, for a service connection to the consumer's premises shall be determined by the service provider or any duly authorised official of the service provider.
- (4) A service connection shall be laid underground, irrespective of whether the supply mains are laid underground or erected overhead, unless an overhead service connection is specifically required by the service provider.
- (5) The consumer shall provide, fix and maintain on his or premises such ducts, wire ways, trenches, fastenings and clearances to overhead supply mains as may be required by the service provider for the installation of the service connection.
- (6) The conductor used for the service connection shall have a cross-sectional area according to the size of the electrical supply but shall not be less than 10 mm² (copper or copper equivalent), and all conductors shall have the same cross-sectional area, unless otherwise approved by any duly authorised official of the service provider.

- (7) (a) Unless otherwise approved, the service provider shall only provide one service connection to each registered erf.
- (b) In respect of two or more premises belonging to one owner and situated on adjacent erven, a single bulk supply of electricity may be made available, provided the erven are consolidated.
- (8) Any covers of a wire way carrying the supply circuit from the point of supply to the metering equipment shall be made to accept the seals of the service provider.
- (9) The service conductor or cable, as the case may be shall terminate within the meter box : Provided that any the conductors shall be visible throughout their length when cover plates, if present, are removed.
- (10) (a) In the case of blocks of buildings occupied by a number of individual consumers, separate wire ways and conductors or cables shall be laid from the common metering room or rooms to each individual consumer in the blocks of buildings.
- (b) Alternatively, if trunking is used, the conductors of the individual circuits shall be clearly identified (tied together every 1,5m) throughout their length.

37. **Metering accommodation**

- (1) The consumer shall, if required by the service provider or any duly authorised official of the service provider, provide accommodation in an approved position for the meter board and adequate

conductors for the service provider's metering equipment, service apparatus and protective devices.

- (2) (a) Such accommodation and protection shall be provided and maintained, to the satisfaction of the service provider, at the cost of the consumer or the owner, as the circumstances may demand, and shall be situated, in the case of credit meters, at a point to which free and unrestricted access shall be had at all reasonable hours for the reading of meters and for purposes connected with the operation and maintenance of the service equipment.
 - (b) Access at all reasonable hours shall be afforded for the inspection of prepayment meters.
- (3) Where sub-metering equipment is installed, accommodation separate from the service provider's metering equipment shall be provided.
- (4) The consumer or, in the case of a common meter position, the owner of the premises shall provide adequate electric lighting in the space set aside for accommodating the metering equipment and service apparatus.
- (5) Where, in the reasonable opinion of the service provider, the position of the meter, service connection or protective devices is no longer readily accessible or becomes a danger to person or property or in any way becomes unsuitable, the service provider shall remove it to a new position, and the cost of such removal shall be borne by the consumer.

- (6) (a) The accommodation for the service provider's metering equipment shall only include its own equipment.
- (b) No apparatus other than that used in connection with the supply of electricity and use of electricity shall be installed or stored in such accommodation.

38. Load requirements

Alternating current supplies shall be provided and, in the absence of a quality of supply agreement, it shall be as set out in applicable standard specification.

39. Load limitations

- (1) Where the estimated load, calculated in terms of the safety standard, does not exceed 15 KVA, the electrical installation shall be arranged for a two-wire single-phase supply of electricity, unless otherwise approved by the service provider or any duly authorised official of the service provider.
- (2) Where a three-phase four-wire supply of electricity is provided, the load shall be approximately balanced over the three phases but the maximum out-of-balance load shall not exceed 15kVA, unless otherwise approved by the service provider or any duly authorised official of the service provider.
- (3) No current-consuming appliance, inherently single phase in character, with a rating which exceeds 15kVA, shall be connected to the electrical installation without the prior approval of the service provider.

40. **Supplies to motors**

Unless otherwise approved by the service provider or any duly authorised official of the service provider, the rating of motors shall be limited as follows:

- (a) in respect of limited size for low voltage motors -
- (i) the rating of a low voltage single -phase motor shall be limited to 2kW, alternatively the starting current shall not exceed 70A and all motors exceeding these limits shall be wound for three phases at low voltage or such higher voltage as may be required; and
- (b) in respect of maximum starting and accelerating currents of three-phase alternating current motors -
- (i) the starting current of three-phase low voltage motors permitted shall be related to the capacity of the consumer's service connection as follows:

Insulated service cable, size in mm ² , copper equivalent mm ²	Maximum permissible starting current A	Maximum motor rating in kW		
		Direct on	Star/Delta	Other means

		line (6x full-load current	(2,5 x full-load current)	(1,5 x full-load current)
		kW	kW	kW
16	72	6	13,5	23
25	95	7,5	18	30
35	115	9	22	36,5
50	135	10	25	45
70	165	13	31	55
95	200	16	38	67
120	230	18	46	77
150	260	20	52	87

42. Power factor

- (1) If required by the service provider, then the power factor of any load shall be maintained within the limits of 0,85 lagging and 0,9975 leading.
- (2)
 - (a) Where, for the purpose of complying with sub-section (1), it is necessary to install power factor corrective devices, the consumer wishing to install such devices must first obtain written permission from the service provider by applying for permission on the prescribed forms.
 - (b) Such corrective devices shall, subject to sub - section (3), be connected to the individual appliance terminals unless the correction of the power factor is automatically controlled.
- (3) The power factor corrective devices must consist of and contain the necessary filters, as required by the service provider.

- (4) The service provider will, at the cost of the consumer, install such corrective devices.
- (5) The service provider may regulate load control by means of a high frequency.

43. **Protection**

Electrical protective devices for motors shall be of such a design as effectively to prevent sustained over current and single phasing, where applicable, in accordance with SANS 10142-1/

CHAPTER 5 PROHIBITED CONDUCT

44. **Tampering with service connection or supply mains**

- (1) No person shall in any manner or for any reason whatsoever tamper or interfere with any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of the service provider.
- (2)
 - (a) Where prima facie evidence exists of a consumer or any person having contravened subsection (1), the service provider shall have the right to disconnect the supply of electricity immediately and without prior notice to the consumer.
 - (b) The person shall be liable for all fees and charges levied by the service provider for such disconnection.

- (3) In cases where the time frame, interference or bypassing, referred to in subsection (1) has resulted in the accuracy of the metering installation having been compromised, the municipality has the right to recover from the consumer the full cost of the estimated consumption.

45. Protection of service provider's supply mains

- (1) No person shall, except with the consent of the service provider and subject to such conditions as may be imposed:
- (a) construct, erect or lay, or permit the construction, erection or laying of any building, structure or other object, or plant trees or vegetation over or in such a position or in such a manner as to interfere with or endanger the supply mains;
 - (b) excavate, open up or remove the ground above, next to, under or near any part of the supply mains;
 - (c) damage, endanger, remove or destroy, or do any act likely to damage, endanger or destroy any part of the supply mains;
and
 - (d) make any unauthorized connection to any part of the supply mains or divert or cause to be diverted any electricity therefrom.
- (2) (a) The owner or occupier shall limit the height of trees or length of projecting branches in the proximity of overhead lines, or provide a means of protection which, in the reasonable

opinion of the service provider, will adequately prevent the tree from interfering with the conductors should the tree or branch fall or be cut down.

- (c) Should the owner fail to observe this provision the service provider shall have the right, after prior written notification, or at any time in an emergency, to cut or trim the trees or other vegetation in such a manner as to comply with this provision and shall be entitled to enter the property for this purpose.
- (3) The service provider may, subject to obtaining an order of court, demolish, alter or otherwise deal with any building, structure or other object constructed, erected or laid in contravention of this by-law.
- (4) The service provider may, in the case of an emergency or disaster, remove anything damaging, obstructing or endangering, or likely to damage, obstruct, endanger or destroy, any part of the electrical distribution system.

46. **Unauthorised connections**

No person, other than a person specifically authorised thereto by the service provider in writing, shall directly or indirectly connect, attempt to connect or cause or permit to be connected, any electrical installation or part thereof to the supply mains or service connection.

47. **Unauthorised reconnections**

- (1) No person, other than a person specifically authorised thereto by the service provider in writing, shall reconnect, attempt to reconnect or cause or permit to be reconnected to the supply mains or service

connection, any electrical installation or installations which has or have been disconnected by the service provider.

- (2) Where the supply of electricity that has previously been disconnected is found to have been reconnected, the consumer using the supply of electricity shall be liable for all charges for electricity consumed between the date of disconnection and the date the electricity supply was found to be reconnected and any other charges raised in this regard.
- (3)
 - (a) The service provider reserves the right to remove part or all of the supply equipment until such time as payment has been received in full.
 - (b) In addition, the consumer will be responsible for all the costs associated with the reinstatement of such supply equipment.
- (4) This section is also applicable to persons using prepayment electricity.

48. **Interference with other persons' electrical equipment**

- (1) No person shall operate electrical equipment having load characteristics which, singly or collectively, give rise to voltage variations, harmonic currents or voltages, or unbalanced phase currents which fall outside the applicable standard specification.
- (2) The assessment of interference with other persons' electrical equipment shall be carried out by means of measurements taken at the point of common coupling.

