

WATER & SANITATION BY-LAWS

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CHAPTER 1 GENERAL PROVISIONS

PREAMBLE:

In terms of Section 156(2) of the Constitution of the Republic of South Africa, 1996, the Local government: Municipal Systems Act, 2000, and the Local Government: Municipal Structures Act, 1998, the Makhuduthamaga Municipal Council has made the following By-Law as set forth hereunder:-

1. DEFINITIONS

(1) In these By-Laws, unless the context otherwise indicates-

“**accommodation unit**” in relation to any premises, means a building or section of a building occupied or used or intended for occupation or use for any purpose;

“**Act**” means the Water Services Act, 1997 (Act No 108 of 1997), as amended from time-to-time;

“**approved**” means approved by an authorized officer;

“**authorized agent**” means a person authorized by the Council to perform any act, function or duty in terms of, or exercise any power under, these by-laws;

“best practicable environmental option” means the option that provides the most benefit with the least damage to the environment as a whole, at a cost acceptable to society, in the short term as well as in the long term;

“borehole” means a hole sunk into earth for the purpose of locating, abstracting or using subterranean water and includes a spring;

“Building Regulations” means the National Building Regulations made in terms of the National Building Regulations and Building Standards Act, 1977 (Act No 103 of 1977), as amended and any regulations promulgated under the said act;

“communal water services work” means a consumer connection through which water services are supplied to more than one person;

“connecting point” means the point which the drainage installation joins the connecting sewer;

“connecting sewer” means a pipe owned by the Council and installed by it for the purpose of conveying sewage from a drainage installation on a premises to a sewer beyond the boundary of those premises or within a servitude area or within an area covered by a wayleave or by agreement;

“connection pipe” means a pipe, the ownership of which is vested in the Council or its authorized agent and installed by it for the purpose of conveying water from a main to a water installation, and includes a “communication pipe.” (referred to in SABS Part 1;)

“consumer” means-

- (a) any occupier of any premises to which or on which the Council or its authorized agent has agreed to provide water services or is actually providing water services, or if there be no occupier, then any person who has entered into a current agreement with the Council or its authorized agent for the provision of water services to or on such premises, or, if there be no such person, then the owner of the premises: provided that where water services is provided through a single connection to a number of occupiers, it shall mean the occupier, or person, to whom the Council or its authorized agent has agreed to provide water services; or
- (b) any person that obtains access to water and services that are provided through a communal water services work;

“Council” means the Council of the ~~the~~ established in terms of section 12 of the Local Government: Municipal Structures Act, no 117 of 1998;

“drain” means that portions of the drainage installation that conveys sewage within any premises;

“drainage installation” means a system situated on any premises and vested in the owner thereof and is used for or intended to be used for or in connection with the reception, storage, treatment or conveyance of sewage on that premises to the connecting point and includes drains, fittings, appliances, septic tanks,

conservancy tanks, pit latrines and private pumping installations forming part of or ancillary to such systems;

“drainage work” includes any drain, sanitary fitting, water supplying apparatus, waste or other pipe or any work connected with the discharge of liquid or solid matter into any drain or sewer or otherwise connected with the drainage of any premises;

“duly qualified sampler” means a person who takes samples for analysis from the sewage disposal and stormwater disposal systems and from public waters and who has been certified to do so by an authorized agent;

“effluent” means any liquid, whether or not containing matter in solution or suspension;

“emergency” means any situation that poses a risk or potential risk to life, health, the environment or property;

“environmental cost” means the full cost of all measures necessary to restore the environment to its condition prior to the damaging incident;

“fire hydrant” means a potable water installation that conveys water for fire fighting purposes only;

“fixed quantity water delivery system” means a water installation, which delivers a fixed quantity of water to a consumer in any single day;

“flood level (1 in 50 years)” means that level reached by floodwaters resulting from a storm of a frequency of 1 in 50 years;

“flood plain (1 in 50 years)” means the area subject to inundation by floodwater from a storm of frequency of 1 in 50 years;

“high strength sewage” means sewage with a strength or quality greater than standard domestic effluent;

“industrial effluent” means effluent emanating from industrial use of water, includes for purposes of these bylaws, any effluent other than standard domestic effluent or stormwater;

“installation work” means work in respect of the construction of, or carried out on a water installation;

“main” means a pipe, other than a connection pipe, vesting in the Council or its authorized agent and used by it for the purpose of conveying water to a consumer;

“measuring device” means any method, procedure, process or device, apparatus, installation that enables the quantity of water services provided to be quantified and includes a method, procedure or process whereby quantity is estimated or assumed;

