

STELLENBOSCH MUNICIPALITY

CREDIT CONTROL AND DEBT COLLECTION BY-LAW

Notice is hereby given in terms of section 13 of the Local Government: Municipal Systems Act, 32 of 2000 that the Council of the Stellenbosch Municipality has made the by-law set out in the schedule hereto:-

SCHEDULE

CREDIT CONTROL AND DEBT COLLECTION BY-LAW

To give effect to the Municipality’s credit control and debt collection policy and/or to regulate its implementation and enforcement in the Stellenbosch Municipal Area (WC024) in terms of section 156(2) of the Constitution of the Republic of South Africa (Act 108 of 1996) and sections 96 and 98 of the Municipal Systems Act (Act 32 of 2000); to provide for the collection of all monies due and payable to the Municipality; and to provide for matters incidental thereto.

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1. **Definitions**

(1) In this By-law, any word or expression to which a meaning has been assigned in the Local Government: Municipal Systems Act, 32 of 2000, has that meaning, unless the context, indicates otherwise-

"account" means a municipal account rendered specifying an amount or amounts payable for assessment rates, metered services, municipal charges, levies, fees, fines, taxes or any other amount or amounts payable arising from any other liability or obligation due to the Municipality;

"arrangement" means a written agreement entered into between the Council and the debtor in terms of which specific repayment parameters are agreed to;

“arrears” means any amount due and payable to the Municipality and not paid by the due date;

“business premises” means premises utilised for purposes other than residential as defined in the Council's rates policy;

"Council" means the Municipal Council of Stellenbosch Municipality or any duly authorised Committee, political office bearer or official of the said Council;

"credit control" means all the functions relating to the collection of revenue including but not limited to collection of money owed to the Municipality in respect of rates and municipal services;

"Credit Control and Debt Recovery Policy" means the Credit Control and Debt Recovery Policy adopted by the Council in terms of Section 96 of the Local Government: Municipal Systems Act, 32 of 2000;

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

"day/days" means calendar days, inclusive of Saturdays, Sundays and public holidays;

"debtor" means any person owing the Municipality arrears;

“due date” in relation to-

(a) annual rates, means the 30th (thirtieth) day of September of the financial year for which such rates are charged, or any other date determined by the Council by notice in the Provincial Gazette; and

(b) rates and service charges which are by arrangement paid on a monthly basis and sundry debtor accounts, means the date for payment indicated on the account.

Should such day fall on a Saturday, Sunday or public holiday the due date shall be the next working day.

"Electricity By-law" means the Stellenbosch Municipality: Electricity Supply By-law as promulgated in the Provincial Gazette, applicable from time to time;

"estimated consumption" means the deemed consumption of a customer, that was not measured for the specific period, but estimated by taking into account factors that are considered relevant by the Municipality and which may include consumption data for a specific time in its possession and where applicable, having made due allowance where possible for seasonal or other variations which may affect consumption;

"immovable property" includes-

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

"indigent debtor" means:

- (a) the head of an indigent household:-
 - (i) who applied for and has been registered as indigent in terms of the Council's Indigent Policy for the provision of free basic services from the municipality; and
 - (ii) who makes an application in the prescribed form for an indigent subsidy on behalf of all members of his or her household;

"Indigent Policy" means the Indigent Policy adopted by the Council of the Municipality;

"interest" a charge levied on all arrear monies and calculated at a rate determined by the Council from time to time as stipulated in the Council's Credit Control and Debt Recovery Policy;

"month" means a calendar month;

"monthly average consumption" means the monthly average consumption in respect of that property calculated on the basis of consumption over the preceding twelve months;

"Municipality" means Stellenbosch Municipality;

"Municipal Manager" means the person appointed as such in terms of section 82 of the Local Government: Municipal Structures Act, 117 of 1998 and who is the accounting officer in terms of the Local Government: Municipal Financial Management Act, 56 of 2003, or any other official delegated by him or her and who is also accountable and responsible for the implementation, enforcement and administration of the Credit Control and Debt Recovery and other policies referred to in this By-law;