- (3) Should it be established that undue interference is in fact occurring, the consumer shall, at his or her own cost, install the necessary equipment to filter out the interference and prevent it reaching the supply mains.

49. Refusal or failure to give information

No person shall refuse or fail to give such information, as may be reasonably required of him or her by any duly authorised official of the service provider, or render any false information to any such official regarding any electrical installation work completed or contemplated.

50. Refusal of admittance

No person shall willfully hinder, obstruct, interfere with or refuse admittance to any duly authorised official of the service provider in the performance of his or her duty under this by-law or of any duty connected therewith or relating thereto.

**CHAPTER 6
PAYMENTS AND FEES**

51. Electricity tariffs and fees

Copies of and information in respect of charges and fees may be obtained at the offices of the service provider.

52. Deposits

- (1) (a) The service provider may require the consumer to deposit a sum of money or to provide an approved bank guarantee as

security in payment of any charges which are due or may become due to the service provider.

- (b) The amount of the deposit in respect of each electrical installation shall be determined by the service provider, and each such deposit may be increased if the service provider deems the deposit held to be inadequate.
- (2) (a) Such deposit shall not be regarded as being in payment or part payment of any accounts due for the supply of electricity for the purpose of obtaining any discount provided for in the electricity tariff referred to in this by-law.
- (b) On cessation of the supply of electricity, the amount of such deposit, free of any interest, less any payments due to the service provider, shall be refunded to the consumer.

53. Payment of charges

- (1) (a) The consumer shall be liable for all charges listed in the prescribed tariff for the electricity service as approved by the service provider.
 - (b) A copy of the prescribed tariff is obtainable from the service provider.
- (2) All accounts shall be deemed to be payable when issued by the service provider and each account shall, on its face, reflect the due date and a warning indicating that the supply of electricity may be disconnected should the charges in respect of such supply remain unpaid after the due date.

- (3) An error or omission in any account or failure to render an account shall not relieve the consumer of his obligation to pay the correct amount due for electricity supplied to the premises and the onus shall be on the consumer to satisfy him- or herself that the account rendered is in accordance with the prescribed tariff of charges in respect of electricity supplied to the premises.
- (4) (a) No person may obstruct, hinder or interfere with a duly authorised official or authorized agent of the service provider during the official or agent's visits to the premises to disconnect the supply of electricity in terms of subsection (2).
- (b) Apart from contravening this subsection, the person so obstructing, hindering or interfering shall be liable to pay the prescribed fees for each visit necessary for the purpose of such disconnection.
- (5) After disconnection for non-payment of an account, the prescribed fees and any amounts due for electricity consumed shall be paid before the electricity supply is re-connected.

54. **Interest on overdue accounts**

The service provider may charge interest on accounts, which are not paid by the due date appearing on the account, at an interest rate as approved by the service provider from time to time.

CHAPTER 7 MISCELLANEOUS

55. Service of notice

- (1) Any notice or other document that is served on any person in terms of this by-law is regarded as having been served:
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgement of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c); or
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates.
- (2) When any notice or other document must be authorised or served on the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.

- (3) Any legal process is effectively and sufficiently served on the service provider when it is delivered to the municipal manager or a person duly in attendance at the municipal manager's office.

56. Compliance with notices

Any person, on whom a notice duly issued or given under this by-law is served, shall, within the time specified in such notice, comply with its terms.

57. Resale of electricity

Unless otherwise authorised by the service provider, no person shall sell or supply electricity, supplied to his or her premises under an agreement with the service provider, to any other person or persons for use on any other premises, or permit such resale or supply to take place.

58. Offences and penalties

- (1) Any person contravening or failing to comply with any of the provisions of these by-laws shall be guilty of an offence and shall, upon conviction by a court, be liable to a fine not exceeding R60 000, or imprisonment for a period not exceeding three years, or both a fine as well as period of imprisonment, or such other fine or period of imprisonment which the Minister of Justice may from time to time determine in terms of the provisions of the Magistrate's Courts Act, 1944 (Act No 32 of 1944).
- (2) Any expense incurred by the municipality, as a result of a contravention of this by-law or in the doing of anything which a person was directed to do under this by-law and which he or she failed to do, may be recovered by the municipality from the person

who committed the contravention or who failed to do such thing.

- (3) Any person who continues to commit an offence after notice has been served on him or her to cease committing such offence, or after he or she has been convicted of such offence, shall be guilty of a continuing offence.
- (4) Any person who, after conviction in terms of this by-law, persists in the conduct or neglect which caused the offence, shall be guilty of a continuing offence and liable to a fine of at least R200.00 per day for each ensuing day that the contravention persists.

59. Repeal

Any by-law relating to the supply of electricity that was previously adopted by the municipality shall be repealed from the date of promulgation of this by-law.

60. Short title and commencement

This by-law is called the By-law relating to Electricity Supply, 2007 and shall come into operation on a date determined by the municipality by proclamation in the Provincial Gazette.

GREATER KOKSTAD MUNICIPALITY**BY-LAW RELATING TO THE CONTROL OF PUBLIC NUISANCES**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act [Act No. 108 of 1996], the By-law Relating to the Control of Public Nuisances.

Purpose of By-law

The purpose of this by-law is to promote a safe, healthy and peaceful environment for the benefit of the public residing within the municipal boundaries, and to provide for practices and procedures to control public nuisances.

CHAPTER 1**DEFINITIONS**

1. **Definitions** - In this by-law, unless the context otherwise indicates -

'**area**' means the geographical area falling within the municipal boundaries of the Greater Kokstad Municipality;

'**authorised official**' means –

- (a) an official of the Municipality who has been authorised by it to administer, implement and enforce the provisions of this by-law;
- (b) a traffic officer appointed in terms of Section 3A of the National Road Traffic Act, 1996 [Act No. 93 of 1996];
- (c) a member of the police service, as defined in terms of Section 1 of the South African Police Service Act, 1995 [Act No. 68 of 1995]; or
- (d) a peace officer, contemplated in terms of Section 334 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];

'**municipality**' means the Greater Kokstad Municipality, established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998], and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, councillor, agent or employee;

'**nuisance**' means, without limiting the generality of the term, an act, omission, condition or state of affairs that –

- (a) impedes, offends, endangers or inconveniences the public at large; or
- (b) causes material inconvenience in the ordinary and comfortable use or enjoyment of private property,

and '**public nuisance**' shall have a corresponding meaning;

'**occupier**' means and includes any person in actual occupation of any land or private property or having the charge or management thereof, without regard to the title under which he or she occupies it, and, in the case of private property subdivided and let to various lodgers or tenants, the person receiving the rent payable by lodgers or tenants, whether on his or her own account or as agent for any person entitled thereto or interested therein;

'**owner**', in relation to any private property means -

- (a) the person in whose name the title to that private property is registered in terms of the Deeds Registries Act, 1937 [Act No. 47 of 1937], as amended, and includes the holder of the stand licence;
- (b) the person in whose name the certificate of sectional title to that private property is registered in terms of the Sectional Titles Act, 1986 [Act No. 95 of 1986], and, in addition, includes the owner (as defined in the said Act), the body corporate and the developer in relation to such private property;
- (c) if such person or holder is dead, insolvent, mentally disordered or defective, a minor, or under any legal disability, the person in whom the administration of that person's or holder's estate is vested, whether as executor, trustee, liquidator, guardian or in any other capacity whatsoever;
- (d) if the private property is under lease, the registration whereof being necessary for the validity of such lease, the lessee; or
- (e) where an owner, as herein defined, is absent from the Republic or his whereabouts are unknown, an agent of such owner, or any person receiving or entitled to receive rent in respect of the private property or any 'unit', as defined in the Sectional Titles Act, 1986, of such private property;

'**private property**' shall include any public place and any land privately owned, all buildings, rooms, tenements, sheds, huts or other structures or erections, and also yards or lands in connection therewith, and shall also include any "unit", as defined in the Sectional Titles Act, 1986, thereof;

'public facility' means an amenity provided by the municipality for the utilisation by and convenience of the public at large;

'public place' means any square, park, recreation ground or open space which -

- (a) is vested in the municipality; or
- (b) the public has the right to use; or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General's office and has been provided for or reserved for the use of the public or the owners of erven in such township;

'public vehicle' means any vehicle or conveyance which is the property or under the control of the municipality, and which is used for the transport, for profit or otherwise, of members of the public;

'refuse', without limiting the ordinary meaning of the word, means any unused vehicle or machinery or part thereof, or any scrap metal, builder's rubble, garden refuse, debris, garbage, tyres or any other discarded or abandoned article or object;

'vehicle' means any conveyance which is capable of transporting one or more persons, except a wheelchair or similar device used for the conveyance of a physically impaired person.

CHAPTER 2

PUBLIC PLACES

2. Breaches of the peace

A person commits an offence if, in a public place, he or she -

- (a) accosts, insults, interferes with, jostles, threatens or harasses another person;
- (b) associates or acts in concert with other persons in a manner which causes or is likely to cause a breach of the peace; or
- (c) fights or incites or invites another person to fight.

