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LOCAL AUTHORITY NOTICES

OVERSTRAND MUNICIPALITY

BY-LAW RELATING TO ELECTRICITY SUPPLY

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Overstrand municipality, enacts as follows:-

To provide for the distribution of electricity in the area of the Overstrand Municipality, to regulate activities which may have a detrimental effect on the reticulation of electricity and to provide for matters incidental thereto.

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CHAPTER 1

1. DEFINITIONS

In this by-law, unless inconsistent with the context-

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

"act" means the Electricity Regulation Act, 2006 (Act 4 of 2006)

"applicable standard specification" means-

SANS 1019 Standard voltage-, currents- and insulation levels for electricity supply
SANS 1607 Electromechanical watt-hour meters,
SANS 1524 Parts 0, 1 & 2 - Electricity dispensing systems,
SANS IEC 60211 Maximum demand indicators, Class 1.0,
SANS IEC 60521 Alternating current electromechanical watt-hour meter (Classes 0.5, 1 & 2),
SANS 0142 Code of practice for the wiring of premises;
NRS 047 National Rationalized Specification for the Electricity Supply - Quality of Service
NRS 048 National Rationalized Specification for the Electricity Supply - Quality of Supply, and
NRS 057 Electricity Metering: Minimum Requirements;

"backyard dwelling" means an informal structure erected for residential purposes on premises in addition to an existing dwelling unit;"

"builders connection" means an electricity supply required by a consumer for a period and in terms of conditions negotiated within a temporary supply agreement, normally less than one year;

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

"consumer" in relation to premises means:

- (a) any occupier thereof or any other person with whom the Municipality has contracted to supply or generate, or is actually supplying or generating electricity thereat; or
- (b) if such premises are not occupied, any person who has a valid existing agreement with the Municipality for the supply or generation 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;

"effective date" means the date on which the responsibility for the delivery of the electricity service is transferred to the Municipality;

"electrical contractor" means an electrical contractor as defined in the Regulations;

"electric fence" means an electric barrier consisting of one or more bare conductors erected against the trespass of persons or animals.

"electric fence energizer" means electric machinery arranged so as to deliver a periodic non-lethal amount of electric energy to an electric fence connected to it.

"electric fence system" means an electric fence and an electric fence energizer.

"electrical installation" means an electrical installation as defined in the Regulations;

"generation of electricity", means the process of generating electrical power from any sources of primary energy;

"high voltage" means the set of nominal voltage levels that are used in power systems for bulk transmission of electricity in the range of 44 kV <math>U_n <- 220 \text{ kV}</math>. [SANS 1019];

"low voltage" means the set of nominal voltage levels that are used for the distribution of electricity and whose upper limit is generally accepted to be an a.c. voltage of 1000V (or a d.c. voltage of 1500 V). [SANS 1019];

"medium voltage" means the set of nominal voltage levels that lie above low voltage and below high voltage in the range of 1kV <math>U_n <- 44 \text{ kV}</math>. [SANS 1019];

"meter" means a device which records the demand and/or the electrical energy consumed or purchased and includes conventional, prepayment, smart and net meters;

"motor load, total connected" means the sum total of the kW input ratings of all the individual motors connected to an 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 energized at its rated voltage with its starter in the starting position and the rotor locked;

"Municipality" means Overstrand Municipality, a municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998 or any legal entity duly authorized by the Overstrand Municipality to provide an electricity service within the jurisdiction of the Overstrand Municipality;

"net metering" means measuring the difference between the electricity supplied by the municipality and the electricity generated by a customer over the applicable billing period;

"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 on his 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/she is absent from the Republic of South Africa or his/her whereabouts are unknown;

"owner" in respect of immovable property means-

- (a) the person in whom ownership vests;
- (b) in the event of the person in whom the ownership vests being insolvent or deceased, or subject to any legal disqualification, the person under whose control and administration such immovable

- property vest in his or her capacity as curator, trustee, executor, administrator, judicial manager, liquidator or any other lawful representative;
- (c) in any event where the council is unable to determine the identity of such a person, the person who is entitled to the beneficial use of such immovable property;
- (d) in the event of immovable property in respect of which a lease agreement of 30 years or longer had been concluded, the lessee thereof;
- (e) in respect of-
- (i) a portion of land demarcated on a sectional title plan and registered in accordance with the Sectional Titles Act, 1986 (Act No 59 of 1986), the developer or the governing body in respect of the joint property;
 - (ii) a portion of land as defined in this Act, the person in whose name that portion is registered in accordance with a title deed, including the lawfully appointed representative of such person;
 - (iii) any person, including but not limited to-
 - (aa) a company registered in accordance with the Companies' Act, 2008 (Act No 71 of 2008), a trust inter vivos, a trust mortis causa, a close corporation registered in accordance with the Close Corporations Act, 1984 (Act No 69 of 1984), and a voluntary association;
 - (bb) any government department;
 - (cc) any council or governing body established in accordance with any legislation in force in the Republic of South Africa; and
 - (dd) any embassy or other foreign entity;

"point of consumption" means a point of consumption as defined in the Regulations;

"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 Municipality or the electrical installation of the consumer, as specified by the Municipality or any duly authorized official of the Municipality; provided that it shall meter all of, and only, the consumer's consumption of electricity;

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

"premises" means-

- (a) any land or any building or structure above or below ground level and
- (b) Any portion of land, situated within the area of jurisdiction of the municipality, and of which the outer boundaries are demarcated on –
 - (i) a general plan or diagram registered in accordance with the Land Survey Act, 1927 (Act No 9 of 1927) or the Deeds Registries Act, 1937 (Act No 47 of 1937); or
 - (ii) a sectional title plan registered in accordance with the Sectional Titles Act, 1986 (Act No 95 of 1986); and
- (c) 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;

"Regulations" means Regulations made in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993), as amended;

"retail wheeling" means the process of moving third party electricity from a point of generation across the distribution systems of the Municipality and selling it to a customer;

"safety standard" means the Code of Practice for the Wiring of Premises SANS 10142-1 incorporated in the Regulations;

"SANS", means a South African National Standard;

"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 Municipality’s equipment from overloads or faults occurring on the installation or on the internal service connection;

“smart meter” means an electricity meter that allows for –

- (a) measurement of energy consumed on a time interval basis;
- (b) real-time or near-time registration of electricity use;
- (c) two-way communication between the customer/end-user and the municipality;
- (d) storage of time interval data and transfer thereof remotely to the municipality;
- (e) remote limitation of the throughput through the meter (switching off of non-essential equipment or in the extreme case cutting of the electricity to the customer);
- (f) interconnection to premise-based networks and devices (e.g., local generation such as Photo Voltaic Cells and Wind Generation);
- (g) ability to measure electricity consumed and electricity supplied on separate registers;
- (h) ability to read other, on-premise or nearby commodity meters (e.g., gas, water); and
- (i) ability to detect theft of electricity or tampering to the meter itself.

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

“supply mains” means any part of the Municipality’s electricity network;

“SSEG” means Small Scale Embedded Generators

“tariff” means the Municipality’s tariff for the supply of electricity and sundry fees, as approved by the Municipality, and

“temporary supply” means an electricity supply required by a consumer for a period and in terms of conditions negotiated within a temporary supply agreement, normally less than one year;

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

“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 root-mean-square value of electrical potential between two conductors.

2. Other terms - All other terms used in this by-law shall, unless the context otherwise requires, have the meaning assigned thereto in the Municipal Systems Act (MSA), (Act 32 of 2000), as amended, Electricity Regulation Act (ERA), 2006 (Act 4 of 2006), as amended, or the Occupational Health and Safety Act (OHSA), 1993 (Act 85 of 1993), as amended.

3. Headings and titles - The headings and titles in this by-law shall not affect the construction thereof.

CHAPTER 2

GENERAL CONDITIONS OF SUPPLY

4. PROVISION OF ELECTRICITY SERVICES

- (1) Only the Municipality shall supply or contract for the supply of bulk electricity within the jurisdictional area of the Municipality.
- (2) The Municipality may permit the bulk supply or retail wheeling of electricity through its network by another electricity supplier that is licensed for the trading of electricity in terms of the Electricity Regulation Act to the customers of this electricity supplier. Such permission shall be governed by entering into a Service Delivery Agreement as required by Section 80 of the MSA.

- (3) The Municipality may permit the co-generation of electricity within the Municipal Boundaries, but under the following conditions:
- (a) a generation agreement being entered into;
 - (b) compliance with the relevant requirements of the ERA pertaining to the generation of electricity and the safety thereof;
 - (c) registration at the municipality of all fixed installations where electricity is generated; and
 - (d) compliance with the municipality's safety and quality requirements prior to allowance of the generation of electricity onto the municipal networks
- (4) The surplus generation of electricity may be prohibited and the municipality may determine conditions for such surplus generation pertaining to timing and quantity.

5. SUPPLY BY AGREEMENT

- (1) No person shall use or be entitled to use an electricity supply from the Municipality unless or until such person shall have entered into an agreement in writing with the Municipality, for such supply, and such agreement together with the provisions of this by-law shall in all respects govern such supply.
- (2) If a person uses an electricity supply without entering into an agreement he or she shall be liable for the cost of electricity used as stated in section 44 of this by-law.
- (3) No person shall generate electricity by way of a fixed installation and into a municipal network unless such person has entered into an agreement in writing with the Municipality for such generation, and such agreement together with the provisions of this by-law, as well as any other approved legislation governing the licensing of generators, shall in all respects govern such generation of electricity, which includes the approved Guidelines for Embedded Generation.