"municipal pay point" means any municipal office in the area of jurisdiction of the municipality designated by the Council for such purposes and those facilities set out in the Credit Control and Debt Recovery Policy, or any such other places as the Municipal Manager may from time to time designate;

"municipality services" means services provided either by the municipality, or by an external agent on behalf of the Municipality in terms of a service delivery agreement, and shall include but not be limited to charges in respect of water and electricity consumption;

"occupier" means any person who occupies any premises or part thereof without regard to the title under which the person occupies, and includes -

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

"official" means and "official" as defined in section 1 of the Local Government: Municipal Finance Management Act, 56 of 2003;

"owner" means:

- (a) a person in whom the legal title to a premises is vested;
- (b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, assignee, executor, administrator, judicial manager, liquidator or other legal representative, as the case may be;
- (c) in the case where the Council is unable to determine the identity of the person in whom the legal title is vested, the person who is entitled to the benefit of such premises or a building thereon;
- (d) in the case of premises for which a lease of 20 (twenty) years or more has been entered into, whether the lease is registered or not, the lessee thereof;
- (e) the occupier of immovable property occupied under a service servitude or right analogous thereto
- (f) in relation to -
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 95 of 1986, and without restricting the above, the developer or the body corporate in respect of the common property; or
 - (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
- (g) any legal person including, but not limited to -
 - (i) a company registered in terms of the Companies Act, 61 of 1973, Trust *inter vivos*, Trust *mortis causa*, a close corporation registered in terms of the Close Corporations Act, 69 of 1984, a voluntary association;
 - (ii) any Department of State;

(iii) any Council or Board established in terms of any legislation applicable to the Republic of South Africa; and

(iv) any Embassy or other foreign entity; and

(h) a lessee of municipal property who will be deemed to be the owner for the purposes of rendering a municipal account;

“paid by the due date” means actual receipt of the funds paid in the bank account of the Municipality before close of business on the due date and

“payable by the due date” shall have a corresponding meaning;

“person” mean natural and juristic persons, including any state department and statutory bodies;

“premises” includes any piece of land, the external surface boundaries of which are delineated on:

(a) a general plan or diagram registered in terms of the Land Survey Act, 9 of 1927 or in terms of the Deed Registry Act, 47 of 1937; or

(b) a sectional plan registered in terms of the Sectional Titles Act, 95 of 1986, which is situated within the area of jurisdiction of the Council;

and includes any other land and any building or structure above or below the surface of any land;

“prescribed” means prescribed in terms of this By-law, the Indigent Policy, the Rates Policy, the Tariff Policy and where applicable by the Council or the Municipal Manager;

“rates” means any tax, duty or levy imposed on property by the Municipality; including but not limited to the municipal property rate envisaged in section 229(1) of the Constitution of the Republic of South Africa, 108 of 1996;

“Rates Policy” means the Rates Policy adopted by the Council in terms of section 3 of the Local Government: Municipal Property Rates Act 6 of 2004 and as amended from time to time;

“registered owner” means that person, natural or juristic, in whose name the property is registered in terms of the Deeds Registry Act, 47 of 1937;

“responsible person” means any person other than the registered owner of an immovable property who is legally responsible for the payment of municipal service charges;

"service charges" means the fees levied by the Municipality in terms of its tariff policy for any municipal services rendered in respect of an immovable property and includes any penalties, interest or surcharges levied or imposed in terms of these By-laws;

"service delivery agreement” means an agreement between the Municipality and an institution or persons provided for in section 76(b) of the Local Government: Municipal Systems Act, 32 of 2000;

"sundry debtor accounts" means accounts raised for miscellaneous charges for services provided by the Municipality or charges that were raised against a person as a result of an action by a person and which was raised in terms of the Council's policies, By-laws and decisions;

"tariff” means any rate, tax, duty and levy or fee which may be imposed by the municipality for services provided either by itself or in terms of a service delivery agreement;

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

“user” means the owner or occupier of a property in respect of which municipal services are being rendered;

"working day" means a calendar day excluding Saturdays, Sundays and public holidays,

(2) The headings and titles in this By-law are for reference purposes only and shall not affect the construction thereof.