“meter” means a water meter as defined by the Regulations published in terms of the Trade Metrology Act, 1973 (Act No 77 1973), or, in the case of water

meters of size greater than 100mm, a device which measures the quantity of water passing through it;

“occupier” means a person who occupies any premises or thereof, without regard to the title under which he or she occupies;

“owner” means –

- (a) the person in whom from time-to-time is vested the legal title to premises;
- (b) in a case where the person in whom the legal title to premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in any case where the council or its authorized agent is unable to determine the identity of such person, a person who is the entitled to the benefit of the use of such premises or a building or buildings thereon;
- (d) in the case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereof;
- (e) in relation to-
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act, 1986 No 95 1986), the developer or the body corporate in respect of the common property, or

- (ii) a section as defined in the Sectional Titles Act, 1986 (Act No 95 of 1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person.

“person” means any natural person, local government body or like authority, a company or close corporation incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

“pollution” means the introduction of any substance into the water supply system, a water installation or a water resource that may directly or indirectly alter the physical, chemical or biological properties of the water found therein so as to make it-

- (1) less fit for any beneficial purpose for which it may reasonably be expected to be used; or
- (2) harmful or potentially harmful:
 - (i) to the welfare health or safety of human beings;
 - (ii) to any aquatic or non- aquatic organism;

“premises” means 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, 1927 (Act No 9 of 1927), or in terms of the Deeds Registries Act, 1937 (Act No 47 of 1937); as amended or

- ~~Municipal Councils (Amendment) Bill, 2005~~ -
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No 95 of 1986);
 - (c) a register held by a Traditional authority Council.

“prescribed tariff or charge” means a charge prescribed by Council;

“public notice” means a notice in a newspaper in at least three or more of the official languages in general use within the municipal area of the Council, and, where possible, the notice shall be published in a newspaper appearing predominantly in the official language utilized in the publication of the notice.

“public water” means any river, watercourse, bay, estuary, the sea and any other water to which the public has the right of use or to which the public has the right of access;

“sanitation services” has the same meaning assigned to it in terms of the Act and includes the purposes of these by-laws water for industrial purposes and the disposal of industrial effluent;

“service pipe” means a pipe which is part of a water installation provided and installed on any premises by the owner or occupier and which is connected or to be connected to a connection pipe to serve the water installation on the premises;

“sewage” means waste water, industrial effluent, standard domestic effluent and other liquid waste, either separately or in combination, but shall not include storm water;

“sewage disposal system” means the structure, pipes, valves, pumps, meters or other appurtenances used in the conveyance through the sewer reticulation system and treatment at the sewage treatment plant under the control of the Council or its authorized agent and which may be used by it in connection with the disposal of sewage;

“sewer” means any pipe or conduit which is the property of or is vested in the Council or its authorized agent and which may be used the conveyance of sewage from the connecting sewer and shall not include a drain as defined;

“standard domestic effluent” means domestic effluent with prescribed strength characteristics in respect of chemical oxygen demand and settleable solids as being appropriate to sewage discharges from domestic premises within the jurisdiction of the Council or its authorized agent, but shall not include industrial effluent;

“storm water” means water resulting from natural precipitation or accumulation and includes rainwater, subsoil water or spring water;

“Tariff” means the tariff of charges as determined from time to time in terms of any legislation applicable.

“terminal water fitting” means a water fitting at an outlet of a water installation that controls the discharge of water from a water installation;

“trade premises” means premises upon which industrial effluent is produced;

~~Water and Sanitation By-Laws 2005~~ -

“water fitting” means the pipe a component of a water installation, other than a pipe, through which water passes or in which it is stored;

“Water installation” means the pipes and water fittings which are situated on any premises and vested in the owner thereof and used or intended to be used in connection with the use of water on such premises, and includes a pipe and water fitting situated outside the boundary of the premises, which either connects to the permission of the Council or its authorized agent;

“water services” has the same meaning assigned to it in terms of the Act includes for purposes of these by-laws water for industrial purposes and the disposal of industrial effluent;

“water supply services” has the same meaning assigned to it in terms of the Act and includes for purposes of these by-laws for water for industrial purposes and the disposal of industrial effluent;

“water supply system” means the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto which are vested in the Council or its authorized agent and are used or intended to be used by it in connection with the supply of water, and includes any part of the system;

“wet industry” means an industry which discharges industrial effluent; and

“working day” means day other than Saturday, Sunday or public holiday.