3. Indecent behaviour

(1) A person commits an offence if, in a public place, he or she -

- (a) is not decently clothed so that at least such person's genitalia are covered from view; or

- (b) performs any indecent act, or incites any other person to commit any such offence.
- (2) A person commits an offence if, in a public place, he or she -
- (a) defecates or urinates, except within a public facility provided by or on behalf of the municipality for that purpose;
 - (b) enters a toilet reserved or set aside for members of the opposite sex;
 - (c) spits;
 - (d) is under the influence of intoxicating liquor or imbibes or ingests such liquor in circumstances which, in the reasonable opinion of an authorised official, render it likely that such person will cause a nuisance to other persons;
 - (e) is under the influence of a dependence-producing substance, as defined in the Drugs and Drug Trafficking Act, 1992 [Act No. 140 of 1992], or administers such a substance to him- or herself or another person; or
 - (f) commits or displays any indecent gesture, or indecently exposes him- or herself.

4. **Obscene or offensive language**

A person commits an offence if, in a public place within the hearing of a person in a public place, he or she uses any indecent or offensive language or sings an indecent or offensive song.

5. **Indecent or offensive literature and representations**

A person commits an offence if, in a public place, he or she -

- (a) displays, distributes, exposes to view, or sells, or offers for sale, in a manner likely to cause offence, any indecent or offensive picture, or other representation or written or printed matter; or
- (b) draws, prints, writes, or otherwise produces, any indecent or offensive figure, letter, picture, word or other representation or matter so that the same is in the public view.

7. Dangerous acts

- (1) A person commits an offence if, in a public place, he or she -
 - (a) activates, handles or uses any material, object or thing which results in injury to a person, or which threatens a person, or which damages property, or he or she acts in a manner likely to result in such injury, threat or damage;
 - (b) introduces or handles any material, object or thing, or any liquid or solid substance, which, by its nature, or by reason of the manner of its introduction or handling, creates a new source of danger to persons or property, or is likely to do so;
 - (c) lights, uses, or benefits from, a fire, other than in or on a public facility provided by the municipality for that purpose;
 - (d) attaches any object to, or suspends any object from, a canopy, bridge, verandah or other projection, or a pillar, pole or post, subject to the provisions of section 9(e); or
 - (e) performs any other act which may cause injury to a person or damage to property, unless he or she is authorised or permitted by law to do so, or does so with the written permission of an authorised official and in accordance with any conditions imposed by him or her.
- (2) Regarding the discharge or use of fireworks –
 - (a) no person shall discharge fireworks from any private property or public place without the written consent of the municipality;
 - (b) applications for the written consent contemplated in terms of subsection (a) shall be -
 - (i) submitted in writing 14 (fourteen) days prior to the event; and
 - (ii) accompanied by the written consent of the immediate neighbours who occupy abutting properties and properties across the road from the private property or public place from which the fireworks will be discharged;
 - (c) nothing contained in this section shall be construed so as to detract from the requirements of the Explosives Act, 2003 [Act No. 15 of 2003], or any regulations promulgated in terms thereof.

7. Littering

- (1) A person commits an offence if, in a public place, he or she -
 - (a) abandons, discards, discharges, or spills, or causes or allows to be discharged or spilled, any rubbish or other waste material or thing, whether liquid or solid, except in a receptacle provided for the purpose; or
 - (b) removes from a receptacle, provided for the disposal of refuse, any of its contents, and causes same to be discharged from such a receptacle.
- (2) A person who causes or incites another person to perform any of the acts described in subsection (1) shall be guilty of an offence.
- (3) Any material or thing that a person drops or allows to fall without being immediately retrieved by him or her shall, for the purposes of subsection (1), be deemed to have been discarded by him or her.
- (4) Any material or thing found in a public place in circumstances giving rise to a reasonable suspicion that an offence has been committed in terms of subsection (1), and which bears the name of a person or in respect of which there is a reasonable suspicion that it is or was the property or under the control of that person, shall, for the purposes of subsection (1), be deemed to have been abandoned or discarded by that person, until the contrary is proved.
- (5) A person who sweeps, or in any other way introduces, any rubbish or waste material or thing into a public place shall be deemed to have discarded it there, for the purposes of subsection (1).
- (6) A person who has been observed by an authorised official to have contravened the provisions of subsection (1) may be directed by him or her to remove the rubbish, material or thing or to place it in a receptacle provided by or on behalf of the municipality, and failure to comply with such direction shall constitute an offence.

8. Cleaning of sidewalks and verges

- (a) An occupier of premises in or on which there is carried on any business, occupation, trade or manufacturing shall at all times, while any such activity is being carried on, keep any sidewalk and verge abutting on or adjoining the premises, including the

gutter and kerb, free of litter, and shall keep the sidewalk and verge in a clean and satisfactory state, and, to this end, remove all litter therefrom.

- (b) The occupier referred to in subsection (a) shall cause all litter removed in terms of said subsection to be placed in refuse receptacles provided by or on behalf of the municipality, or, with the written consent of an authorised official, to be disposed of in a manner approved by said authorised official.

9. Obstructions

A person commits an offence if, in a public place, he or she -

- (a) leaves any thing unattended, having introduced or placed the thing there, so as to cause or be likely to cause an obstruction to persons or vehicles;
- (b) carries, deposits, handles or introduces any thing, so as to be likely to obstruct or interfere with the free movement of persons or vehicles, or with the use of the public place by persons or vehicles, or to cause injury to any person, or damage to any property;
- (c) deposits on its surface any thing, for the purpose of, or in the course of, loading or unloading a vehicle, or of delivering same to premises having access to such public place, for a longer period than is reasonably necessary for that purpose;
- (d) obscures a road traffic sign, as defined in the National Road Traffic Act, 1996 [Act No. 93 of 1996];
- (e) hangs or suspends anything from or above a public place, or causes or allows anything to protrude above its surface or to encroach upon it, provided that prior written consent may be obtained from the municipality, which consent may be given subject to conditions and restrictions deemed necessary;
- (f) gathers with or causes a gathering of other persons in a place or manner so as to, or so as to be likely to, obstruct or restrict or interfere with the movement of persons or vehicles, or the use or enjoyment of a public place by persons or vehicles;
- (g) performs any other act which has, or is likely to have, a result described in subsection (b).

10. Disposal of property found in a public place

- (1) When anything has been left in a public place, in contravention of section 9, an authorised official may remove it to a store established by the municipality for this purpose, provided that, if such a thing, in the reasonable opinion of the authorised official, has no commercial value, he or she may dispose of same in such manner as he or she deems fit, and the person who has committed the offence shall be liable to the municipality for the cost of such disposal, as determined by such authorised official.
- (2) Items which have been removed to a store in terms of subsection (1) shall be released to any person who, within 7 (seven) days after such removal, or within such longer period as may be allowed by the authorised official in charge of such store, has demonstrated that he or she is the owner of the items, or entitled to their possession, after payment of the cost of removal and storage, as determined by such authorised official, in accordance with a prescribed tariff of charges.
- (3) Items which have not been released in terms of subsection (2) shall be sold or disposed of in such manner and after such notice as the authorised official in charge of the store deems fit, having regard for the nature of the items.
- (4) The proceeds of any sale in terms of subsection (3) shall be utilised for the payment of -
 - (a) the cost of removal and storage, as determined in terms of subsection (2);
 - (b) any costs which may have been incurred in attempting to trace the owner; and
 - (c) the costs of sale, the remaining balance being forfeited to the municipality if not claimed within 1 (one) year of the date of sale by a person who demonstrates his legal right thereto.
- (5) If the proceeds of the sale are not sufficient to meet the costs referred to in subsection (4), then the owner of the items sold and the person who committed any offence in relation thereto shall be jointly and severally liable to the municipality for payment of the unsatisfied balance.
- (6) If the items cannot be sold in terms of subsection (3), then the authorised official in charge of the store may dispose of the items in such manner as he deems fit, and the provisions of subsection (5) shall, *mutatis mutandis*, apply in respect of any costs incurred in effecting such disposal.

- (7) The exercise of any powers conferred by this by-law shall not render the municipality or any authorised official liable for any loss or theft of, or any damage to, any thing removed in terms of subsection (1), except where such loss, theft or damage is a direct result of the negligence of the municipality or authorised official in question.

11. Obstructions caused by plants

- (1) If a tree, shrub or other plant growing on any private property which abuts on a public place, or any portion of such plant -
- (a) obstructs the view of the driver of any vehicle in such public place;
 - (b) obstructs or causes a nuisance to persons using such public place; or
 - (c) obscures a road traffic sign,

an authorised official may serve a notice on the owner or occupier of the private property, requiring him or her to cut down, remove or trim the plant from which the nuisance originates, to an extent, and within the period, stated in the notice, and any person who fails to comply with such notice within the period stated shall be guilty of an offence.

- (2) If a person on whom a notice has been served in terms of subsection (1) fails to comply with the terms thereof within the period stated therein, then an authorised official may cause the work specified in the notice to be carried out, and such person shall be liable to the municipality for the reasonable cost of the work, as assessed by such authorised official.