(3) In this By-law, a word or expression derived from a word or expression defined in subsection (1) has a corresponding meaning unless the context indicates that another meaning is intended.

2. **Duty to collect debt**

All debt owing to the Municipality must be collected in accordance with this By-law and the Credit Control and Debt Recovery Policy.

3. **Applications for provisions of municipal services and service agreements**

(1) All applications for the provision of Municipal services in respect of any immovable property shall be made by the registered owner of the said immovable property in writing and in the prescribed form.

(2) The registered owner of an immovable property in respect of which application for the provision of municipal services has been made shall, at least 7 (seven) days prior to the date on which the services are required to be connected, enter into a written agreement with the Municipality in the prescribed form.

(3) The written agreement referred to in subsection (2) shall, amongst others, make provision for the following:

(a) an undertaking by the owner that he or she will be liable for collection costs including administration fees, interests, disconnection and reconnection costs, and any other legal costs occasioned by his or her failure to settle accounts by the due date;

(b) an acknowledgement by the owner that accounts will become due and payable by the due date notwithstanding the fact that the owner did not receive the account;

(c) that the onus will be on the owner to ensure that he or she is in possession of an account before the due date; and

(d) an undertaking by the Municipality that it shall do everything in its power to deliver accounts timeously.

(4) The Municipality may, upon the written request of the registered owner of an immovable property, enter into a written agreement with both the registered owner and occupier of the immovable property in respect of which application for the provision of municipal services has been made. The agreement shall be in the prescribed form.

(5) The registered owner of a property in respect of which application has been made for the provision of municipal services shall, at least 7 (seven) days prior to taking occupation of the aforesaid property, notify the Municipal Manager thereof in writing in the prescribed form.

(6) The Municipal Manager shall cause a reading of the meters to be taken on the working day preceding the date of occupation of the property.

(7) The Municipal Manager may, from time to time, require all owners or occupiers of immovable properties in respect of which municipal services are being rendered, to enter into written agreements with the Municipality in accordance with the form referred to in subsection (2).

(8) Notwithstanding the provisions of subsection (7), the Municipality may after the coming into operation of this By-law compel any owner or occupier of immovable property in respect of which municipal services are being rendered, to enter into a written agreement in respect of the provision of municipal services with the Municipality.

4. Deposits and guarantees

(1) An applicant for the provision of municipal services in respect of immovable property shall be required to pay a prescribed deposit prior to the provision of any municipal services.

(2) The Municipal Manager may, in his or her sole discretion, and upon written notice to the owner of a property and after the conclusion of the agreement referred to in section 3(2) and subject to subsection (3), either increase or decrease the deposit payable.

(3) The Municipal Manager shall before taking any decision to increase the deposit, give an owner or responsible person notice of any intention to increase the minimum deposit payable by the owner or responsible person, and shall, in the aforesaid notice, state full reasons for the envisaged increase and allow the owner or responsible person an opportunity to make written representations in this regard.

(4) On termination of the supply of services the amount of such deposit, less any payments due to the Municipality, must be refunded to an account holder.

(5) The Municipal Manager may, in his sole discretion, and in respect of premises utilised for business purposes, accept a guarantee in lieu of a deposit in any form acceptable to the Municipal Manager.

5. Accounts and billing

(1) The Municipality shall provide every person who is liable for service charges in respect of Municipal services, with an account in respect of every property for which that person is liable and all services rendered in respect of those properties.

(2) Accounts will be rendered on a monthly basis in cycles of approximately 30 (thirty) days.

(3) All accounts rendered by the Municipality shall be payable before or on the due date as indicated on the account.

(4) Any amount which remains due and payable after the due date shall attract interest as more fully set out in section 11.

(5) Payments shall be deemed to be late unless received by the close of business on or before the due date at a municipal pay point.

(6) Electronic payments or payments made through agents must be received in the municipal bank account by the close of business on or before the due date.

(7) All accounts shall be payable by the due date regardless of the fact that the person responsible for the payment of the account has not received it and the onus shall be on such person to make the necessary inquiries to obtain a copy of the account before the due date.