6. SERVING OF NOTICES

- (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 authorized 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 Municipality when it is delivered to the Municipal Manager or an employee in attendance at the Municipal Manager's office.

7. COMPLIANCE WITH NOTICES

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

8. APPLICATION FOR SUPPLY OR GENERATION

- (1) Application for the supply or generation of electricity shall be made in writing by the prospective consumer on the prescribed form obtainable at the offices of the Municipality, and the estimated load, in kVA, of the installation, shall be stated therein. Such application shall be made as early as possible, but not less than the time allowed by NRS 047-1, paragraph 4.2.3, before the supply of electricity is required in order to facilitate the work of the Municipality.
- (2) Applicants for the supply or generation of electricity must submit the following documents with their application:
 - (a) An identity document or passport, and, in the case of a business, a letter of resolution delegating the authority to the applicant.
 - (b) A valid lease agreement, in the case of a tenant, or, in the case of an owner, a Title Deed or other proof of ownership of the premises for which a supply or generation of electricity is required.
- (3) An application for a new temporary supply of electricity shall be considered at the discretion of the Municipality or any duly authorized official of the Municipality which may specify any special conditions to be satisfied in such case.

9. PROCESSING OF REQUESTS FOR SUPPLY OR GENERATION

Applications for the supply or generation of electricity will be processed by the municipality in accordance with standard operating procedures therefore, and the supply made available within the periods stipulated in NRS 047.

10. WAY LEAVES

- (1) The Municipality may refuse to lay or erect a service connection above or below ground on any thoroughfare or land not vested in the Municipality or on any private property, unless and until the prospective consumer has obtained 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, authorizing the laying or erection of a service connection thereon.
- (2) If such permission is withdrawn at any time or if the aforesaid private property or thoroughfare changes ownership and the new owner refuses to grant or continue such permission, the cost of any alteration required to be made to a service connection in order that the supply of electricity may be continued, and of any removal thereof which may become necessary in the circumstances, shall be borne by the consumer to whose premises the supply of electricity is required to be continued.

11. STATUTORY SERVITUDE

- (1) Subject to the provisions of section 10(1) and subsection (3) the Municipality may within its municipal area:
 - (a) regulate, control, 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 Municipality;
 - (d) do any other thing necessary or desirable for or incidental, supplementary or ancillary to any matter contemplated by paragraphs (a) to (c).
- (2) If the Municipality constructs, erects or lays any electricity supply main on, across, through, over or under any street or immovable property not owned by the Municipality or under the control of or management of the Municipality it shall pay to the owner of such street or property compensation in an amount agreed upon by such owner and the Municipality or, in the absence of agreement, as determined either by arbitration or a court of law.
- (3) The Municipality 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 Municipality or under the control or management of the Municipality, 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.

12. RIGHT OF ADMITTANCE TO INSPECT, TEST AND/OR DO MAINTENANCE WORK

- (1) The Municipality shall, through its employees, contractors and their assistants and advisers, have access to or over any property for the purposes of-
- (a) doing anything authorized or required to be done by the Municipality under this by-law or any other 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 Municipality 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 *or any other law*,
- (2) The Municipality shall pay compensation, as agreed upon, to any person suffering damage as a result of the exercise of the right of access contemplated by sub-section (1). In the absence of an agreement, compensation may be determined by arbitration or a court of law.
- (3) Sub section (2) does not apply where the municipality is authorized to execute work at the cost of such person or some other person.
- (4) An employee of the Municipality authorized thereto by such Municipality 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 to a person and for a purpose referred to in sub-section (1).
- (5) The Municipality may gain access to or over any property without notice and may take whatever action as may, in its opinion, be necessary or desirable in consequence of the existence of a state of war or the occurrence of any calamity, emergency or disaster.
- (6) A person representing the municipality, who wishes to enter private property must, on request, provide his or her identification.

13. REFUSAL OR FAILURE TO GIVE INFORMATION

- (1) No person shall refuse or fail to give such information as may be reasonably required of him/her by any duly authorized official of the Municipality or render any false information to any such official regarding any electrical installation work completed or contemplated.

- (2) The Municipality shall not, subject to the provisions of any other law, or its Customer Care Policy, make any information available concerning the supply or account details for any premises to any third party without the express written permission from the consumer who signed the supply agreement for the supply to the premises or generation there from concerned except to the owner of a property upon written request to the Municipality.

14. REFUSAL OF ADMITTANCE

No person shall willfully hinder, obstruct, interfere with or refuse admittance to any duly authorized official of the Municipality in the performance of his duty under this by-law or any other relevant legislation or of any duty connected therewith or relating thereto.

15. IMPROPER USE

If the consumer uses the electricity for any purpose or deals with the electricity in any manner which the Municipality has reasonable grounds for believing 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, the Municipality may, with or without notice, disconnect the electricity supply provided that such supply shall be restored as soon as the cause for the disconnection has been permanently remedied or removed and any relevant fee has been paid. The fee as prescribed by the Municipality for the disconnection and reconnection must 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.

16. ELECTRICITY TARIFFS AND FEES

Copies of tariffs and fees may be obtained free of charge at the offices of the Municipality.

17. DEPOSITS

- (1) The Municipality, in terms of its Tariff Policy, reserves the right to require the consumer to deposit a sum of money as security in payment of any charges which are due or may become due to the Municipality.
- (2) The amount of the deposit in respect of each electricity installation shall be determined annually by the Municipality, and each such deposit may be increased if the Municipality deems the deposit held to be inadequate or as a result of non-payment, tampering, unauthorized connections or unauthorized reconnections.
- (3) 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.
- (4) On cessation of the supply of electricity, the amount of such deposit, free of any interest, less any payments due to the Municipality shall be refunded to the consumer on written request.

18. PAYMENT OF CHARGES

- (1) The consumer shall be liable for all charges listed in the prescribed tariff for the electricity service as approved by the Municipality. It is a Payment Condition of this Municipality that the consumer may also be required to pay all charges of other services supplied by the Municipality before the supply of electricity is restored.
- (2) All accounts shall be deemed payable when issued by the Municipality 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 himself/herself that the account rendered is in accordance with the prescribed tariff of charges in respect of electricity supplied to the premises.
- (4) Where a duly authorized official of the Municipality has visited the premises for the purpose of disconnecting the supply of electricity in terms of subsection (2) and he/she is obstructed or prevented from effecting such disconnection, the prescribed fee shall become payable 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, or suitable arrangements shall be made in terms of the Municipality's By-law or Policies, before the electricity supply will be re-connected.
- (6) Notwithstanding the fact that an occupier has an agreement for the supply of electricity, should the owner of immovable property apply for a clearance certificate, in terms of section 118 of the Local Government: Municipal Systems Act, 32 of 2000, then such owner will be liable for all charges due to the Municipality, in respect of the said property, in order to obtain such certificate.

19. INTEREST ON OVERDUE ACCOUNTS

The Municipality may charge interest on accounts which are not paid by the due date appearing on the account, in terms of an approved Credit Control and Debt Collection Policy and any related indigent support.

20. PRINCIPLES FOR THE RESALE OF ELECTRICITY

- (1) Resellers shall comply with the licensing and registration requirements set out in the Electricity Regulation Act and regulations issued under this act.
- (2) Unless otherwise authorized by the Municipality, no person shall sell or supply electricity, supplied to his/her premises or generated by him under an agreement with the Municipality, to any other person or persons for use on any other premises, or permit such resale or supply to take place.
- (3) If electricity is resold for use upon the same premises, the electricity resold must be measured by a sub meter of a type which has been approved by the South African Bureau of Standards and supplied, installed and programmed in accordance with the standards of the Municipality.
- (4) The tariff, rates and charges at which and the conditions of sale under which electricity is thus resold shall not be less favourable to the purchaser than those that would have been payable and applicable had the purchaser been supplied directly with electricity by the Municipality.
- (5) Every reseller shall furnish the purchaser with monthly accounts that are at least as detailed as the relevant billing information details provided by the Municipality to its electricity consumers.
- (6) The Municipality may from time to time request audited reports from resellers to prove that the above resale conditions are met. The cost to obtain audited reports will be borne by the reseller.

21. RIGHT TO DISCONNECT OR REMOVE THE ELECTRICITY SUPPLY

- (1) The municipality has the right to disconnect the supply of electricity to any premises-
 - (a) without notice where-
 - (i) there is grave risk to person or property if the supply is not disconnected; or
 - (ii) there is evidence of tampering as contemplated in section 26; or
 - (iii) for reasons of staff or community safety

- (b) with reasonable written notice where-
- (i) the person liable to pay for such supply fails to pay any charge due to the Municipality in connection with any supply of electricity which he/she may at any time have received from the Municipality in respect of such premises, or
 - (ii) the Municipality has requested to disconnect the supply of electricity where there are outstanding municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties; or
 - (iii) any provision of this by-law has been contravened and the customer has failed to remedy the default after proper notice has been given;
 - (iv) access to inspect metering equipment has been denied; or
- (2) Where any of the provisions of this by-law and/or regulations are being contravened the Municipality should give the person 7 (seven) days' notice to remedy his/her default prior to disconnection.
- (3) After disconnection for non-payment of accounts or the improper or unsafe use of electricity (which includes feed-back into the Municipal network), the tariff as prescribed by the municipality shall be paid for re-connection of such supply.
- (4) In the case where an installation has been illegally reconnected on a consumer's premises after having been previously legally disconnected by the Municipality, or in the case where the Municipality's electrical equipment has been tampered with to prevent the full registration of consumption by the meter, the electricity supply shall be disconnected and may be physically removed from those premises.