12. Gatherings

- (1) No person shall convene, or participate in, any gathering at any public place, outdoor facility or municipal building so as to -
- (a) constitute a nuisance, as defined; or
 - (b) contravene any provision of the Regulation of Gatherings Act, 1993 [Act No. 205 of 1993].
- (2) The provisions of subsection (1) shall not be interpreted so as to detract from any person's constitutional right to assemble, demonstrate, picket and present petitions.

13. Amplification devices and equipment

- (1) No person shall, without the prior consent of the municipality, use or permit to be used any megaphone, loudspeaker, or other device for the reproduction or amplification of sound, in or upon any public place, for the purpose of making announcements, advertising, or doing anything of a similar nature.
- (2) The municipality may refuse to grant such consent, if it has reasonable grounds for believing that the use of any such megaphone, loudspeaker or other device will cause, or is likely to cause, a nuisance, as defined.
- (3) The municipality may withdraw its consent, if it appears that a nuisance has been caused, or is likely to be caused.

14. Games

A person commits an offence if, in a public place, he or she plays any games, or indulges in any pastimes, such as, but not limited to, the use of roller skates, rollerblades or skateboards, in a manner that causes a nuisance.

15. General offences

- (a) A person commits an offence if, in a public place, upon private property, at an outdoor facility or in a municipal building, the said facility or building being owned by or under the control of the municipality, he or she acts, or omits to act, such that a nuisance is caused in circumstances that are under his or her control.
- (b) The provisions of subsection (a) shall not apply to the extent that a person acts lawfully, in the exercise of a right, or in the performance of a duty.

CHAPTER 3**PRIVATE PROPERTY****16. Use of private property**

- (1) A person commits an offence if, on any private property, he or she -
 - (a) excavates or removes soil or other material from a position in relation to other premises or a public place so as to, or to be likely to, remove lateral support from such

- premises or public place, or to create a source of danger to life or damage to property;
- (b) being the owner or occupier of such private property, allows any well, pond, reservoir, swimming pool, pit, hole, excavation, earthwork, tree or other vegetation on such private property to be in such a condition or to be so unprotected as to constitute a danger to the safety of persons or property;
 - (c) causes, or allows, anything to project from the private property over or into a public place, except in an area zoned for industrial purposes in terms of a zoning scheme and to an extent necessarily consistent with the lawful land use thereof;
 - (d) being the owner or occupier of such private property, deposits, stores or causes, or allows or permits to be deposited or stored or to accumulate so as to be visible from a public place, abandoned, derelict or disused furniture, machinery, vehicles or other objects or parts thereof, or scrap metal or other derelict or waste materials;
 - (e) without the consent of the owner or occupier thereof, attaches or places anything to or on any private property, or in any way defaces such private property, whether by the use of chalk, ink, paint, or by any other means whatsoever, unless he is authorised by any law to do so.
- (2) An authorised official may order a person who has contravened or is contravening subsection (1)(d) or (e) to remove the item to which the contravention relates from the private property concerned within a specified time, and, if he fails to do so, then the provisions of section 10 shall, *mutatis mutandis*, apply.

17. Burglar alarms

- (1) The owner or occupier of a private property in which a burglar alarm device has been installed shall be guilty of an offence if the burglar alarm device continues to sound either continuously or intermittently for more than 10 (ten) minutes after it has been activated by any cause whatsoever.
- (2) Such a device shall be deemed to be sounding intermittently for the purposes of subsection (1) for so long as it continues to sound at any interval without the intervention of a new cause, provided that it shall be a defence to a charge of contravening subsection (1) if it can be proved that an automatic cut-off mechanism fitted to such device has failed to operate, for

reasons beyond the control of the occupier, and without negligence on his or her part.

- (3) When a burglar alarm device has been installed in any private property, the owner or occupier of the private property shall, unless a mechanism referred to in subsection (2) has been fitted, either erect, and maintain, at the main entrance to the private property, a notice specifying the names and telephone numbers of persons who have access to the private property at all times for the purpose of deactivating the device, or shall arrange for an automatic response to an alarm to operate at all times.

18. **Air-conditioning appliances**

- (1) The owner or occupier of a private property who has installed therein, or who maintains and operates therein, an air-conditioning appliance shall ensure that such appliance is so installed, maintained and operated so as to preclude -
 - (a) the generation of noise, odours or vibrations which cause a nuisance, as defined; and
 - (b) the discharge or generation of condensate onto a public place so as to cause a nuisance, as defined.
- (2) Nothing contained in this section shall be construed so as to detract from the requirements of the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977] and the Occupational Health and Safety Act, 1993 [Act No. 85 of 1993] and any regulations promulgated in terms of the aforesaid legislation.

19. **Nuisances arising from the use of private property**

- (1) No owner or occupier of private property shall -
 - (a) use it for a purpose;
 - (b) cause, allow or permit its use for a purpose;
 - (c) organise or allow or permit an activity, event or function thereupon, save for birthday, engagement, wedding, or similar, celebrations,

which is contrary to the zoning scheme, or similar restrictions imposed by town planning legislation, and which, by its nature or otherwise, or by reason of its consequences, causes a nuisance.

- (2) Notwithstanding subsection (1), nothing shall prevent the owner or occupier of any private property from engaging in the following activities -
- (a) any authorised building or contract work undertaken by him- or herself, or on his or her behalf; and
 - (b) participating in any hobby or activity involving any item owned or used by him or her which may require the use of an electrical appliance such as an angle grinder, sanding machine or similar item, provided that -
 - (i) the use of such appliance does not cause interference to television or radio reception in the neighbourhood, that every precaution possible is taken to minimise noise therefrom and the duration of use thereof, and that such activity is not for or related to any business conducted from the private property or elsewhere; and
 - (ii) such building or contract work and the use of electrical appliances for such hobby or activity is confined to the hours of 07h00 to 19h00.
- (3) Whenever an authorised official is of the reasonable opinion that a person engaged in a hobby or activity is contravening subsections (1) or (2), he or she may instruct the owner or occupier of the private property, or any person responsible for or participating in the use, activity, event or function, to take such steps as the authorised official specifies, to abate the nuisance, or to avoid the creation of a nuisance, or, if this can only be achieved by the cessation of the use, activity, event or function, to bring it to an end forthwith, or within a time prescribed by the authorised official.
- (4) If the owner, occupier or person responsible for, or participating in, the use, activity, event or function mentioned in subsection (3) fails to abide by any notice or instruction given by an authorised official, then such official may issue a notification in terms of Section 341 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977] upon the owner, occupier or person responsible.

20. Lighting of fires

- (a) No person shall, on any private property, light a fire, or burn, or attempt to burn, any rubbish or refuse, or any grass or other vegetation, without taking adequate precautions to prevent the uncontrolled spread of the fire, or the creation of a nuisance,

whether as a result of the production of ash, flames, fumes, heat, smoke, or otherwise.

- (b) Should any person persist with the burning of any matter without taking effective precautionary measures as described in subsection (a), where such burning is the subject of a reasonable complaint lodged with the municipality, the municipality, through its authorised official, shall be entitled to enter upon the private property on which the burning is taking place, in order to extinguish the fire, and to charge with an offence the person concerned.

21. Slaughter of animals and disposal of carcasses

- (1) No person shall –
 - (a) slaughter any animal at any place other than an abattoir;
 - (b) permit the slaughter of any animal at any place under his or her control, unless the place is an abattoir; or
 - (c) sell or provide meat for human or animal consumption, unless the meat has been slaughtered at an abattoir.
- (2) The provisions of subsection (1) do not apply to slaughter for own consumption, or for cultural or religious purposes, provided that –
 - (a) prior to the slaughter of any animal on a private property, the owner or the occupier must –
 - (i) obtain the written consent of the municipality; and
 - (ii) provide reasonable notification to the immediate neighbours who occupy abutting properties and properties across the road from the private property on which the animal will be slaughtered; and
 - (b) such slaughter does not constitute a nuisance, as defined.
- (3) No person shall bury, or place, any carcass or part of a carcass, or permit any carcass, dead thing, or any decomposable or offensive material or thing, which is his or her property, or which is under his or her care or control, to be placed on his or her private property or elsewhere, or to remain thereon so as to cause a nuisance.

- (4) In the event of any person not being able to dispose of any offensive matter or thing or bury any carcass in terms of subsection (3), he or she shall arrange with the municipality for it to effect such disposal at the prescribed fee.
- (5) Nothing contained in this section shall be construed so as to detract from the requirements of the Meat Safety Act, 2000 [Act No. 40 of 2000], and any regulations promulgated in terms thereof.

22. Removal of weeds, undergrowth and bush

- (1) No person shall permit any rank grass, undergrowth, or declared weeds or invader plants, as listed in the Conservation of Agricultural Resources Act, 1983 [Act No. 43 of 1983], and any regulations promulgated in terms thereof, to grow upon any private property or vacant land occupied or owned by him or her.
- (2) A person shall comply with any notice issued by an authorised official, requiring him or her to destroy or cut down and remove, or cause to be removed, any such rank grass, undergrowth, or declared weeds or invader plants, within a time to be stated in such notice, and in a method as stated in the Conservation of Agricultural Resources Act, 1983 and its regulations.
- (3) If such person fails to comply with such written notice, then he or she shall be guilty of a contravention of this by-law, and the municipality may take such steps as it may deem necessary, to carry out, on behalf of the said person, the requirements of the said notice, and may recover the cost thereof from the said person, in accordance with the municipality's tariff of charges.