6. Restriction or disconnection of supply of services

(1) The Municipality may restrict or disconnect the supply of any municipal service in any manner including but not limited to blocking the purchase of electricity on the prepayment system and/or restricting or disconnecting the supply of water if a user of any such service:

(a) fails to make full payment on the due date or fails to make an acceptable arrangement for the repayment of any amount due in respect of service charges;

- (b) fails to comply with an arrangement;
- (c) fails to comply with a condition of supply imposed by the Council;
- (d) tampers with any municipal supply meter or bypasses any metering equipment in order to obtain an un-metered service;
- (e) commits any act which would in terms of the Electricity and applicable Water By-Laws, entitle the Municipality to discontinue municipal services;
- (f) causes a situation with regard to such service which in the opinion of the Municipality is dangerous or a contravention of relevant legislation;
- (g) is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act 24 of 1936 or any other applicable law;
- (h) becomes subject to an order granted in terms of section 74 of the Magistrates Court Act, 32 of 1944,

(2) The Municipality shall, before limiting or discontinuing any municipal services to any premises or user ensure that a fair and equitable procedure is followed and the Municipality shall provide reasonable notice of its intention to limit or discontinue services and grant the affected person an opportunity to make written representations.

(3) The right to restrict, disconnect or terminate a service pertains to all municipal services and shall not be limited, in the case of arrears, by the fact that payment may have been made in respect of any specific municipal service or the fact that the person who entered into an agreement for the supply of services with the Municipality and the owner are different persons, as the case may be.

7. Measurement of municipal services – metering, accuracy, reading, prepayment

(1) The Municipality may introduce various metering equipment and may encourage a user to convert to a system which is preferred by the Municipality when the Council considers this to be beneficial to its functioning and operations.

(2) The Municipality shall, at the user'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 metered services.

(3) The Municipality reserves the right to meter the supply to a block of shops, flats, tenement-houses and similar buildings for the building as a whole, or for an individual unit, or for a group of units.

(4) No alterations, repairs, additions or connections of any description may be made on the supply side of the point of metering unless specifically approved in writing by the Municipal Manager or a duly authorised official of the Council.

(5) Except in the case of prepayment meters, the quantity of metered services consumed by a user during any metering period is ascertained by reading the appropriate meter or meters supplied and installed by the Municipality at the beginning and end of such metering period, except where the metering equipment is found to be defective.

(6) For the purpose of calculating the amount due and payable for the quantity of metered services consumed, the same amount of metered services shall be deemed to be consumed during every period of 24 (twenty four) hours between readings.

(7) The following apply to the accuracy of metering:

(a) A meter shall be conclusively presumed to be registering accurately if its error, when tested in the manner prescribed in subsection (11), is found to be within the limits of error as provided for in the applicable standard specifications;

(b) The Municipality has the right to test its metering equipment, and if it is established by test or otherwise that such metering equipment is defective, the Municipality shall:

(i) in case of a credit meter, adjust the account rendered; or

(ii) in the case of prepayment meters:

(aa) render an account where the meter has been under-registering; or

(bb) issue a free token where the meter has been over-registering;

in accordance with the provisions of subsection (12).

(c) the user is entitled to have the metering equipment tested by the Municipality on payment of the prescribed fee, and 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 section 7(7)(b) and subsection (12) shall be made and the aforesaid fee shall be refunded.

(8) Prior to the Municipality making any upward adjustment to an account in terms of section 7(7)(b), the Municipality must -

(a) notify the user in writing of the monetary value of the adjustment to be made and the reasons therefore;

(b) in such notification provide sufficient particulars to enable the user to submit representations thereon; and

(c) call upon the user in such notice to present it with reasons in writing, if any, within 21 (twenty one) days or such longer period as the Municipality may permit, why the account should not be adjusted as notified, and should the user fail to provide any representations during such period the Municipality shall be entitled to adjust the account as notified in terms of subsection (8)(a).

(9) The Municipality must consider any representations provided by the user in terms of section 7(8) and must, if satisfied that a case has been made out therefore, adjust the account appropriately.