22. NON-LIABILITY OF THE MUNICIPALITY

The Municipality 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 the supply electricity, unless caused by negligence on the part of the Municipality.

23. 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.

24. FAILURE OF SUPPLY

- (1) The Municipality 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 or any other devices belonging to the Municipality.
- (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 Municipality shall have the right to charge the consumer the fee as prescribed by the Municipality 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 as aforesaid.

25. SEALS OF THE MUNICIPALITY

The meter, load control devices or service protective devices and all apparatus belonging to the Municipality shall be sealed or locked by a duly authorized official of the Municipality, and no unauthorized person shall in any manner or for any reason whatsoever remove, break, deface, tamper or interfere with such seals or locks. The municipality may charge the fees determined in its Tariff Policy should a seal be broken or removed by a customer.

26. TAMPERING WITH SERVICE CONNECTION AND UNSAFE OR ILLEGAL CONNECTIONS TO THE ELECTRICAL SUPPLY SYSTEM

- (1) No person shall in any manner or for any reason whatsoever tamper or interfere with, vandalize, fix advertising medium to or deface any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of the Municipality or illegally connect into the electricity wiring of any other consumer.
- (2) No person may in any manner or for any reason whatsoever illegally connect into the electricity wiring of any other customer or the Municipality.
- (3) Where prima facie evidence exists of a consumer and/or any person having contravened sub-section (1), the Municipality shall have the right to levy any penalties or fees provided for in terms of the Tariff Policy of the Overstrand Municipality, to recover any costs incurred as a result of the replacement of a damaged meter and disconnect the supply of electricity immediately without prior notice to the consumer and in addition institute legal action against the customer.
- (4) Where a consumer or any person has contravened subsection (1) and such contravention has resulted in the meter recording less than the true consumption, the municipality shall have the right to recover the full cost of the estimated consumption from the consumer.
- (5) In the case of a prepaid meter being tampered, no refund will be given for any units that were on the tampered meter at the time of replacement and no previously purchased tokens will be replaced. In the case of a credit meter, normal consumption will be calculated for three months and recovered from the consumer.

27. PROTECTION OF MUNICIPALITY'S SUPPLY MAINS

- (1) No person may, except with the consent of the Municipality 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.
 - (d) make any unauthorized connection to any part of the supply mains or divert or cause to be diverted any electricity there from.
 - (e) 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 opinion of the Municipality will adequately prevent the tree from interfering with the conductors should the tree or branch fall or be cut down.
 - (f) Should the owner fail to observe this provision, the Municipality shall have the right, after prior written notification, or at any time in an emergency, to cut or trim any 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.
- (2) The Municipality 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 with this by-law.
- (3) The Municipality 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.

28. PREVENTION OF TAMPERING WITH SERVICE CONNECTION OR SUPPLY MAINS

If the Municipality decides that it is necessary or desirable to take special precautions in order to prevent tampering with any portion of the supply mains, service connection or service protective device or meter or metering equipment, the consumer shall either supply and install the necessary protection or pay the costs involved where such protection is supplied by the Municipality.

29. UNAUTHORIZED CONNECTIONS

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

30. UNAUTHORIZED RECONNECTIONS

- (1) No person other than a person specifically authorized thereto by the Municipality 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 Municipality.
- (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) The Municipality reserves the right to remove part or all of the supply equipment until such time as payment has been received in full.
- (4) The consumer shall be responsible for all the costs associated with the reinstatement of such supply equipment.

31. TEMPORARY DISCONNECTION AND RECONNECTION

- (1) The Municipality 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 Municipality for each such disconnection and subsequent reconnection.
- (2) In the event of the necessity arising for the Municipality to effect a temporary disconnection and reconnection of the supply of electricity to a consumer's electrical installation and the consumer is in no way responsible for bringing about this necessity, the Municipality shall waive payment of the fee hereinbefore referred to.
- (3) The Municipality 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 or for any other legitimate purpose. In all other instances adequate notice shall be given.

32. TEMPORARY SUPPLIES AND BUILDERS CONNECTIONS

- (1) It shall be a condition of the giving of any temporary supply of electricity, as defined in this by-law, that, if such supply is found to interfere with the efficient and economical supply of electricity to other consumers, the Municipality shall have the right, with notice, or under exceptional circumstances without notice, to terminate such temporary supply at any time and, the Municipality shall not be liable for any loss or damage occasioned by the consumer by such termination.
- (2) A temporary supply shall be valid for 12 months after which a new application must be submitted for continued use.

- (3) The municipality may disconnect a temporary supply if conditions pertaining thereto are not complied with.

33. 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 special permission in writing of the Municipality.
- (2) Full information as to the reasons for and nature of such temporary work shall accompany the application for the aforesaid permission, and the Municipality may refuse such permission or may grant permission.
- (3) Where permission is refused, the applicant must be informed of the reasons for the decision.

34. LOAD REDUCTION

- (1) At times of peak load, or in an emergency, or when, in the opinion of the Municipality, it is necessary to reduce the load on the electricity supply system of the Municipality, the Municipality may without notice interrupt and, for such period as the Municipality may deem necessary, discontinue the electricity supply to any consumer's electrically operated thermal storage water heater or any other specific appliance or the whole installation.
- (2) The Municipality 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) Except at times of peak load or in cases of emergency, the municipality shall where possible and practically viable not interrupt the electricity supply system to a customer without reasonable notice.
- (4) The Municipality 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 authorized official of the Municipality may at any reasonable time enter any premises for the purpose of installing, inspecting, testing adjusting and/or changing such apparatus and equipment.
- (5) Notwithstanding the provisions of sub-section (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 Municipality may decide to facilitate the later installation of the apparatus and equipment referred to in sub-section (4).

35. HIGH, 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 Municipality or any duly authorized official of the Municipality, be paid for by the consumer.
- (2) All such equipment installed on the consumer's premises shall be compatible with the Municipality's electrical performance standards
- (3) No unauthorized person shall open, close, isolate, link or earth high or medium voltage switchgear or equipment without giving reasonable prior notice to the Municipality's System Control Centre.
- (4) In the case of a high or medium voltage supply of electricity, where the consumer has high or medium voltage switchgear installed, the Municipality shall be advised of the competent person appointed by the consumer in terms of the Regulations, and of any changes made to such appointments.

- (5) In the case of a low voltage supply of electricity, the consumer shall provide and install a low voltage main switch and/or any other equipment required by the Municipality or any duly authorized official of the Municipality.
- (6) In the case where fixed generators of any kind are installed on the consumer's premises, the consumer shall ensure that the necessary safety isolation equipment is installed to prevent any back-feed of electricity after the municipal network has been isolated, as prescribed by the Municipality's safety standards and other relevant standards.

36. SUBSTATION ACCOMMODATION

- (1) The Municipality may, on such conditions as may be deemed fit by the Municipality or any duly authorized official of the Municipality, 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 consumer. The 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.
- (2) The Municipality reserves the right to supply its own networks from its own equipment installed in such accommodation, and if additional accommodation is required by the Municipality, such additional accommodation shall be provided by the consumer at the cost of the Municipality.

37. WIRING DIAGRAM AND SPECIFICATION

- (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 on request be supplied to the Municipality in duplicate for approval before the work commences.
- (2) Where an electrical installation is to be supplied from a substation on the same premises on which the current is transformed from high voltage, or from one of the substations of the Municipality through mains separate from the general distribution system, a complete specification and drawings for the plant to be installed by the consumer shall, if so required, be forwarded to the Municipality for approval before any material in connection therewith is ordered.

38. STANDBY SUPPLY

- (1) No person shall be entitled to a standby supply of electricity from the Municipality for any premises having a separate source of electricity supply except with the written consent of the Municipality and subject to such terms and conditions as may be laid down by the Municipality.
- (2) Upon cessation of the electricity supply for any reason whatsoever, the Municipality shall have the right to supply standby electricity in any manner as it sees fit.

39. CONSUMER'S ALTERNATE ELECTRICITY SUPPLY EQUIPMENT

- (1) No alternate electricity equipment provided by a consumer in terms of any Regulations or for his own operational requirements shall be connected to any installation without the prior written approval of the Municipality.
- (2) Application for such approval shall be made in writing and shall include a full specification of the equipment and a wiring diagram.

- (3) The alternate electricity equipment shall be so designed and installed that it is impossible for the Municipality's supply mains to be energized by means of a back-feed from such equipment when the municipal supply has been de-energized.
- (4) The consumer shall be responsible for providing and installing all such protective equipment.
- (5) Where, by special agreement with the Municipality, the consumer's alternate electricity equipment is permitted to be electrically coupled to, and run in parallel with the Municipality'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 Municipality.

40. DIRECTIVE NOTICES

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

CHAPTER 3

RESPONSIBILITIES OF CONSUMERS

41. 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, erected, maintained and kept in good order by the consumer at his own expense and in accordance with this by-law and the Regulations. This includes the connection box for said installation.

42. FAULT IN AN ELECTRICAL INSTALLATION

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

43. DISCONTINUANCE OF USE OF SUPPLY

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

44. CHANGE OF OCCUPIER

- (1) A consumer vacating any premises shall give the Municipality not less than two full working days' notice in writing of his intention to discontinue using the electricity supply, failing which he/she shall remain liable for such supply.
- (2) If the person taking over occupation of the premises desires to continue using the electricity supply, he/she shall make application in accordance with the provisions of section 5 of this by-law, and if he/she fails to make application for an electricity supply within ten (10) working days of taking

occupation of the premises, the supply of electricity shall be disconnected, and he/she shall be liable to the Municipality for the electricity supply from the date of occupation till such time as the supply is so disconnected.