23. Control of mosquitoes, flies, rodents and other vermin

- (1) It shall be the duty of every owner and occupier to prevent mosquitoes, flies, rodents or other vermin from developing or being harboured on any private property owned or occupied by such owner or occupier, and any such owner or occupier who fails to comply with the provisions hereof shall be deemed to have contravened this by-law.
- (2) The owner or occupier of private property shall, on being served with a notice signed by an authorised official, carry out such measures as may be specified therein, for the removal of conditions favourable for the development of, or harbouring of, mosquitoes, flies, rodents or other vermin, within the time specified in the notice.

- (3) If the owner or occupier refuses to carry out the measures specified in a notice issued in terms of this by-law, or fails to do so within the time specified, then an authorised official may arrange for such measures to be carried out, and the reasonable costs incurred in so doing shall be recoverable by the municipality from the person upon whom the notice is served, at a charge specified in the municipality's tariff of charges.

24. Keeping or management of a brothel

- (1) No person shall keep or manage, or act or assist in the keeping or management of, a brothel upon any private property.
- (2) No person, being the owner, lessee or occupier of any private property, shall knowingly permit such private property or any portion thereof or any room therein to be used as a brothel or for the purpose of prostitution, or to be a party to continued use thereof for such purposes.
- (3) No person, being the owner of any private property or the agent of such owner, shall let such private property or any portion thereof or any room therein, with the knowledge that such private property or any portion thereof or any room therein is to be used as a brothel or for the purposes of prostitution.
- (4) Nothing contained in this section shall be construed so as to detract from the requirements of the Sexual Offences Act, 1957 [Act No. 23 of 1957].

CHAPTER 4

MUNICIPAL PROPERTY AND PROPERTY UNDER THE CONTROL OF THE MUNICIPALITY

25. General offences

- (1) A person commits an offence if, in relation to any property in the ownership or possession of, or under the control of, the municipality, whether movable or immovable, and including any public place, he or she -
 - (a) permits, or causes to be done, any act which may, in the reasonable opinion of the municipality, cause soil or sand erosion;
 - (b) permits, or causes to be done, any cutting of, removing of, or interfering with, natural vegetation, which may, in

- the reasonable opinion of the municipality, result in damage to, or destruction of, such natural vegetation;
- (c) wilfully or negligently damages or destroys such property or any part thereof;
 - (d) removes any earth, sand, shale, stone, turf or any other material or part thereof;
 - (e) breaks, cuts, destroys or removes any bush, shrub, tree or other plant, or removes any branch, flower, leaf or other part thereof;
 - (f) attaches to, or places on or next to, such property any thing, including any advertisement, flyer, pamphlet, placard or poster, or other illustrative, written or printed matter, or hangs or suspends anything on or from it;
 - (g) defaces any such property, whether by the use of chalk, ink or paint, or by any other means whatsoever;
 - (h) extinguishes any lamp or light, or displaces or removes any barricade, enclosure, fence, lamp, light, notice or sign;
 - (i) makes any excavation in, or disturbs the surface of, such property;
 - (j) climbs or sits upon, hangs onto, or mounts, any such property;
 - (k) introduces any object or material, or erects any structure, on such property;
 - (l) enters such property, or remains there;
 - (m) allows, causes or permits any other person to commit any of the aforesaid acts, unless he or she does so in the performance of a lawful right or duty, or with the prior consent of an authorised official, or in accordance with the provisions of any law.
- (2) Notwithstanding the foregoing, nothing shall prevent the owner or occupier of private property from planting and maintaining grass and plants on that portion of the verge of a street which abuts on such municipal property or property under the control of the municipality, provided that the lawful passage of vehicular and pedestrian traffic and the lawful parking of vehicles is not thereby obstructed and the grass and plants are properly maintained and do not cause a nuisance.

- (3) Any person who is convicted of an offence in terms of subsection (1) shall pay to the municipality the cost of remedying any loss or damage suffered by the municipality as a result of the commission of that offence, and the cost of the removal and disposal of any material, object or structure involved in the commission of the offence, and, for this purpose, the provisions of section 10 shall apply.

CHAPTER 5

PRESUMPTIONS, OFFENCES AND PENALTIES

26. Presumptions

When an employee, in the course of his or her employment, performs any act, or is guilty of an omission, which constitutes an offence in terms of this by-law, the employer shall also be deemed to have performed the act, or to be guilty of the omission, and he or she shall be liable on conviction for the penalties mentioned in terms of section 27, unless it can be proved that -

- (a) in performing the act, or permitting the omission, the employee was acting without his or her employer's knowledge and consent;
- (b) all reasonable steps were taken by the employer to prevent the act or omission in question; and
- (c) it was not within the scope of the authority or the course of the employment of the employee to perform the act or permit the omission in question.

27. Offences and penalties

- (1) Any person who-
- (a) contravenes any provision of this by-law, which contravention is not expressly stated to be an offence;
 - (b) contravenes any condition or restriction imposed upon the granting of any application, approval, authority, consent or permission in terms of this by-law; or
 - (c) fails to comply with the terms of any notice served upon him or her, or instruction to him or her in terms of this by-law,
- shall be guilty of an offence.

- (2) Any person who contravenes any of these provisions shall be guilty of an offence, and liable, upon conviction, to a fine not exceeding R60 000 (sixty thousand rand), or imprisonment for a period not exceeding 12 (twelve) months, or to such fine and such imprisonment, provided that, in the case of a continuing offence, a fine not exceeding R600 (six hundred rand) may be imposed for each day on which the contravention continues.
- (3) An admission of guilt fine may be paid by any person in respect of whom a summons or written notice has been issued for any contravention of this by-law, as contemplated in terms of Sections 56 and 57 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977].

28. Regulations

- (1) The municipality may make regulations regarding –
 - (a) the granting of written permission and accompanying conditions for –
 - (i) the performance of a dangerous act, as contemplated in terms of section 6(1)(e); and
 - (ii) the discharge of fireworks in terms of section 6(2);
 - (b) the disposal of litter by an occupier of premises in or on which there is carried on any business, occupation, trade or manufacturing, as contemplated in terms of section 8(b);
 - (c) the granting of written consent and accompanying conditions and restrictions for the hanging or suspension of anything from or above a public place or so as to cause an obstruction, as contemplated in terms of section 9(e);
 - (d) the disposal of property found in a public place, including-
 - (i) the municipality's identification and designation of a store for property removed in terms of section 10(1);
 - (ii) guidelines for the determination of the commercial value of property so removed;
 - (iii) a tariff of charges for the removal and storage of items, as contemplated in terms of section 10(2);

- (iv) procedures to be followed with regard to the sale or disposal of items in terms of sections 10(3) and (6);
- (e) the contents and service of a notice on the owner or occupier of private property, the carrying out of work necessary to give effect to the notice, and guidelines for the determination of the reasonable costs thereof, as contemplated in terms of sections 11(1) and (2);
- (f) the granting of consent for the use of amplification devices and equipment, as contemplated in terms of section 13;
- (g) the prevention of nuisances on private property, including –
 - (i) procedures for the removal of any item from private property, as contemplated in terms of section 16(2);
 - (ii) the giving of instructions and notification to an occupier of private property, for the abatement or cessation of a nuisance, as contemplated in terms of sections 19(3) and (4);
 - (iii) procedures for the entering of private property, for the extinction of fires thereon, as contemplated in terms of section 20(b);
 - (iv) the slaughter of any animal for own consumption, or for cultural or religious purposes, as contemplated in terms of section 21(2), and the adoption and implementation of a tariff of charges for the disposal and burying of any offensive matter or thing, including carcasses, as contemplated in terms of section 21(4).
 - (v) the contents and service of a notice for the removal of vegetation, and procedures for effecting the removal by the municipality itself and a tariff of charges therefor, as contemplated in terms of sections 22(2) and (3); and
 - (vi) the contents and service of a notice for the control of vermin, and procedures for effecting control by the municipality itself and a tariff of charges therefor, as contemplated in terms of sections 23(2) and (3);

- (h) the provision of consent by an authorised official in respect of any act with regard to municipal property and property under the control of the municipality, as contemplated in terms of section 25(1)(m);
 - (i) a tariff of charges, or schedule of costs, for the remedying of any loss or damage suffered by the municipality as a result of the commission of an offence in terms of section 25(3);
 - (j)
 - (i) the prescription of penalties for the offences contemplated in terms of section 27; and
 - (ii) the amendment of such penalties from time to time;
 - (k) any matter which may be prescribed in terms of this by-law, and any matter which may facilitate the application of this by-law.
- (2) [a] The municipality shall, not less than 1 (one) month before promulgating a regulation in terms of subsection 1, cause a draft of the regulation to be communicated to the local community and to be made public in terms of Sections 21 and 21A of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], together with a notice declaring the intention of the municipality to issue such a regulation and inviting comments or representations.
- [b] If the municipality decides to alter the draft regulation as a result of comments or representations received pursuant to such invitation, then it shall not be necessary to communicate and make public the alteration before the amended draft is promulgated as a regulation.