(10) If the Municipal Manager or a duly authorised official of the Council decides, after having considered the representations made by the user, that such representation does not establish a case warranting an amendment to the monetary value established in terms of subsection (12), the Municipality is entitled to adjust the account as notified in terms of section 7(8)(a).

(11) Meters are tested in the manner as provided for in the applicable standard specifications.

(12) When an adjustment is made to the consumption registered on a meter in terms of paragraphs 7(7)(b) or 7(7)(c), such adjustment is based either on the percentage error of the meter as determined by the test referred to in subsection (11), or upon a calculation by the Municipality from consumption data in its possession and where applicable, due allowance shall be made, where possible, for seasonal or other variations which may affect consumption.

(13) An adjustment made in terms of subsection (12), shall be based upon the actual tariffs applicable at the time and may not exceed a period of 6 (six) months preceding the date on which the metering equipment was found to be inaccurate, however the application of this subsection does not constitute a bar to a user recovering overpayment for any longer period in the normal legal process.

(14) The following principles apply to the reading of credit meters:

(a) Unless otherwise prescribed, credit meters are normally read at intervals of approximately 1 (one) month and the fixed or minimum charges due in terms of the tariff are assessed accordingly and the Municipality is not obliged to effect any adjustments to such charges;

(b) If for any reason the credit meter cannot be read, the Municipality may render an estimated account, and estimated consumption shall be adjusted in a subsequent account in accordance with the consumption actually measured;

(c) When a user 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;

(d) If a special reading of the meter is desired by a user, this may be obtained upon payment of the prescribed fee; and

(e) If any reading or calculating error is discovered in respect of any account rendered to a user -

(i) the error shall be corrected in subsequent accounts;

(ii) any such correction shall only apply in respect of accounts for a period of 6 (six) months preceding the date on which the error was discovered,

(iii) the correction shall be based on the actual tariffs applicable during the period; and

(iv) the application of this section does not constitute a bar to a user recovering overpayment for any longer period in the normal legal process.

(15) The following principles apply to prepayment metering:

(a) No refund of the amount tendered for the purchase of electricity or water credit shall be given at the point of sale after initiation of the process by which the prepayment meter token is produced;

(b) Copies of previously issued tokens for the transfer of credit to the prepayment meter may be issued at the request of the user;

(c) When a user vacates any premises where a prepayment meter is installed, no refund for the credit remaining in the meter shall be made to the owner by the Municipality;

(d) 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 or tokens;

(e) Where a user is indebted to the Municipality for any rates, municipal services, other service charges, levies, fees, fines, interest, taxes or any other amount or amounts payable arising from any other liability or obligation, the Municipality may deduct a percentage from the amount tendered to offset the amount owing to the Municipality;

(f) The Municipality may appoint vendors for the sale of credit for prepayment meters and does not guarantee the continued operation of any vendor.

(16) A user will only be entitled to a water leakage rebate if:-

(i) the user submits a certificate from a registered plumber who has repaired the water leak, within 7 (seven) days of the leak having been repaired. The certificate must clearly state the date on which such repairs were effected; confirm that the leak was not discernable from

the surface and certify that the leak occurred on a pipe listed on the schedule of approved pipes and fittings prescribed by the Director: Civil Engineering Services.

(ii) In the event of the leak as referred to in sub-paragraph (i) not being repaired after having been detected within 48 (forty eight) hours, no rebate will be applicable and the decision of the Municipal Manager in this regard will be final.

(17) The Municipal Manager may, at the written request of a user and on the dates requested by the user:

(a) disconnect the supply of metered services to the user's premises; and

(b) restore the supply, subject thereto that the user must pay the prescribed charge for the disconnection and restoration of his or her supply of metered services before the metered services is restored.

(18) After disconnection for non-payment of an account or a contravention of any provision of this By-law, the prescribed fees must be paid before reconnection is effected.

8. Payments and settlement of amounts due

(1) Payments on accounts rendered may be effected at any municipal pay point.

(2) The Municipal Manager may at his discretion and from time to time, designate certain payment methods which will be acceptable to the Municipality.