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

Until such time as an application is made by such person for a supply of electricity, in terms of section 5 of this by-law, he/she shall be liable for all charges and fees owed to the Municipality for that metering point as well as any outstanding charges and fees whether accrued by such person or not.

- (4) The municipality may impose conditions, which may include the withholding of electricity supply to premises where the previous customer's account is in arrears.
- (5) In the event of change of ownership a new certificate of compliance for the premises shall be issued by an accredited electrician, unless the existing certificate was issued within the preceding 24 month period and no subsequent alteration of the electrical installation was effected.

45. SERVICE APPARATUS

- (1) The consumer shall be liable for all costs to the Municipality 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 Municipality or caused by an abnormality in the supply of electricity to the premises.
- (2) If, during a period of disconnection of an installation from the supply mains, the service main, metering equipment or any other service apparatus, being the property of the Municipality and having been previously used, have been removed without its permission or have been damaged so as to render reconnection dangerous, the owner or occupier of the premises, as the case may be, during such period shall bear the cost of overhauling and/or replacing such equipment.
- (3) Where there is a common metering position, the liability detailed in subsection (1) shall devolve on the owner of the premises.
- (4) The amount due in terms of subsection (1) shall be evidenced by a certificate from the Municipality which shall be final and binding.

CHAPTER 4

SPECIFIC CONDITIONS OF SUPPLY

46. SERVICE CONNECTION

- (1) The consumer shall bear the cost of the service connection, as approved by the Municipality.
- (2) Notwithstanding the fact that the consumer bears the cost of the service connection, ownership of the service connection, laid or erected by the Municipality, shall vest in the Municipality, the Municipality shall be responsible for the maintenance of such service connection up to the erf boundary or point of supply. The consumer shall not be entitled to any compensation from the Municipality in respect of such service connection.
- (3) The work to be carried out by the Municipality at the cost of the consumer for a service connection to the consumer's premises shall be determined by the Municipality or any duly authorized official of the Municipality.

- (4) A new service connection shall be laid underground, whether the supply mains are laid underground or erected overhead, unless an overhead service connection is specifically required by the Municipality. A client must replace an existing overhead connection with an underground service connection when the Municipality is undergrounding main services to the client's premises.
- (5) The consumer shall provide, fix and/or maintain on his premises such ducts, wire ways, trenches, fastenings and clearance to overhead supply mains as may be required by the Municipality 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 16mm² (copper or copper equivalent), and all conductors shall have the same cross-sectional area, unless otherwise approved by any duly authorized official of the Municipality.
- (7) Unless otherwise approved by a duly authorized official of the Municipality, each registered erf shall only be provided with one service connection and one meter. Where two or more premises belonging to one owner are situated on adjacent erven and the owner operates the properties in a consolidated manner, for safety considerations, only a single bulk supply of electricity may be made available provided that the municipality may require the customer to consolidate the erven or to have them tied notarial.
- (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 Municipality.
- (9) Within the meter box, the service conductor or cable, as the case may be, shall terminate in an un-obscured position and the conductors shall be visible throughout their length when cover plates, if present, are removed.
- (10) 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. Alternatively, if trunking is used, the conductors of the individual circuits shall be clearly identified (tied together every 1,5m) throughout their length.

47. METERING ACCOMMODATION

- (1) The consumer shall, if required by the Municipality or any duly authorized official of the Municipality, provide accommodation in an approved position, the meter board and adequate conductors for the Municipality's metering equipment, service apparatus and protective devices. Such accommodation and protection shall be provided and maintained, to the satisfaction of the Municipality, 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 but at all times for purposes connected with the operation and maintenance of the service equipment. Access at all reasonable hours shall be afforded for the inspection of prepayment meters.
- (2) Where sub metering equipment is installed, accommodation separate from the Municipality's metering equipment shall be provided.
- (3) 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.
- (4) Where in the opinion of the Municipality the position of the meter, service connection, connection box, protective devices or main distribution board is no longer readily accessible or becomes a course of danger to life or property or in any way becomes unsuitable, the consumer shall remove it to a new position, and the cost of such removal, which shall be carried out with reasonable dispatch, shall be borne by the consumer.

- (5) The accommodation for the Municipality's metering equipment and protective devices may, if approved, include the consumer's main switch and main protective devices. 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 unless approved.

CHAPTER 5

SYSTEMS OF SUPPLY

48. LOAD REQUIREMENTS

Alternating current supplies shall be given as prescribed by the NRS 048, and in the absence of a quality of supply agreement, as set out in applicable standard specification.

49. 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 Municipality or any duly authorized official of the Municipality.
- (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 Municipality or any duly authorized official of the Municipality.
- (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 Municipality.

50. INTERFERENCE WITH OTHER PERSONS' ELECTRICAL EQUIPMENT

- (1) No person shall operate electrical equipment having load characteristics which, individually 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 or 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/her own cost, install the necessary equipment to filter out the interference and prevent it reaching the supply mains.

51. SUPPLIES TO MOTORS

Unless otherwise approved by the municipality the rating of motors shall be limited as follows:

- (1) Limited size for low voltage motors –
The rating of a low voltage single-phase motor shall be limited to 2kW or the starting current may not exceed 70A. All motors exceeding these limits shall be wound for three phases at low voltage or such higher voltage as may be required.
- (2) Maximum starting and accelerating currents of three-phase alternating current motors.-

The starting current of three-phase low voltage motors permitted shall be related to the capacity of the customer'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 line (6x full-load current) | Star/Delta (2,5 x full-load current) | Other means (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 |

(3) Consumers supplied at medium voltage –

In an installation supplied at medium voltage the starting current of a low voltage motor shall be limited to 1,5 times the rated full-load current of the transformer supplying such a motor. The starting arrangement for medium voltage motors shall be subject to the approval of the municipality.

52. POWER FACTOR

- (1) If required by the municipality, the power factor of any load must be maintained within the limits 0,85 lagging and 0,9 leading.
- (2) Where, for the purpose of complying with subsection (1), it is necessary to install power factor corrective devices, such corrective devices must be connected to the individual appliance terminals unless the correction of the power factor is automatically controlled
- (3) The customer must, at his or her own cost, install such corrective devices.

53. PROTECTION

Electrical protective devices for motors must be of such a design as effectively to prevent sustained over current and single phasing, where applicable.

CHAPTER 6

MEASUREMENT OF ELECTRICITY

54. METERING

- (1) The Municipality 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 Municipality and read at the end of such period except where the metering equipment is found

to be defective, or the Municipality invokes the provisions of section 54(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 Municipality reserves the right to meter the supply to 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 or electrical connections of any description shall be made on the supply side of the point of metering unless specifically approved in writing by the Municipality or any duly authorized official of the Municipality.
- (6) The Municipality shall have the right to decide which metering equipment shall be most appropriate at a specific point of metering, and the Municipality shall have the right to change to alternative metering equipment at any time.

55. ACCURACY OF METERING

- (1) A meter shall be conclusively presumed to be registering accurately if its error, when tested in the manner prescribed in sub-section (5) hereof, is found to be within the limits of error as provided for in the applicable standard specifications.
- (2) The Municipality shall have the right to test its metering equipment. If it is established by test or otherwise that such metering equipment is defective, the Municipality shall -
 - (a) in the case of a credit meter, adjust the account rendered;
 - (b) in the case of prepayment meters,
 - (i) render an account where the meter has been under-registering, or
 - (ii) issue a free token where the meter has been over-registering ;in accordance with the provisions of sub-section (6).
- (3) The consumer shall be entitled to have the metering equipment tested by the Municipality on payment of the prescribed fee. If the metering equipment is found not to comply with the system accuracy requirements as provided for in the applicable standard specifications, an adjustment in accordance with the provisions of sub-sections (2) and (6) shall be made and the aforesaid fee shall be refunded.
- (4) In case of a dispute, the consumer shall have the right, at his own cost, 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.
- (5) Meters shall be tested in the manner as provided for in the applicable standard specifications.
- (6) When an adjustment is made to the electricity consumption registered on a meter in terms of sub-section (2) or (3), such adjustment shall either be based on the percentage error of the meter as determined by the test referred to in sub-section (5) or upon a calculation by the Municipality from consumption data in its possession. Where applicable, due allowance shall be made, where possible, for seasonal or other variations which may affect the consumption of electricity.
- (7) When an adjustment is made as contemplated in sub-section (6), the adjustment may not exceed a period of six (6) months, preceding the date on which the metering equipment was found to be inaccurate. The application of this section does not prohibit a consumer from claiming back overpayment for any longer period.
- (8) Where the actual load of a consumer differs from the initial estimated load provided for under section 8(1) to the extent that the Municipality 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 Municipality making any upward adjustment to an account in terms of sub-section (6), the Municipality shall -
- (i) notify the consumer in writing of the monetary value of the adjustment to be made and the reasons therefore;
 - (ii) in such notification provide sufficient particulars to enable the consumer to submit representations thereto, and
 - (iii) call upon the consumer in such notice to provide it with reasons in writing, if any, within 21 days or such longer period as the Municipality may permit why his/her 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 Municipality shall be entitled to adjust the account as notified in sub-section 9(a)(i).
- (c) The Municipality shall consider any representation provided by the consumer in terms of sub-section (9)(a) and shall, if satisfied with the validity of a representation, adjust the account appropriately.
- (d) If a duly authorized official of the Municipality decides, after having considered the representation made by the consumer, that such representation does not establish a case warranting an amendment to the monetary value established in terms of sub-section (6), the Municipality 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 against the decision of the official in terms of section 62 of the Municipal Systems Act, 2000.