29. Repeal of by-laws

Any by-laws relating to the prevention of nuisances adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

30. Short title

This by-law is called the By-law Relating to the Control of Public Nuisances, 2007, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

No. 45

18 June 2008

MUNICIPALITY OF GREATER KOKSTAD**BY-LAW RELATING TO MUNICIPAL FACILITIES AND PUBLIC AMENITIES**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996], the By-law Relating to Municipal Facilities and Public Amenities.

Purpose of By-law

The purpose of this by-law is to

- (a) regulate the use and enjoyment of municipal facilities and public amenities; and
- (b) provide for procedures, methods and practices to regulate the use and hire of municipal facilities.

**CHAPTER 1
INTERPRETATION**

1. **Definitions** – In this by-law, the singular includes the plural and vice versa, and, unless the context otherwise indicates –

'appurtenance' means any installation or appliance in or at a municipal facility, and includes, without derogating from the generality of the foregoing, keys, locks, windows, toilets, basins, water taps and fittings;

'authorised official' means –

- (a) an official of the municipality who has been authorised by it to administer, implement and enforce the provisions of this by-law;
- (b) a traffic officer appointed in terms of Section 3A of the National Road Traffic Act, 1996 [Act No. 93 of 1996];
- (c) a member of the police service, as defined in terms of Section 1 of the South African Police Service Act, 1995 [Act No. 68 of 1995]; or
- (d) a peace officer, contemplated in terms of Section 1 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];

'council' means the council of the municipality, or any political structure, political office bearer, councillor, or any staff member acting under council's delegated or sub-delegated authority;

'hirer' means any person who applies, pays, and obtains approval, for the use of a municipal facility or public amenity;

'municipal facility' means a building, hall, room or office, including any part thereof and apparatus therein, which is the property of, or which is managed or leased by, the municipality, and to which the general public has access, whether on payment of admission fees or not;

'municipality' means the Municipality of Greater Kokstad, established in terms of Section 12 of the Municipal Structures Act, 1998 [Act No. 117 of 1998], and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

'notice' means an official notice displayed at an entrance to, or at a conspicuous place in or about, a municipal facility or public amenity, and in which the municipality shall make known provisions and directions adopted by it in terms of this by-law;

'nuisance' means, without limiting the generality of the term, an act, omission, condition or state of affairs that –

- (a) impedes, offends, endangers or inconveniences the public at large; or
- (b) causes material inconvenience in the ordinary and comfortable use or enjoyment of a municipal facility or public amenity,

and **'public nuisance'** shall have a corresponding meaning;

'person' means a natural or juristic person, and includes a voluntary association of natural or juristic persons;

'prescribed fee' means the fee determined by resolution of the municipality for the hire of a municipal facility or use of public amenity;

'public amenity' means any land, square, camping site, swimming-bath, public resort, recreation site, nature reserve, zoological, botanical or other garden park or hiking trail which is the property of the municipality, including any portion thereof and apparatus therein or thereon; and

'user' means any person who actually utilizes, or who directly benefits from, a municipal facility or public amenity.

CHAPTER 2

USE OF MUNICIPAL FACILITIES AND PUBLIC AMENITIES

2. **Maximum number of visitors**

- (1) The municipality may determine the maximum number of visitors who may be present at a specific time in or at a municipal facility or public amenity.
- (2) The number contemplated in subsection (1) shall be made known by the municipality by means of a notice.

3. **Admission to a municipal facility or public amenity**

- (1) A municipal facility or public amenity is, subject to the provisions of this by-law, open to the public during the times determined by the municipality, and made known in a notice.
- (2) No visitor shall enter or leave a municipal facility or public amenity at a place other than that indicated for such purpose.

4. **Access and use by disabled persons**

- (1) The municipality shall ensure that all entrances and exits from a municipal facility or public amenity are designed so as to accommodate and permit access by disabled persons.
- (2) A municipal facility shall be equipped with such ramps, lifts or similar equipment and services so as to facilitate effective use by disabled persons.

- (3) Nothing contained in this section shall be construed so as to detract from the requirements of the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977] and any regulations promulgated in terms thereof.

6. **Entrance fees**

- (1) A visitor to a municipal facility or public amenity shall pay an entrance fee, as may be determined from time to time by the municipality, and such entrance fees shall be made known by means of a notice.
- (2) Different entrance fees may be determined in respect of visitors of different ages, and the municipality may exempt certain groups of persons from the payment of an entrance fee, provided that such exemption does not amount to unlawful discrimination.

7. **Nuisance**

- (1) No person shall perform or permit any of the following acts in or at a municipal facility or public amenity without the municipality's prior written consent –
 - (a) the firing of firearms, airguns, air pistols, or the use of longbows, crossbows, slingshots, catapults, or other weapons;
 - (b) the discharge of fireworks, provided that the requirements of the Explosives Act, 2003 [Act No. 15 of 2003] and any regulations promulgated in terms thereof are met in the event that such person obtains the municipality's prior written consent;

- (c) the burning of rubble or refuse;
 - (d) the causing of unpleasant or offensive smells;
 - (e) the production of smoke nuisances;
 - (f) the causing of disturbances, by fighting, shouting, or arguing, or by the use of loudspeakers, radios, television sets or similar equipment; or
 - (g) the causing, in any other manner, of a nuisance, obstruction, disturbance, or annoyance, to the public.
- (2) An authorised official may, during any activity of a hirer, direct that the hirer remove from a municipal facility or public amenity any person who is in a state of intoxication and who is behaving in an offensive manner, or who is causing a nuisance or annoyance to other people in or at a municipal facility or public amenity or to occupiers of other parts of the municipal facility or public amenity or neighbouring buildings.
- (3) An authorised official may, during any activity of a hirer, direct the hirer to prevent access to a municipal facility by any person who is in a state of intoxication and who behaves in an offensive manner or who is causing a nuisance or annoyance to other people in or at, or users of, a municipal facility or public amenity, or to occupiers of other parts of the municipal facility or public amenity or neighbouring buildings.

7. Health matters

No person shall, in or at a municipal facility or public amenity -

- (a) dump, drop or place any refuse, rubble, or material, or any object or thing, or permit it to be done, except in a container provided for that purpose in or at the municipal facility or public amenity;
- (b) pollute or contaminate the water in any swimming bath, dam, spruit, river, water course, or other form of water supply; or;
- (c) perform any act that may detrimentally affect the health of any visitor to a municipal facility or public amenity.

8. Structures

- (1) No person shall, without the prior written consent of the municipality, erect or establish, in or at a municipal facility or public amenity, any structure or shelter, or anything similar.
- (2) Notwithstanding the provisions of subsection (1), a person may park a caravan or erect a tent for camping purposes at a public amenity, provided that such caravan or tent is parked or erected on a site specifically set aside for such purpose by notice.

9. Liquor and food

- (1) No person shall bring into a municipal facility or public amenity any alcoholic beverage or food, of whatever nature, unless permitted in terms of prior written consent or by notice.
- (2) No person shall, in or at a municipal facility or public amenity, cook or prepare food of any kind whatsoever, except in terms of prior written consent or by notice, provided that –
 - (a) the preparation and cooking of food in or at a municipal facility or public amenity shall be done –

- (i) at places set aside for such purposes; and
 - (ii) in a clean and hygienic manner, so as not to give rise to excessive smoke or other nuisances, or pose any danger to health; and
- (b) no animals, poultry or fish may be killed or skinned in or at a municipal facility or public amenity, unless permitted in terms of prior written consent or by notice.

10. **Animals**

- (1) No person shall bring any animal, bird, fish or poultry into a municipal facility or public amenity, provided that –
- (a) a blind person may be accompanied by a guide dog; and
 - (b) the municipality may issue directions with regard to exceptions in respect of the foregoing prohibition.
- (2) The directions contemplated in subsection (2)(b) shall be made known by means of a notice.

11. **General use of municipal facilities and public amenities**

- (1) In respect of the use of municipal facilities and public amenities, no person shall-
- (a) arrange or present any public entertainment;
 - (b) collect money or any other goods for charity or any other purpose from the general public;

- (c) display or distribute any pamphlet, placard, painting, book, handbill, or any other printed, written or painted work;
- (d) arrange, hold, or address, any meeting;
- (e) arrange, or hold, a public gathering or procession, exhibition or performance;
- (f) conduct any trade, occupation or business;
- (g) display, sell, rent out, or present for sale or rent, any goods or articles; or
- (h) hold an auction,

at such municipal facility or public amenity, unless the prior written consent of the municipality has been obtained, or such activity is permitted in terms of the conditions of hire, as contemplated by chapter 3 of this by-law.

- (2) Nothing contained in this section shall be construed so as to detract from -
 - (a) the requirements of the Regulation of Gatherings Act, 1993 [Act No. 205 of 1993]; or
 - (b) any person's constitutional right to assemble, demonstrate, picket and present petitions.

12. **Safety and responsible conduct**

- (1) Subject to subsection (2), no person shall -

- (a) cause damage or disfigurement;
- (b) use, or try to use, anything for any purpose other than that for which it is designated or determined by notice;
- (c) light a fire or prepare food, except at a place indicated for that purpose by notice;
- (d) wash any crockery or laundry, or hang out such laundry, except at places indicated by notice for that purpose,

in or at a municipal facility or public amenity.