(3) Any payments made to the Municipality may be allocated by the Municipality entirely within its discretion; provided that any part payment on an account shall be allocated firstly to reduce any penalty charges which may have accrued on the account.

(4) The Municipal Manager shall be at liberty to appropriate payments received in respect of any municipal services provided by the Municipality in a manner he or she deems fit in accordance with the Credit Control and Debt Recovery Policy.

(5) Where the exact amount due and payable to the Municipality has not been paid in full, any lesser amount tendered to and accepted by any municipal official, shall not be deemed to be in final settlement of such an amount unless the

Municipal Manager in writing consents to or confirm that such amount is accepted in full and final settlement of a debt.

(6) The acceptance of a lesser payment in full and final settlement shall not detract from the discretion of the Municipal Manager in terms of subsection (4).

9. Procedures for and matters relating to the recovery of debt

(1) Annual rates and service charges are levied during July of each year on all properties and the due date for the payment of same is on the 30th (thirtieth) day of September of every year, unless amended by the Council by means of a notice to act so in the Provincial Gazette.

(2) Rates and service charges which are by arrangement paid on a monthly basis shall be payable by the due date as indicated on the account.

(3) Accounts rendered by the Municipality in respect of electricity and water shall be payable by the due date as indicated on the account.

(4) Interest on arrears shall accrue on all amounts not paid by the due date and where applicable, not received in the Municipality's bank account by close of business on the due date.

(5) In the event of an owner of property failing to pay the outstanding rates and service charges by the due date, the Municipal Manager or any person duly authorised thereto, shall take the necessary steps including any legal action to collect the outstanding rates and service charges in accordance with the debt recovery procedures prescribed in terms of the Credit Control and Debt Recovery Policy.

(6) When the Municipality restrict or disconnect the supply of any municipal services in any manner including but not limited to blocking the purchase of electricity on the prepayment system and/or restricting or disconnecting the supply of water in respect of an account which has not been paid by the by the due date, this shall be done with due regard for any mandatory minimum levels of supply of municipal services.

(7) Any additional charges or costs incurred by or on behalf of the Municipality with regard to the recovery of debt as outlined in this By-law and the Credit Collection and Debt Recovery Policy including but not limited to legal and

administration costs including attorney-and-client costs, disbursements and tracing fees and collection costs shall be debited to the account of the defaulting debtor. The latter charges may include a revisit of deposits paid.

(8) Owners who made arrangements to settle their rates accounts on a monthly basis shall ensure regular payments. Failure to adhere to the arrangement and to pay the monthly instalments for 3 (three) consecutive months shall result in automatic cancellation of the arrangement and the outstanding balance shall immediately become due and payable.

(9) The Municipal Manager may, as provided for in sections 28 and 29 of the Local Government: Municipal Property Rates Act, 6 of 2004, recover any rent due and payable to an owner of a premises or immovable property but not yet paid as payment or part payment in respect of outstanding rates after the due date.

(10) The Municipal Manager may, in order to recover debt, institute the necessary proceedings in a competent court and attach a debtor's movable and immovable property.

(11) In the event that a juristic person including but not limited to a company, close corporation, trust or body corporate in terms of the Sectional Titles Act, 95 of 1986 is liable for the payment of any arrear rates and service charges to the Municipality, the liability of such entity is extended to its directors, members and trustees, as the case may, jointly and severally in their personal capacity.

(12) The Municipal Manager may notwithstanding the above and upon cause good shown, allow any defaulting owner or occupier of a property, to enter into a written agreement for the payment of the outstanding balance by way of instalments, on such terms and conditions as determined by the Credit Control and Debt Recovery Policy and when such an agreement has been entered into, all actions against the defaulting owner or occupier of a property in terms of the Credit Control and Debt Recovery Policy and in respect of such outstanding balance shall be suspended provided that the terms of this written agreement is strictly complied with.

10. Rates clearance certificates

(1) Applications for the issuing of certificates required for the transfer of immovable property in terms of section 118 of the Local Government: Municipal Systems Act, 32 of 2000 must be lodged with the Municipal Manager in the prescribed manner.