56. 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 Municipality shall not be obliged to effect any adjustments to such charges.
- (2) If for any reason the credit meter cannot be read, the Municipality 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 estimation 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, this may be obtained upon payment of the prescribed fee and tariffs, after a notification period of at least two (2) days to the Municipality.
- (5) If any error in calculation, reading or metering is discovered in respect of any account rendered to a consumer, the error shall be corrected in subsequent accounts. Any such correction shall only apply in respect of accounts for a period of 6 months, preceding the date on which the error in the accounts was discovered, and shall be based on the actual tariffs applicable during the period. The application of this section does not prevent a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.

57. PREPAYMENT METERING

- (1) No refund of the amount tendered for the purchase of electricity credit shall be given at the point of sale after initiation of the process by which the prepayment meter token is produced.
- (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 Municipality.
- (4) The Municipality shall not be liable for the reinstatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, prepayment meters and/or tokens.
- (5) Where a consumer is indebted to the Municipality for electricity consumed or to the Municipality for any other service supplied by the Municipality (including rates) or for any charges previously raised against him/her in connection with any service rendered, the Municipality may deduct a percentage from the amount tendered to offset the amount owing to the Municipality, as set out in the section 5 agreement for the supply of electricity.
- (6) The Municipality may, at its discretion, appoint vendors for the sale of credit for pre-payment meters and shall not guarantee the continued operation of any vendor.

CHAPTER 7

ELECTRICAL CONTRACTORS

58. ADDITIONAL REQUIREMENTS TO THOSE OF THE REGULATIONS

In addition to the requirements of the Regulations the following requirements shall apply:

- (1) Where an application for a new or increased supply of electricity has been made to the Municipality, any duly authorized official of the Municipality may at his/her discretion accept notification of the completion of any part of an electrical installation, the circuit arrangements of which 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 authorized official of the Municipality, be inspected, tested and connected to the supply mains as though it were a complete installation.
- (2) The examination, test and inspection that may be carried out at the discretion of the Municipality or any duly authorized official of the Municipality in no way relieves the electrical contractor/accredited person or the user or lessor, as the case may be, from his responsibility for any defect in the installation. Such examination, test and inspection shall not be done in such a way (even where the electrical installation has been connected to the supply mains) as to indicate or guarantee in any way that the electrical installation has been carried out efficiently with the most suitable materials for that purpose or that it is in accordance with this by-law or the safety standard, and the Municipality shall not be held responsible for any defect or fault in such electrical installation.

59. WORK DONE BY ELECTRICAL CONTRACTORS

The Municipality shall not be held responsible for the work done by the electrical contractor/accredited person on a consumer's premises and shall not in any way be responsible for any loss or damage which may be occasioned by fire or by any accident arising from the state of the wiring on the premises.

CHAPTER 8

COST OF WORK

60. COST OF WORK

The Municipality may repair and make good any damage done in contravention of this by-law or resulting from a contravention of this by-law. The cost of any such work carried out by the Municipality 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.

CHAPTER 9**ENERGY SAVING MEASURES AND REDUCED USE OF ELECTRICITY****61. NORMS, STANDARDS AND GUIDELINES**

- (1) The municipality may determine and publish norms, standards and guidelines which prescribe appropriate measures to save energy or to reduce the use of electricity and such norms standards and guidelines must be kept in the form of an operational manual.
- (2) The norms, standards and guidelines contemplated in subsection (1) may differentiate between communities, geographical areas and different kinds of premises.

CHAPTER 10**ELECTRICITY SUPPLY TO BACKYARD DWELLINGS****62. APPLICATION FOR ELECTRICITY SUPPLY**

In recognizing the guidelines and principles of the Integrated National Electrification Programme, the municipality shall consider applications for electricity supply to backyard dwellings.

63. CONDITIONS FOR SUPPLY

The municipality may approve an application on the following conditions-

- (1) That the dwelling is legal and approved by the municipality
- (2) That the dwelling is free standing and easily accessible.
- (3) that the network capacity is sufficient to carry the additional load; and
- (4) if additional capacity is required, such consumer shall be responsible for upgrading of the network and be responsible for payment of the prescribed tariff for such upgrading.
- (5) Each registered erf shall only be provided with one service connection and one meter.

CHAPTER 11**SMALL SCALE EMBEDDED GENERATORS AND ELECTRIC FENCE****64. SMALL SCALE EMBEDDED GENERATORS**

- (1) Paragraph 39(1) of this Electricity Supply By-Law states that no generation equipment may be connected to the grid without the express consent of the Senior Manager: Electro Technical Services.
- (2) Failure to obtain this consent constitutes an offence which could lead to a fine and/or imprisonment.
- (3) Furthermore, the installation may also be in contravention of the Occupational Health and Safety Act, for which punitive sanctions also apply.
- (4) Consumers found to have illegally connected SSEG to the grid (either before or after their electricity meter) will be instructed to have the installation disconnected from the grid. A Certificate of Compliance issued by an authorized electrical contractor will be required as proof of such disconnection.

- (5) Should the consumer fail to have the SSEG disconnected from the grid, the Electro Technical Services Department will disconnect the electricity supply to the property (as provisioned for in the Electricity Supply By- Law)
- (6) Consumers wishing to connect SSEG legally to Overstrand's grid will be required to follow the normal application procedure as detailed in these guidelines.
- (7) No exemption from any of Overstrand's requirements will be granted for "retrospective applications".
- (8) The consumer shall not supply any electricity generated on any premises to any third party on any other premises in any way.

65. ELECTRIC FENCE

- (1) No person shall design, manufacture, sell, install or use an electric fence or electric fence energizer other than in accordance with the relevant health and safety standard incorporated into the Electrical Machinery Regulations (2011) under section 44 of the Act: Provided that electric fences or electric fence energizers installed in accordance with the Electrical Machinery Regulations, 1988, prior to the coming into force of the 2011 Regulations shall be deemed to comply with this regulation.
- (2) The seller, importer and manufacturer of an electric fence energizer shall provide compliance with SANS 60335-2-76 by producing a certificate issued by an accredited test laboratory recognized by the accreditation authority.
- (3) In the case of an electric fence energizer which receives its energy from a battery charger by means of a charging apparatus which receives its power from an electric supply, the user or lessor shall ensure that the charging apparatus is of double-wound isolation construction.
- (4) Subject to the provisions of sub regulation (5) every user or lessor of an electric fence system shall have an electric fence system certificate in the form of Annexure 1 of the Electrical Machinery Regulations, 2011, in respect of such electric fence system: Provided that such certificate shall be transferable.
- (5) Sub-regulation (4) shall not apply to an electrical fence system that existed prior to the coming into force of the Electrical Machinery Regulations, 2011: Provided that if-
 - (a) Any addition or alteration is effected to such electric fence system; or
 - (b) There is a change of ownership of the premises on which such electric fence system exists after 1 October 2012,

the user or lessor shall obtain an electric fence system certificate for the electric fence system, where after the provision of sub-regulation (4) shall be applicable.

CHAPTER 12

GENERAL PROVISIONS

66. EXEMPTIONS

- (1) Any person may in writing apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may –
 - (a) grant an exemption in writing and set and determine the period for which such exemption is granted;
 - (b) alter or cancel any exemption or condition in an exemption; or
 - (c) refuse to grant an exemption in which case the applicant must be informed of the reasons for refusal.

- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with the conditions imposed by the municipality, however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

67. LIAISON FORUMS IN COMMUNITY

- (1) The municipality may establish one or more liaison forums in a community for the purposes of obtaining community participation with regard to the matters dealt with in this by-law.
- (2) A liaison forum may consist of –
 - (a) a member or members of an interest group, or an affected person;
 - (b) a designated official or officials of the municipality; and
 - (c) a councillor.
- (3)
 - (a) The municipality may, when considering an application for consent, permit or exemption in terms of this by-law, request the input of a liaison forum.
 - (b) A liaison forum or any person may on own initiative submit an input to the municipality for consideration.

68. APPEAL

A person whose rights are affected by a decision delegated by the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision

69. PENALTIES

- (1) Any person who contravenes any of the provisions of sections 25, 26, 27, 29 and 30 of this by-law shall be guilty of an offence and on conviction liable to a fine not exceeding ten thousand rand or imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and, in the case of a continuing offence, to an additional fine not exceeding two hundred rand or additional imprisonment for a period not exceeding ten days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued.
- (2) Any person who contravenes any provision of any section not referred to in sub-section (1), shall be guilty of an offence and on conviction liable to a fine not exceeding one thousand rand or imprisonment for a period not exceeding one month or to both such fine and imprisonment and, in the case of a continuing offence, to an additional fine not exceeding fifty rand or additional imprisonment for a period not exceeding ten days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued.
- (3) Any person who continues to commit an offence after notice has been served on him/her to cease committing such offence or after he/she has been convicted of such offence shall be guilty of a continuing offence

70. SHORT TITLE AND REPEAL OF BY-LAWS

- (1) The by-law referred to in Schedule 1 is hereby repealed.
- (2) This by-law is called the By-law Relating to Electricity Supply, 2016, and takes effect on the date of proclamation hereof.

SCHEDULE 1**BY-LAWS AND SAVINGS REPEALED**

- (1) The provisions of any by-laws previously promulgated by the Municipality or by any of the disestablished municipalities now incorporated in the Municipality are hereby repealed as far as they relate to matters provided for in this by-law.
- (2) The following by-law of the Overstrand Municipality is hereby specifically repealed:

| Name of bylaw | Date published | As a whole or partially |
|--------------------------|-----------------------------------|--------------------------------|
| Electricity Supply Bylaw | PG 6589 dated 19 December 2008 | As a whole. |

OVERSTRAND MUNICIPALITY
BY-LAW ON PROBLEM BUILDINGS

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CHAPTER 1

INTRODUCTORY PROVISIONS

To provide for the identification, control and management of dilapidated, abandoned and problem properties in the Overstrand Municipal Area, and to provide for matters incidental thereto.