- (2) The municipality may, by way of notice, and subject to such conditions as the municipality deems necessary, and mentioned in the said notice, authorise any of the actions contemplated in subsection (1), or in the relevant conditions of hire.

CHAPTER 3

HIRE OF MUNICIPAL FACILITIES

13. Cooperation between municipal departments

Every department of the municipality having jurisdiction over or responsibility for any municipal facility must cooperate with any other such department in ensuring that –

- (a) such municipal facility is properly maintained in a state fit for the purposes for which it was designed and is used; and

- (b) subject to the provisions of section 19, no part of such municipal facility is made available to, or hired out to, more than one person at the same time.

14. Application for hiring of municipal facilities

- (1) Any person wishing to apply for the hiring of a municipal facility must –
 - (a) submit an application to the municipality in the form prescribed by the municipality for this purpose;
 - (b) clearly stipulate in such application –
 - (i) the municipal facility, seating, accommodation and equipment required; and
 - (ii) the period for which the municipal facility is required;
 - (c) ensure that such application form is received by the municipality not less than 30 (thirty) days prior to the date on which the municipal facility is first required by the applicant, provided that this time period may, depending on the demand for the municipal facility in question, be relaxed by the municipality.
- (2) The municipality may refuse to hire out any municipal facility in terms of subsection (1), or may cancel any booking thereof if–
 - (a) the municipal facility is to be used for any unlawful purpose; or

- (b) the municipal facility is required at the same time by the municipality for municipal purposes, provided that the municipality shall furnish at least 14 (fourteen) days' notice of any cancellation of an existing booking.
- (3) No compensation shall be payable by the municipality to the hirer for any loss which the hirer may suffer by reason of the municipality's having acted in terms of subsection (2), provided that the municipality shall refund all charges that have already been paid to it in respect of the application.
- (4) The hirer is limited to the use of the municipal facility specified in the application form, and may not use any other municipal facility for which he or she has not applied.
- (5) The municipal facility so hired may not, except with the prior written consent of the municipality, be used for any purpose other than the purposes indicated on the application form or stipulated in the conditions of hire.

15. **Tariff of fees**

The municipality may from time to time determine a tariff of prescribed fees for the hire of municipal facilities provided by the municipality in terms of this by-law.

16. **Payment of charges**

No person shall be permitted to use any municipal facility unless the prescribed fee, where applicable, has been fully paid, provided that the municipality may exempt any person or organisation, on good cause, from the payment of the entire prescribed fee, or a portion thereof.

17. Period of hire

Notwithstanding any determination made by the municipality regarding the dates and period for which a municipal facility may be hired, the municipality may allow the hirer reasonable access to a municipal facility before the commencement date of the period of hire, so as to enable the hirer to make necessary preparations and arrangements, but subject to the prior payment of the prescribed fee by the hirer.

18. Adjustment of period of hire

- (1) Any person who makes an application for the use of a municipal facility in terms of the provisions of section 14 may, subsequent to the approval of such application, and the reservation of such municipal facility, apply for the postponement of such reservation to a later date, without penalty or forfeiture, provided that such postponement may be refused if such municipal facility has, in the meantime, been reserved for use by another person on the date to which the postponement is sought.
- (2) Any person who has already made an application for the reservation of a municipal facility may cancel such reservation, provided that if -
 - (a) a reservation is cancelled 1 (one) month or longer prior to the commencement date of such reservation, then the hirer must receive a full refund of the prescribed fee already paid;
 - (b) a reservation is cancelled more than 15 (fifteen) days but less than 1 (one) month prior to the commencement date of such reservation, then the hirer must receive a 50% (fifty percent) refund of the prescribed fee;

- (c) a reservation is cancelled 15 (fifteen) days or less prior to the commencement date of such reservation, then the hirer is not entitled to receive any refund of the prescribed fee.
- (3) Any person may extend the period of hire of a municipal facility upon written application to the municipality in the manner provided for in section 14(1), provided that -
 - (a) the period of 30 (thirty) days' notice, as contemplated in terms of section 14(1)(c), shall not apply;
 - (b) the municipal facility concerned has not, in the meantime, been reserved for use by any other person

19. **Joint hire**

- (1) The municipality may let any municipal facility or part thereof to different hirers for simultaneous use.
- (2) In the case of such simultaneous use, each hirer must use any ancillary amenities which serve or comprise part of the municipal facility –
 - (a) jointly with the other hirers; and
 - (b) in such manner that all the hirers, their guests, customers, patrons, employees, agents, directors or other representatives are able to enjoy the use of the municipal facility in question without infringing on the rights of use by other users.
- (3) The provisions of this by-law, read with the necessary changes, apply to the joint users of the hired municipal facility.

20. Sub-letting

A hirer may not -

- (a) sub-let any hired or municipal facility to any other person or organisation;
- (b) cede, pledge, or renounce, in favour of another person any of his or her rights or obligations under this by-law; and
- (c) allow any other person to occupy a municipal facility without the prior written consent of the municipality.

21. Condition of municipal facility

- (1) The hirer must inspect the hired municipal facility, including all installations, appliances, fittings, accessories and furniture, before he or she commences to use such installations, appliances, fittings, accessories and furniture.
- (2) If the hirer finds that any of the installations, appliances, fittings, accessories and furniture in or at a municipal facility are not in a proper state of repair, then the hirer must report this fact to the municipality.
- (3) If the hirer fails either to inspect a municipal facility in terms of subsection (1), or to report any defects found therein in terms of subsection (2), then it shall be deemed that, upon commencement of occupation by the hirer, everything in or at the municipal facility was in a proper state of repair.

22. Duties of the hirer

Every person hiring a municipal facility from the municipality must -

- (a) take all reasonable steps to keep all sewerage pipes, water taps and drains within or serving the municipal facility free from obstruction or blockage as a result of the hirer's activities;
- (b) at all times keep the municipal facility in a clean, tidy and sanitary condition;
- (c) not affix or attach to the municipal facility any notices or other matter, without the prior consent of the municipality, provided that upon the termination of the hire, the hirer must remove all such attachments;
- (d) not obscure any plate glass windows by painting or otherwise;
- (e) not drive into the walls or partitions or doors of the municipal facility any screws or nails;
- (f) not change or interfere with or overload any electrical installation in or at the municipal facility;
- (g) not remove or take out from the municipal facility any furniture or other articles whatsoever that belong to the municipality;
- (h) not obstruct or interfere or tamper with any thermostats or air conditioning appliances in or at the municipal facility;
- (i) not introduce or install any unsafe or heavy article, furniture, fitting, appliance or equipment which, in the reasonable opinion of the municipality, could damage the municipal facility or any part thereof, provided that the municipality may impose, on the

introduction of such item, such conditions as are reasonable to ensure the safety of the municipal facility and its users;

- (j) not install in or at the municipal facility any air conditioning or ventilation units or equipment, without the municipality's prior written consent;
- (k) not permit the storage of motor vehicles or other movable items of any description on the pavements, entrance halls, staircases or passages of the municipal facility;
- (l) not do anything, or allow anything to be done, in non-compliance with any reasonable instruction or prohibition given or issued by the municipality;
- (m) not park vehicles, or allow the parking of vehicles by the hirer's guests, customers, patrons, employees, agents, directors or other representatives anywhere at the municipal facility, except in properly demarcated parking bays, or as may be pointed out by an authorised official.

23. Damage to property

- (1) A hirer who fails to keep and maintain a municipal facility in the same order and condition as when it was hired out to him or her shall be guilty of an offence.
- (2) In addition to any remedies available to the municipality at common law, such hirer shall be liable in terms of the penalties specified in this by-law.

24. Advertisements and decorations

- (1) No person who has applied for the hire of a municipal facility may publicly announce or advertise any function or event in respect of which an application for the hire of such municipal facility has been made, before the municipality has notified such person in writing that the application has been approved.
- (2) Every hirer must, before vacating a hired municipal facility, on the termination of the period of hire, remove all posters, notices, decorations, flags, emblems, signs, and other forms of advertisement or direction erected or affixed by him or her, and make good any damage caused by such removal.

25. Admissions, ushers and sale of tickets

The hirer shall be responsible for all arrangements in connection with the –

- (a) admission of members of the public to any cultural or other activities at a municipal facility;
- (b) the provision of ushers, and other persons necessary to control the admission of persons to a municipal facility; and
- (c) the sale of tickets.

26. Overcrowding

- (1) No overcrowding of a municipal facility may be allowed at any time during any of the hirer's activities.

- (2) The hirer must comply with the municipality's requirements prescribing the maximum number of persons allowed at a municipal facility during activities.
- (3) Without detracting from the general requirements referred to in subsections (1) and (2), the hirer may not permit admission by more persons to a municipal facility than the number of available seats, or, where seating is not provided, the maximum number of persons prescribed by notice at a municipal facility, or as stipulated in the conditions of hire.