(2) The certificate mentioned in subsection (1) will only be issued if all amounts that became due in connection with that property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the 2 (two) years preceding the date of application for the certificate have been fully paid, irrespective of whether such amounts have been accumulated by the owner or not.

(3) Nothing in this section precludes the subsequent collection by the Municipality of any amounts owed to it in respect of such immovable property at the time of transfer.

11. Interest

(1) The Municipality may charge and recover interest in respect of any arrears, as prescribed in this By-law and the Credit Control and Debt Recovery Policy.

(2) No interest shall be charged on any outstanding amounts in respect of which an arrangement have been made as envisaged in section 9(8) provided that the debtor complies with the terms of the arrangement.

(3) For the purposes of this section the interest shall be calculated for each month for which such arrears remain unpaid and a portion of a month shall be deemed to be a full month.

12. Consolidation of accounts

(1) The Municipal Manager may-

(a) consolidate any separate accounts of a debtor;

(b) credit a payment by a debtor against any account of that debtor;

(c) implement any of the measures provided for in this By-law and the Credit Control and Debt Recovery Policy, in relation to any arrears on any of the accounts of such debtor.

(2) The provisions of subsection (1) do not apply where there is a dispute between the Municipality and the debtor referred to in that subsection concerning any specific amount claimed by the Municipality from such debtor.

13. Agreements with employers

The Municipal Manager may -

(a) with the consent of a debtor enter into a written agreement with that person's employer to deduct from the salary or wages of that debtor:

- (i) any outstanding amounts due by the debtor to the Municipality; or
- (ii) such regular monthly amounts as may be agreed; and

(b) provide special incentives for –

- (i) employers to enter into such agreements; and
- (ii) debtors to consent to such agreements.

14. Indigents

An indigent debtor shall be dealt with as prescribed in the Indigent Policy.

15. Right of access to premises

(1) A duly authorised representative of the Municipality shall for any purpose related to the implementation or enforcement of this By-law, at all reasonable times or in an emergency at any time, have access to and enter any premises, request information and carry out any inspection and examination as he or she may deem necessary, and for purposes of reading, installing or repairing any meter or service connection for reticulation, or to disconnect, stop or restrict the provision of any service.

(2) If the Municipality considers it necessary that work needs to be performed to enable an official to perform a function referred to in subsection (1) properly and effectively, it may:

(a) by written notice require the owner or occupier of the premises at his own expense to do specific work within a specified period; or

(b) if in its opinion the situation is a matter of urgency, without prior notice do such work or cause it to be done at the expense of the owner.

(3) If the work referred to in subsection (2) above is carried out for the sole purpose of establishing whether a contravention of this By-law has been committed and no such contravention has taken place, the Municipality shall bear the expenditure connected therewith together with the expense of restoring the premises to its former condition provided that in the event that it is established that a contravention of this By-law has taken place the owner or occupier shall, in addition to the loss or damage referred to in section 18(2), also be liable for the expenditure connected therewith.

16. Process for grievances and queries

(1) An aggrieved person may lodge a grievance or query regarding service charges to the Municipality in writing and in the prescribed form.

(2) The aggrieved person shall clearly state the basis of his or her dissatisfaction and the desired outcome.

(3) The lodging of a grievance or query shall not relieve the aggrieved person of the responsibility to settle the account, provided that the Municipal Manager may, on application in writing and in his sole discretion, direct that interim payments may be made pending the finalisation of the grievance or query.

(4) The Municipality shall respond to such grievance or query in writing within 30 (thirty) days from the date of the lodgement of the grievance or query.

17. Appeal

(1) A person aggrieved by any decision taken in terms of this By-law and in terms of a power or duty delegated or sub-delegated, may appeal against such decision in terms of section 62 of the Local Government: Municipal Systems Act, 32 of

2000 by giving written notice of the appeal and the reasons to the Municipal Manager within 21 (twenty one) days of the date of the notification of the decision.

(2) The Municipal Manager shall consider the appeal and confirm, vary or revoke the decision.