1. PREAMBLE

Whereas section 156(2) and (5) of the Constitution of the Republic of South Africa Act 108 of 1996 (the Constitution) provides that a municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer, and to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions;

And Whereas the Overstrand Municipality seeks to identify, control and manage dilapidated and problem properties within its area of jurisdiction to ensure that such properties comply with the relevant legislation by formulating a coordinated and integrated strategic plan, processes and procedures which address the current challenges faced within its jurisdiction;

And now therefore, be it enacted by the Overstrand Municipality, as follows:

2. DEFINITIONS

In this By-law, unless the context otherwise indicates, reference to:

"area of jurisdiction" means the area under the control of the Overstrand Municipality according to the legally determined and declared boundaries of the Overstrand Municipality.

"authorised official" means an employee of the Overstrand Municipality authorised by the Overstrand Municipality or authorised by any delegated official of the Overstrand Municipality, to implement and enforce the provisions of these By-laws.

"building" includes, but is not limited to:

- (a) any structure whether of a temporary or permanent nature and irrespective of the materials used in the erection thereof, erected or used for or in connection with the-
 - (i) accommodation or convenience of human beings or animals;
 - (ii) manufacture, processing, storage, display or sale of any goods;
 - (iii) rendering of any service;
 - (iv) destruction or treatment of refuse or other waste materials;
 - (v) cultivation or growing of any plant or crop;
- (b) any wall or part of building;
- (c) a unit or common property as defined in the Sectional Titles Act, 1986 (Act no. 95 of 1986); or
- (d) any vacant or unoccupied erf of whatever nature and size, with or without walls, with or without a roof and if there is a structure, whether or not building plans for such structure are approved by the relevant authority in terms of any legislation;
- (e) any advertising sign, advertising board or other structure as defined in the Overstrand Municipality By-law relating to Outdoor Advertising and Signage P.G. 6856 / March 2011;
- (f) all structures which fall within the definition of "building" in:
 - (i) the National Building Regulations and Building Standards Act, (Act 103 of 1977), any amendments thereto or substitutions thereof, as well as any Regulations promulgated thereunder or any deemed to satisfy or similar standards published by the Government Printers;
 - (ii) any town planning scheme in operation in respect of the property;
 - (iii) all regulations and standards issued by the South African Bureau of Standards or related authority.

"Court" means the Magistrates court or High Court or Additional Court for Municipal matters having jurisdiction over an area falling within the Overstrand Municipality;

"Municipality" means the Municipality of the Overstrand established by Establishment Notice No. P.N. 494/2000 of September 2000 issued in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), and any employee of the Municipality acting in terms of delegated or sub-delegated authority thereof:

"property" means any piece of land registered as a separate entity of land in a deeds registry as an erf, lot, plot, farm, stand or agricultural holding and includes any unit and land contemplated in the Sectional Title Act, 1986 (Act No. 95 of 1986) and any public place depicted on the general plan of a township or any piece of land used as if registered as a separate entity of land in a deeds registry as an erf, lot, plot, farm, stand or agricultural holding and includes any unit and land contemplated in the Sectional Title Act, 1986 (act No. 95 of 1986) or used for a similar purpose, and includes any public road, park, private road or any piece of land of whatever nature.

"Problem Property" means any property, building or portion of a property or building that has been declared a problem property in terms of section 7 of this By-law;

"Responsible Person" means:

- (a) the person, any or all of the trustees of a trust or body corporate, any or all of the members of an association, any and all members of a partnership, any or all of the directors of a company, any or all of the members of a close corporation, registered as the owner or holder of any property in the relevant deeds registry office; or
- (b) the person, any or all of the trustees of a trust or body corporate, any or all of the members of an association, any and all members of a partnership, any or all of the directors of a company, any or all of the members of a close corporation, seemingly in charge of the property, whether due to any reason, including but not limited to:
 - (i) the property being abandoned by the registered owner or holder thereof; or
 - (ii) the registered owner or holder thereof being absent from the Republic of South Africa or his/her whereabouts are unknown to the Overstrand Municipality; or
 - (iii) the property having been taken over by such person with or without consent of the registered owner or holder thereof; or
 - (iv) such person collecting or accepting any monetary compensation in respect of the occupation of the building;
 - (v) such persons as being appointed by the registered owner or holder thereof to be in charge of the property;

and whether or not such person undertakes or at any time undertook the management, maintenance or collection of rentals or other moneys in respect of such property or who is or was responsible thereof;

- (c) a trustee in an insolvent estate which is the registered owner, registered holder or person in charge of property;
- (d) the liquidator of a company or a close corporation which is a registered owner, registered holder or person in charge of the property;
- (e) the executor of any registered owner, registered holder or person in charge of the property who has died;
- (f) or the representative recognized by law of any registered owner, registered holder or person in charge of the property who is a minor or of unsound mind or is otherwise under disability;

- (g) where the Overstrand Municipality is unable to determine the identity of such person as mentioned in sub sections (a) or (b) above, any person who accepts or is entitled to or who have accepted or were entitled to the benefit of the use of such property or who enjoys or enjoyed such benefit.

3. APPLICATION OF THIS BY-LAW

This By-law applies to all properties and buildings in the area and jurisdiction of the Overstrand Municipality.

CHAPTER 2

AUTHORISED OFFICIAL

4. APPOINTMENT OF AUTHORISED OFFICIAL

The Municipal Manager or any other person with the relevant authority delegated to him/her by the Overstrand Municipality, or its delegated official, shall appoint so many authorised officials he/she may deem necessary to implement and enforce the provisions of this By-law.

5. IDENTIFICATION OF AUTHORISED OFFICIAL

An authorised official shall at all times identify him/herself to the responsible person with an identification card as provided to him/her for this purpose by the Overstrand Municipality at the time of his/her appointment.

6. ENTRY AND INSPECTION BY AUTHORISED OFFICIAL

- (1) Any authorised official may enter any property or building at any reasonable time with a view to:
 - (a) inspect and/or determine whether the property or building complies with this By-law and any other legislation;
 - (b) inspect and determine whether the property or building is, in his/her opinion, a problem property;
 - (c) serve the responsible person with a notice contemplated in this By-law or any other By-laws or legislation.
- (2) No persons shall hinder or obstruct the authorised official in the exercise of his/her powers in terms of this By-law.

7. POWERS OF AUTHORISED OFFICIAL

- (1) The authorised official may, subject to the provisions of this section, declare a property or a building or any part thereof a Problem Property, provided that one or more of the following circumstances exist at the property:
 - (a) the building appears to have been abandoned by the registered owner or responsible person with or without the consequence that rates or other municipal services charges have not been paid for a period of more than eight (8) months during any period of twelve (12) months, and after the registered owner or responsible person have received a written notice to comply.

- (b) the building does not comply with existing legislation and/or is not maintained in accordance with the health, fire-safety and town- planning and building control By-laws and legislation;
 - (c) is overcrowded as envisaged in any law, By-law, town planning scheme in operation or any other relevant legislation;
 - (d) is unhealthy, unsanitary, unsightly or objectionable as determined by the personnel in the Building Services Department of the Overstrand Municipality. The Building Services Department of the Overstrand Municipality may seek professional advice from the Overstrand Heritage and Aesthetics Committee as regards aesthetics and advice from a registered engineer as regards stability of the building or structure or any other professional to ensure the objective as stated above.
 - (e) is subject to complaints of criminal activities, including but not limited to drug dealings, prostitution, money laundering;
 - (f) is occupied, but is nevertheless derelict as a result of neglect;
 - (g) where refuse, waste material, rubble, scrap or any similar material is accumulated, dumped, stored or deposited, unless so stored in terms of a valid approval by the Overstrand Municipality;
 - (h) is partially completed and the responsible person has not complied with a notice issued in terms of Section 11 of the National Building Regulations and Building Standards Act, 1977;
 - (i) is structurally unsound;
 - (j) is a threat or danger to the safety of the occupiers, registered owners, responsible person or the public in general.
- (2) The authorised official shall give notice in writing to the responsible person, before so declaring the building or property a Problem Property:
- (a) stating his/her intention to declare the building or property a Problem Property;
 - (b) providing brief reasons for such intention; and
 - (c) granting the responsible person a period of not less than 10 (ten) days, excluding Saturdays, Sundays and Public Holidays, to provide written representations as to why the building or property is not to be declared a Problem Property
- (3) The authorised official shall:
- (a) consider the written representations provided to him/her by the responsible person, and;
 - (b) declare the building as:
 - (i) a Problem Property; or
 - (ii) declare it as not being a Problem Property; and
 - (c) forthwith provide the responsible person with his/her written decision by way of service in terms of section 8 below.