27. **Sale of food and drinks**

- (1) No person may sell food or drinks at any hired municipal facility during any activities, without the prior written consent of the municipality.
- (2) The municipality may permit the sale of food or drinks by such persons as it may approve, after it has received written application to sell such items, and the municipality may allocate sufficient accommodation to such approved persons, wherein trading stock, furniture, equipment, installations and books necessarily required for that purpose may be accommodated.
- (3) The provisions of subsections (1) and (2) do not apply where the supply and sale of food and drinks comprise an integral part of the activities of the hirer.
- (4) The municipality shall not be responsible for the payment of compensation to the hirer in respect of any loss, theft or damage suffered by the hirer or any other person in respect of the items referred to in subsection (2) as a result of any cause whatsoever, except where such loss, theft or damage is due to

the willful act or omission or gross negligence on the part of the municipality.

28. Services

- (1) The nature of the municipal services to be provided to a municipal facility shall be determined at the sole discretion of the municipality.
- (2) The municipality shall not be liable for -
 - (a) the non-receipt or non-delivery of goods, postal matter or correspondence belonging to the hirer;
 - (b) the loss, theft or damage in respect of anything which the hirer, or his or her guests, customers, patrons, employees, agents, directors or representatives may have deposited or left in or at a municipal facility or any part thereof, except where such loss, theft or damage is due to the willful act or omission or gross negligence of the municipality.
- (3) The municipality may take such steps as it may consider necessary for the proper maintenance and operation of any common areas in or at a or municipal facility.
- (4) An authorised official may attend or be present at the hirer's function, to ensure compliance with any provision of this by-law.
- (5) The hirer is not entitled to the official services of an authorised official or any other representative of the municipality who attends the hirer's function in terms of subsection (4).

- (6) The hirer is not entitled to receive free cleaning or other services from the municipality in connection with the hirer's activities during the preparation of, or during, a function.

29. Exclusion of liability

- (1) The municipality shall not be liable for -
- (a) any damage or loss sustained by any person as a result of an insufficient supply of municipal services or interruption in the supply thereof to a municipal facility, or due to any act or omission on the part of the municipality, if the municipality considers the interruption necessary to enable it to exercise any of its powers or perform any of its functions under this by-law, or under any other law;
 - (b) any loss, theft or damage caused to the stock-in-trade, furniture, equipment, installations, books, papers, clothing, or other articles of any nature whatsoever, kept at a hired municipal facility by the hirer or anyone else, whether in regard to the hirer's business or not;
 - (c) any consequential loss suffered by the hirer by making use of a municipal facility, or as a result of rain, hail, lightning, wind, fire, storms, riot or civil commotion;
 - (d) the loss of life or injury to the hirer or anyone else at or in a municipal facility during a function or event; and
 - (e) any loss suffered by the hirer as a result of any failure or defect at or in a municipal facility,

provided that any such damage, theft or loss is not as a result of the willful act or omission or gross negligence on the part of the municipality.

- (2) Upon approval by the municipality of any application for hire, a hirer must complete and sign an indemnity, as may be prescribed, in favour of the municipality.

30. **Destruction of municipal facility**

- (1) The municipality may cancel the hire of a municipal facility in the event that -
 - (a) the municipal facility is destroyed or is damaged to such an extent as to be substantially unusable;
 - (b) there is damage to the municipal facility, such that it is rendered substantially unusable because of the absence of access to, or supply of, any necessary municipal service; or
 - (c) there is destruction or damage to the municipal facility, and the municipality decides not to proceed with the hire of the municipal facility, in order to engage in reconstruction, renovation or rebuilding, or for safety reasons.
- (2) Any decision made in terms of subsection (1) must be communicated by written notice given by the municipality to the hirer within a reasonable period of the event giving rise to the cancellation.
- (3) No hirer shall have any claim against the municipality for any damage or loss arising out of the damage to, or destruction of, a

municipal facility or any part thereof, or for the resultant loss of beneficial use of a municipal facility by such hirer.

31. Termination for non-compliance

The municipality may at any time cancel the hire of a municipal facility if the hirer fails to comply with any of the provisions of this by-law, in which event -

- (a) the municipality shall not be liable for any damage or loss sustained by any person as a result of such cancellation;
- (b) such cancellation shall be effected without prejudice to any claim which the municipality may have against the hirer under any provision of this by-law, or at common law.

32. Termination of hire

- (1) Upon the termination of the period of hire -
 - (a) the hirer must return a municipal facility to the municipality, in good order and condition;
 - (b) the hirer must make good, and repair, at his or her own cost any damage or breakage, or reimburse the municipality for the cost of replacing, repairing, or making good, any broken, damaged or missing articles; and
 - (c) the municipality may deduct from any deposit paid by the hirer in respect of a municipal facility the costs of the said breakage, damage or loss.

- (2) A hirer must vacate a hired municipal facility within such period after expiry of the period of hire, as is stated on the application form or conditions of hire, provided that -
- (a) failure by the hirer to comply with the provisions of this subsection entitles the municipality to levy a further prescribed fee for such additional period during which the hirer remains in occupation of a municipal facility after the expiry of the period of hire; and
 - (b) the provisions of this subsection do not preclude the municipality from taking lawful steps to procure the eviction of any such hirer from a municipal facility.
- (3) A hirer must comply with all reasonable and lawful instructions of the municipality in respect of the cleaning of a municipal facility upon the hirer's vacation thereof, provided that the municipality itself may elect to undertake the cleaning of all crockery and cutlery used by the hirer.
- (4) A hirer must comply with all reasonable and lawful instructions of the municipality, in respect of the vacation of a municipal facility and the return thereof.

33. Fire hazards and insurance

- (1) A hirer may not bring to, or allow to be brought to, or kept at, a municipal facility, nor undertake nor permit to be done or undertaken in or at a municipal facility, any matter, thing or activity whereby the fire policy, or any other insurance policy, for the municipal facility concerned may become or becomes void or voidable, or whereby the premium for any such insurance may be or is increased.

- (2) If the premium for such insurance is increased as a result of any act or omission contemplated in subsection (1), then -
- (a) the municipality may, in its discretion, allow such activity, and recover from the hirer the amount due in respect of any additional insurance premium; and
 - (b) the hirer must pay such amount immediately on notification by the municipality or the insurance company to the effect that such additional premium has been charged.
- (3) The municipality may at any time require a hirer to take out insurance with an insurance company, approved by the municipality, against damage or loss suffered during or as a result of any function for which a municipal facility is hired.

34. Storage facilities

The municipality shall not be responsible for providing storage facilities for the equipment of the hirer, or that of his or her guests, customers, patrons, employees, visitors, supporters or agents during any period prior to, during or after a function or event.

35. Equipment

- (1) A hirer who requires the municipality to supply any equipment for use during a function or event may use such equipment only with the permission of the municipality, and under the supervision of an authorised official.
- (2) If the hirer causes damage to the equipment, or removes or causes the equipment to be removed from a municipal facility

without permission, or fails to return it, then the hirer shall be liable for the repair or replacement costs thereof.

36. **Right of entry**

- (1) An authorised official may enter a municipal facility at all reasonable times -
 - (a) to inspect the municipal facility and carry out any repairs or alterations or additions or modifications or improvements in or at the municipal facility; and
 - (b) in order to ensure that the conditions of hire for the municipal facility, and the provisions of this by-law, are being complied with.
- (2) A hirer shall have no claim for the reimbursement of any charges payable for the hire of a municipal facility, compensation, damages or otherwise in connection with the exercise by the authorised official of the rights under subsection (1).
- (3) An authorised official may erect scaffolding, hoardings and building equipment in or at a municipal facility, as well as such other devices required by law or which the municipality's architects may certify are necessary to carry out the repairs contemplated in subsection (1)(a).

37. **Inspection**

Upon the conclusion of the hirer's activities at the end of the period of hire, or at the termination of the hire under any of the provisions of this by-law, the municipality and the hirer, or his or her nominee, must

inspect a municipal facility, for the purpose of assessing any damage or loss.

38. Hire of public amenities

- (1) The provisions of this chapter shall apply, *mutatis mutandis*, to the hire of public amenities.
- (2) It shall be within the sole discretion of the municipality to determine –
 - (a) whether or not to hire out a public amenity; and
 - (b) the conditions of any such hire.

**CHAPTER 4
GENERAL PROVISIONS**

39. Offences and penalties

Any person who contravenes, or fails to comply with, a provision of this by-law, a notice issued in terms of this by-law, or a condition imposed under this by-law, irrespective of whether such contravention or failure has been declared as an offence elsewhere in this by-law, shall be guilty of an offence, and liable, upon conviction, to -

- (a) a fine not exceeding R60 000, or imprisonment for a period not exceeding 12 (twelve) months, or either such fine or such imprisonment, or both such fine and such imprisonment;
- (b) in the case of a continuing offence, an additional fine of R600, or an additional period of imprisonment of 1 (one) day, or either

such additional fine or such additional imprisonment, or both such additional fine and imprisonment, for each day on which such offence is continued; and

- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as a result of such contravention or failure.

40. **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.

41. **Repeal of by-laws**

Any by-laws relating to municipal facilities and public amenities adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

42. **Short title**

This by-law is called the By-law Relating to Municipal Facilities and Public Amenities, 2007, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.