(3) The Municipal Manager must commence with an appeal within 6 (six) weeks and decide the appeal within a reasonable period.

18. Offences

(1) Any person who

(a) fails to give the access required by an official in terms of this By-law;

(b) obstructs or hinders an official in the exercise of his or her powers or performance of functions or duties under this By-law;

(c) uses or interferes with Council equipment or consumption of services supplied;

(d) tampers or breaks any seal on a meter or on any equipment belonging to the Municipality, or for any reason as determined by the Municipal Manager causes a meter not to properly register the service used;

(e) fails or refuses to give an official such information as he or she may reasonably require for the purpose of exercising his or her powers or functions under these By-laws or provides the Municipality or such an official with false or misleading information knowing it to be false or misleading;

(f) fails to comply with the terms of a notice served upon him or her in terms of this By-law;

(g) contravenes or fails to comply with any provision of this By-law -

shall be guilty of an offence and be liable upon conviction to a fine not exceeding R2000 or to imprisonment for a period not exceeding 6 (six) months or both such a fine and imprisonment and, in addition, may be charged for usage, as estimated by the Municipal Manager based on average usage during the previous 6 (six) months or as may be determined by resolution of the Council from time to time.

(2) Every person committing a contravention or breach of the provisions of this By-law shall also be liable to compensate the Municipality for any expenditure incurred and any loss or damage suffered or sustained by the Municipality in consequence of such breach.

19. Notices and documents

(1) A notice or document issued by the Municipality in terms of this By-law, shall be deemed to be duly issued if signed by an official duly authorised by the Council.

(2) If a notice is to be served on a person in terms of this By-law, such service shall be effected by:

(a) delivering the notice to such person personally or to the duly authorised agent of such person or:

(b) by delivering the notice at such person's residence or place of employment to a person apparently not less than 16 (sixteen) years of age and apparently residing or employed there;

(c) if such person has nominated an address for legal purposes, by delivering the notice to such an address; or

(d) by registered or certified post addressed to such person's last known address;

(e) in the case of a body corporate, by delivering it to the registered office or the business premises of such a body corporate; or

(f) if service cannot be effected in terms of the aforesaid subsections, by affixing it to the principal door of entry to the premises, or displaying it on a conspicuous place on the premises to which it relates.

20. Authentication of documents

(1) Every order, notice or other document requiring authentication by the Council shall be sufficiently authenticated, if signed by the Municipal Manager or by a duly authorised official of the Council;

(2) Delivery of a copy of the document shall be deemed to be delivery of the original.

21. Certificate of indebtedness

(1) A certificate under the hand of the Municipal Manager certifying the amount due and payable to the Municipality shall be binding upon the debtor; shall be *prima facie* proof of the the amount of the debtor's indebtedness and shall be valid as a liquid document against the debtor in any competent court for the purpose of obtaining provisional sentence or judgment against the debtor in respect thereof.

(2) Should the debtor at any time in defence of any action based on this By-law allege that there is no reason or cause for the debtor's obligations to the Municipality or that errors have been made in the calculation of the amount claimed, then the onus of proving such a defence will rest on the debtor.

22. Conflict of By-laws

(1) The provisions of the Electricity By-law and By-laws in force immediately before the commencement of this By-law continue in force insofar as they are not inconsistent with the provisions of this By-law.

(2) In the event of any conflict between this By-law, policy and any other By-law of the Council, this By-law will prevail.

23. Partial invalidity

In the event of any one or more of the of the provisions of this By-law being declared invalid by a final and unappealable order, decree or judgment of any court after being found to be inconsistent with any provision of the Constitution of the Republic of South Africa, 108 of 1996, such inconsistency or invalidity shall not affect the remaining provisions of this By-law and this By-law shall be construed as if such provisions had not been inserted.

24. Repeal of By-laws

The provisions of any By-law are repealed insofar as they relate to matters provided for in this By-law.

25. **Application**

This By-law shall be binding on all persons who own and/or occupy immovable property or any premises within the area of jurisdiction of the Municipality.

26. **Short title**

This By-law is called the Stellenbosch Municipality: Credit Control and Debt Collection By-law.

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