CHAPTER 3

NOTICE TO COMPLY AND SERVICE OF NOTICE

8. NOTICE TO COMPLY

- (1) The authorised official shall serve a written notice on the responsible person that the property has been declared a Problem Property, requiring such responsible person within a specified period to comply with the provisions of this By-law and/or any other relevant legislation or By-laws and the responsible person shall forthwith comply with the notice.
- (2) Despite the provisions of sub section (1), and subject to any applicable legislation, if the authorised official has reason to believe that the condition of any building or property is such that steps should immediately be taken to protect the safety and health of persons or property, he or she may take such steps as may be necessary in the circumstances to alleviate that condition, without serving or delivering such notice on or to the responsible person and may recover the cost of such steps from the responsible person.
- (3) If the authorised official deems it necessary for the safety of any person, he or she may, by notice in writing, and subject to any applicable legislation:
 - (a) Order the responsible person of any Problem Property to remove, within the period specified in such notice, any person occupying or working, or who for any other purpose is in or on the Problem Property, and to take care that no person who is not authorised by the Overstrand Municipality enters the Problem Property;
 - (b) Order any person occupying, operating or working from, or who for any other purpose is in or on any Problem Property, to vacate the Problem Property.
- (4) No person shall occupy, use or permit the occupation or use of any Problem Property or continue to occupy, use or permit, the occupation or use of any Problem Property in respect of which a notice was given of sub section (3) or steps were taken by the Overstrand Municipality in terms of this section, unless he or she has been granted permission by the Overstrand Municipality in writing that the Problem Property may be occupied or used, as the case may be.

9. SERVICE OF NOTICES

- (1) All and any notices to be given in terms of this By-law shall be deemed to be duly given and effectively served on such person:
 - (a) when it has been delivered to him/her personally;
 - (b) when it has been delivered to a person, who accepts it on behalf of the responsible and who is apparently over the age of 16 years and found at the problem property or at the responsible person's place of residence or business in the Republic;
 - (c) when it has been posted by prepaid registered or certified mail to the responsible person's last known residential or postal address as in possession of the Overstrand Municipality, 7 (seven) days after such posting;
 - (d) if the responsible person's address in the Republic of South Africa is unknown, when it has been served on his/her representative in the manner set out in paragraph 9(1)(b) above;
 - (e) if the responsible person's address and/or agent in the Republic of South Africa is unknown, when it has been posted in a conspicuous place, including but not limited to, the front door or gate to the property, to which it relates.
- (2) Where such service has been effected in the manner prescribed by paragraphs 9(1)(b) and (d), the sheriff or peace officer shall indicate in the return of services of the process the name of the person to whom it has been delivered and the capacity in which such person stands in relation

to the person, corporation, company, body corporate or institution affected by the process. Where such service has been effected in the manner prescribed by paragraphs 9(1)(c) or (e), the court may, if there is reason to doubt whether the process served has come to the actual knowledge of the person to be served, and in the absence of satisfactory evidence, treat such service as invalid

CHAPTER 4

GENERAL PROVISIONS

10. OFFENCES AND PENALTIES

Any person who contravenes any provision or fails to comply with any notice issued in terms of this By-law, commits an offence and shall be liable for criminal prosecution and may, upon conviction, be liable for a fine of up to R300 000,00 (Three Hundred Thousand Rand) or imprisonment for a period not exceeding 3 (three) years or both such fine and imprisonment.

11. CIVIL ACTION

- (1) In addition to or instead of the action set out above, the Overstrand Municipality may, in its sole discretion, proceed with civil action against any responsible person or person who contravenes or permits a contravention of the provisions of these By-laws.
- (2) All costs of the civil action on an attorney and client scale shall be recoverable by the local authority from the responsible person or person who contravenes these By-laws in respect of all legal action taken against such responsible person or person by the Overstrand Municipality. Such costs shall be payable to the Overstrand Municipality upon demand.

12. INDEMNITY

The Overstrand Municipality or any authorised official shall not be liable to the responsible person or any person for any damages of whatever nature caused as a result of any lawful or authorised action of an authorised official or the Overstrand Municipality taken in terms of this By-law.

13. DAMAGES

Any responsible person or person contravening this By-law shall be held liable for all damages and actual costs and disbursements the Overstrand Municipality incurs to repair, renovate, alter, close, demolish, remove, secure, maintain, or enforce compliance or payable in terms of this By-law and such damages, actual costs and/or disbursements shall be paid by the responsible person or responsible persons jointly and severally to the Overstrand Municipality upon demand.

14. SHORT TITLE

This By-law is called the Overstrand Municipality By-law on Problem Properties, 2016 and will take effect on the date of publication hereof.

OVERSTRAND MUNICIPALITY
SPECIAL RATING AREA BY-LAW

To provide for the establishment of special rating areas; to provide for additional rates; and to provide for matters incidental thereto.

BE IT ENACTED BY OVERSTRAND MUNICIPALITY AS FOLLOWS: —

1. DEFINITIONS

In this By-law words or expressions shall bear the meaning assigned to them, unless context otherwise indicates —

“**additional rate**” means an additional rate contemplated in section 19(1) (d) and 22(1) (b) of the Property Rates Act in section 12(2) of this By-law;

“**applicant**” means any owner who makes an application for the determination of a special rating area in accordance with the provisions of Chapter 1, or if a management body is established in terms of section 10 any reference to “the Applicant” means the management body;

“**business plan**” include a motivation report, implementation plan and term budget as contemplated in section 6 of the By-law;

“**CFO**” means the Chief Financial Officer of Overstrand Municipality, or his or her nominee;

“**Council**” means Council of Overstrand Municipality;

“**limited special rating area**” means a limited special rating area approved by Council in terms of section 9;

“**Companies Act**” means the Companies Act, 2008 (Act 71 of 2008), as amended or replaced;

“**Majority**” means the majority of property owners as contemplated in section 22 of the Property Rates Act and as may be amplified in the Policy;

“**Management body**” means the management body of a special rating area to be established in accordance with the provisions of section 11;

“**Owner**” has the meaning assigned to it in section 1 of the Property Rates Act;

“**Policy**” means the Policy for the determination of special rating areas, or any other policy adopted by the Council in relation to special rating areas, as in force from time to time;

“**Property Rates Act**” means the Local Government Municipality Property Rates Act;

“**rateable property**” has the meaning assigned to it in section 1 of the Property Rates Act;

“**special rating area**” means a special rating area approved by the Council in accordance with the provisions of section 22 of the Property Rates Act and section 8 of the By-law.

“**term budget**” means the budget of the management body contemplated in section 6 of the By-law.

2. INTERPRETATION

In the event of any conflict with the Afrikaans and isiXhosa texts the English version prevails.

3. DETERMINATION OF SPECIAL RATING AREAS

Overstrand Municipality may by resolution of Council determine special rating areas in accordance with the provisions of section 22 of the Property Rates Act.

4. APPLICATION

- (1) Any owner located within the area of jurisdiction of Overstrand Municipality and who owns property within the proposed special rating area, may lodge an application to the Council for the determination of a special rating area.
- (2) All cost incurred by the applicant in respect of the establishment of a special rating area shall be for his or her own account, provided that after implementation of the business plan the management body may reimburse the applicant for some or all of those cost.
- (3) Any application contemplated in subsection (1) must —
 - (a) be in writing and be in the form as the CFO may determine;
 - (b) be submitted not more than nine months after the date on which the public meeting referred to in section 5 is held, or if a public meeting is held as provided for in section 6(2), nine months after the date of the second public meeting;
 - (c) be accompanied by —
 - (i) the business plan;
 - (ii) the written consent of the majority of the members of the local community in the proposed special rating area who will be liable for paying the additional rate.
 - (iii) payment of such fee as the Council may determine.

5. PUBLIC MEETINGS

- (1) An application for the determination of a special rating area must be preceded by the holding of a public meeting.
- (2) The purpose of the public meeting is to enable the applicant to consult with the property owners who will be liable for paying the additional rate within the proposed special rating area with regard to the proposed boundaries of the area and the improvement or upgrading of the area.
- (3) Prior to the holding of the public meeting, the applicant must —
 - (a) Give notice in a manner approved by the CFO in terms of this By-law to all property owners of rateable property, who will be liable for payment of the additional rate, of the applicants intention to apply for the determination of a special rating area.
 - (b) In the notice referred to in subsection 3 (a), give notice of a public meeting, which notice must —
 - (i) state the purpose of such meeting; and
 - (ii) contain details of the place, date and time when such meeting is to be held.

- (4) The public meeting must be held not less than seven days and not more than 30 days after the date of the notice.
- (5) The public meeting must be held at such place, date and time as stated in the notice, provided that it must be held at a place which is within the boundaries of the proposed special rating area unless the CFO approves another venue in writing before the public meeting is held.
- (6) The public meeting must be chaired by a suitable qualified and experienced person appointed by the CFO.
- (7) Interested persons, at the public meeting, be —
 - (a) Furnished with all the relevant information relating to the proposed special rating area, including the information to be set out in the business plan; and
 - (b) given an opportunity to ask questions, express their views and make representations.

6. BUSINESS PLAN

- (1) Any application for the establishment of a special rating area must include a motivation report an implementation plan and a term budget covering the period commencing on 1 July of a year and ending on 30 June of the fifth year, or covering such lesser period as may be determined by the CFO.
- (2) If the motivation report of the implementation plan are materially amended, as determined by the CFO, after the public meeting referred to in section 5, the applicant must call a second public meeting for the approval of the special rating area as amended.
- (3) The provision of section 5 applies with the necessary changes to the second public meeting.

7. ADVERTISING OF APPLICATIONS AND OBJECTIONS

- (1) The applicant must within 14 days after the application is lodged in accordance with section 4, or within such period which the CFO may approve —
 - (a) cause a notice of the application to be published in a manner approved by the CFO and;
 - (b) either before or up to seven days after the date of publication of the notice referred to in subsection (1) (a), give written notice of the application to all owners within the proposed special rating area, who will be liable for payment of the additional rate, such notice to be given by pre-paid registered post, hand delivery or in any other manner approved or in writing by the CFO.
- (2) Every notice contemplated in terms of subsection (1) must state that written objections to the determination of a special rating area or the provision of the business plan (Refer to the definition of a business plan and section 6 of the by-law) may be lodged with the Council by the date specified in the notice, which shall not be less than 30 days after the date of publication in terms of subsection (1)(a), and must state were the documentation specified in subsection (5) will be available for inspection.

- (3) Any owner of ratable property who will be liable for paying the additional rate may submit written objections to the determination of the special rating area, which objections must be received by the Council not later than the date stipulated in the notice referred to in subsection (1).
- (4) An application and any objector to the application who owns property within the proposed special rating area may make oral representation, which will be recorded in writing, for submission to Council.
- (5) The application, including the business plan and all objections must be available for inspections at the office of Overstrand Municipality and at a venue determined by the CFO within the proposed special rating area, for a period referred to in subsection (2).

8. DECISION

- (1) After the provision of section 4 to 7 have been complied with, the Council must, at a meeting of the Council held within 90 days after the last date for the submission of objections in accordance with subsection 7(2), consider the application, and —
 - (a) determine a special rating area which must be implemented in accordance with the business plan, which include the motivation report, implementation plan and term budget;
 - (b) determine a special rating area with such amendments or conditions as the Council considered to be in the public interest;
 - (c) determine a special rating area in respect of a limited area in terms of section 9;
 - (d) refuse the application, in which event the Council must, within 30 days after the date of decision, furnish the applicant with written reasons for not approving the determination of a special rating area; or
 - (e) refer the application back to the applicant for amendments in such manner as the Council may direct.
- (2) If an application is refused by Council in accordance with the provisions of subsection 1(d) or referred back to the applicant in accordance with the provisions of subsection (1) (e), the applicant may, within 6 months of the Council's decision, re-apply to the Council for determination of the special rating area, provided that such re-application has been appropriately amended in the light of the reasons for refusal or referral, as the case may be.
- (3) If the business plan is amended in any material respect at any time before the determination, the Council may require that the application be re-advertised in accordance with the provisions of section 7, with the necessary changes.

9. DETERMINATION OF A LIMITED SPECIAL RATING AREA

If an application in terms of section 4 is not accompanied by the consent of the majority of the members of the local community in the proposed special rating area who will be liable for paying the additional rate in writing in the proposed special rating area as required by section 4(3)(c), but the applicant can demonstrate to the satisfaction of the Council, that —

- (a) There are such confirmations from owners or rateable properties in a limited geographical area within the proposed special rating area that would meet the requirements of section 4(3) (c) if they were to be applied to that area; and
- (b) The level of services to be provided will not be reduced and the budget will be reduced accordingly as a result of the provision of those services in the limited area alone, as compared to the provision of those services in the whole of the special rating area,

then the Council may, subject to the other requirements of this By-law, determine a limited special rating area.

CHAPTER 2

SPECIAL RATING AREAS, STRUCTURES AND FINANCES

10. COMMENCEMENT OF THE BUSINESS PLAN

Once the Council has approved the establishment of the special rating area, the business plan may only be implemented after the management body has been established in accordance with section 11.

11. ESTABLISHMENT, COMPOSITION, POWERS, AND DUTIES OF THE MANAGEMENT BODY

- (1) The applicant must cause the establishment of a management body for the purposes of implementing the provisions of the business plan.
- (2) The management body must be a non-profit company with members as prescribed in schedule 1, subsection 4(2) of the Amended Companies Act.
- (3) Overstrand Municipality shall monitor compliance by the management body with the applicable provisions of this By-law, any guidelines or policies adopted by Overstrand Municipality and any agreements entered into with the management body and Overstrand Municipality.
- (4) The Council must nominate the relevant ward councilor and one other person, as an alternate representative to attend and participate, but not vote, at the meetings of the management body.
- (5) Any Councilor appointed by the Executive Mayor must —
 - (a) not have all the powers and duties of directors of companies as set out in the Companies Act and the memorandum of incorporation of the management body;
 - (b) be deemed to have vacated the position should such observer no longer serve as councilor and such observer shall be replaced.
 - (c) not chair the board of the management body or any committee or sub-committee of the board.
- (6) Employees of Overstrand Municipality may only serve as representatives of the Municipality on the management body if nominated to do so by the CFO in terms of section 13(b)(2) of this By-Law.

- (7) Within two months after the receipt of the first payment of the additional rate, the management body must begin carrying out the provisions of the implementation plan, as included in the business plan.
- (8) Within three months after its Annual General Meeting, the management body must provide the CFO with —
 - (a) Its audited financial statements for the immediately preceding year; and
 - (b) an annual report on its progress in carrying out the provisions of the business plan in the preceding year to improve and upgrade the special rating area.
- (9) Within two months after the Annual General Meeting, the management body must provide the Finance Portfolio Committee with —
 - (a) Its audited financial statements for the immediately preceding year; and
 - (b) An annual report on its progress in carrying out the provisions of the implementation plan in the preceding year to improve and upgrade the special rating area.

12. FINANCES

- (1) The financial year of the management body must coincide with the financial year of the Council.
- (2) Where a special rating area has been determined, the Council must levy in accordance with the provisions of the Property Rates Act, a property rate in addition to the rates that it already charged on the owners of ratable property in the special rating area for the purposes of realizing the business plan, provided that the Council may in terms of the Local Government Municipal Property Rates Act, 2004 (Act No. 6 of 2004), Rates Policy, Customer Care, Credit Control and Debt Collection Policy, exempt or rebate the indigent, senior citizens, disabled persons or any other category or resident.
- (3) When determining the additional rate referred to in subsection (2), the Council may give consideration to imposing differential additional rates on one or more of the categories set out in section 8 of the Property Rates Act.
- (4) The additional rate due in terms of this By-law is a debt due to the Council and is payable and must be collected in the same manner as other property rates imposed by the Council.
- (5) The Council may, for purposes of carrying out the provisions of the business plan of special rating area and subject to section 67 of the Local Government Municipal Finance Management Act, 2003 (Act No. 56 of 2000), make payment to the management body of a special rating area.
- (6) The payment contemplated in subsection (5) is conditional upon the conclusion of a finance agreement to be entered into between Council and the relevant management body, and such agreement must regulate, among other things —
 - (a) the mechanisms and manner of payment; and
 - (b) terms on which payment to the relevant management body is to be made.
- (7) Subject to the provisions of its memorandum and articles of association, the management body is entitled to raise its own funds through commercial activities, donations or any other lawful means.

- (8) The Council, may for the purpose of this By-law, determine and impose on the management body an administrative charge.

13. THE ROLE OF THE CFO

In addition to the other responsibilities and obligations of the CFO as set out elsewhere in this By-law, the CFO must —

- (a) Establish separate accounting and other record-keeping systems regarding the revenue generated by the additional rate and the improvement and upgrading of the special rating area.
- (b) Monitor compliance with the applicable legislation, including this By-law and the Policy by —
- (i) receiving and considering the audited financial statements and reports regarding the carrying out of duties laid out in the business plan;
- (ii) if he or she elects to do so, nominate representatives to attend and participate but not vote at meetings of the management body.

CHAPTER 3

AMENDMENT TO THE BUSINESS PLAN AND EXTENTION OF THE SPECIAL RATING AREA TERM

14. AMENDMENT OF BUSINESS PLANS

- (1) A business plan, including the geographical boundaries of the special rating area, may be amended by Council on written application by the management body at any time after the formation of the special rating area.
- (2) The Council may approve an application for an amendment referred to in subsection (1) where the Council considers it not likely to materially affect the rights or interest of any owner, provided that the Council may require the management body to cause a notice of the application for such amendments to be published as approved by the CFO.
- (3) The Council may only approve an amendment in terms of subsection (1), with the changes required by the context, in accordance with the provisions of Chapter 1, which the Council considers is likely to —
- (a) materially affect the rights or interest of any person;
- (b) affect the approved budget for the special rating area; or
- (c) change the boundaries of the special rating area.

15. EXTENTION OF SPECIAL RATING AREA TERM

A management body must, if it elects to extent the term of the Special Rating Area for a further period, on or before 1 September in the year before in which the business plan is due to terminate, submit an application to Overstrand Municipality for approval of the extension of the term of the business plan, provided that —

- (a) the extension of the Special rating area term plan may only be approved by the Council in accordance with the provisions of Chapter 1, with the changes required by the context, and the Council may, for good reason, on written application by the management body, exempt the management body from complying, or condone, non-compliance, with any such provision.
- (b) the provisions of section 14 shall apply to any amendment of the business plan which has been extended in terms of this section.

CHAPTER 4

DISSOLUTION OF A SPECIAL RATING AREA

16. DISSOLUTION AND WINDING UP

- (1) The Council may dissolve a special rating area —
 - (a) upon written application signed by the majority of owners within the boundaries of the special rating area who are liable for paying the additional rate;
 - (b) for any good cause, after prior consultation by the CFO with the management body or the community.
- (2) Upon dissolution of the special rating area by the Council, any director, including the director(s) or alternate director(s) appointed by the Executive Mayor, may cause the management body to be wound up in terms of the Companies Act.
- (3) Upon the winding up of a management body, the entire net value of the management body, including its net assets remaining after the satisfaction of all its liabilities, shall be disposed of in terms of the relevant provisions of the Companies Act and the memorandum of incorporation of the management body

CHAPTER 5

MISCELLANEOUS PROVISIONS

17. SHORT TITLE AND COMMENCEMENT

- (1) This By-law is called the Overstrand Municipality: Special Rating Areas By-law, 2016.
- (2) No new special rating area determined in terms of this By-law may implement its implementation plan prior to 1 July 2016.