(2) Any word or expression used in these by-laws to which a meaning has been assigned in-

- (a) Act will bear that meaning; and
 - (b) the National Building Regulations and Building Standards Act, 1997 (Act No 103 1997), will in respect of Chapters 17 to 23 bear meaning, unless the context indicates otherwise.
- (3) Any reference in Chapter 1 to 7 of these by-laws to water services or services must be interpreted as referring to water supply services or sanitation services depending on the services to which it is applicable.
- (4) Any reference to a natural person will include a juristic person, unless the context clearly indicates otherwise.

CHAPTER 2

APPLICATION FOR WATER SERVICES

2. (1) No person shall gain access to water services from the water supply system, sewage disposal system or through any other sanitation services unless he or she has applied to the Council or its authorized agent on the prescribe form for such services for a specific purpose and which application has been approved as an agreement.

- (2) Where a premises or consumer are provided with water services, it shall be deemed that an agreement in terms of subsection (1) exist.
- (3) A Council or its authorized agent must on application for the provision of water services by a consumer inform that consumer of the different levels, if any, of services that are available and the tariffs and/or charges associated with each level of services.
- (4) A consumer must elect the available level of services to be provided to him or her.
- (5) A consumer may at any time apply to alter the level of services elected in terms of the agreement entered into, provided that such services are available and that any cost and expenditure associated with altering the level of services will be payable by the consumer.
- (6) An application agreed to by the Council or its authorized agent shall constitute an agreement between the Council or its authorized agent and the applicant, and such agreement shall take effect on the date referred to or stipulated in such agreement
- (7) A consumer shall be liable for all the prescribed tariffs and/or charges in respect of water services rendered to him or her until the agreement has been terminated in accordance with these by-laws or until such time as any arrears have been paid in full.

- (8) In preparing an application form for water services the Council or its authorized agent will ensure that the document and the process of interaction with the owner, consumer or any other person making application are understood by that owner, consumer or other person. In the case of an illiterate or similarly disadvantaged person, the Council or its authorized agent will take reasonable steps to ensure that the person is aware of and understands the contents of the application form.
- (9) An application form will require at least the following minimum information-
- (a) certification by an authorized agent that the applicant is aware of and understands the contents of the form;
 - (b) acceptable by the consumer of the provisions of the by-laws and acceptance of liability for the cost of water services rendered until the agreement is terminated or until such time as any arrears have been fully paid;
 - (c) full names and identity number of the consumer;
 - (d) postal address or stand number of the premises to or on which water services are to be rendered or the communal water services work where water services will be used;
 - (e) postal and physical address accounts will be sent;

- ~~Abundant Municipality~~ —
- (f) source of income of the applicant;
 - (g) name and address of the applicant's employer, where appropriate;
 - (h) if water will be supplied, the purpose for which the water is to be used; and
 - (i) the agreed date on which the provision of water services will commence.
- (10) Water services rendered to a consumer are subject to the provisions of these by-laws and the conditions contained in the relevant agreement.
- (11) If a Council or its authorized agent refuses and application for the provision of water services, is unable to render such water services on the date requested for such provision of water services to commence or is unable to render the water services the Council or its authorized agent will inform the consumer of such refusal and/or inability, the reasons therefore and, if applicable, when the Council or its authorized agent will be able to provide such water services.

3. **Special Agreements for Water Services**

~~Municipalities Act, R.S.O. 1990, c. M.26, s. 27(1)~~

The Council or its authorized agent may enter into a special agreement for the provision of water services to-

- (a) an applicant inside its area of jurisdiction, if the services applied for necessitates the imposition of conditions not contained in the prescribed form; and
- (b) an applicant outside its area of jurisdiction, if such application has been approved by the Council or its authorized agent having jurisdiction in the area in which the premises is situated.

CHAPTER 3

TARIFFS AND CHARGES

4. Prescribed Tariffs and Charges for Water Services

All tariffs and or charges payable in respect of water services rendered by the Council or its authorized agent in terms of these by-laws, including but not limited to the payment of connection or reconnection charges, fixed charges or any additional charges or interest in respect of failure to pay such tariffs or charges on the specified date will be set by the Council – by a resolution passed by the Council;

In accordance with –

- (i) Its tariff policy;

(iii) any by-laws in respect thereof; and

(iii) any regulations in terms of Section (10) of the Act read with section 10G of the Local Government Transition Act, 1993 in so far as it is applicable.

5. Fix Charges for Water Services

(1) The Council may, in addition to the tariffs or charges prescribed for water services actually provided, levy a monthly fixed charge, annual fixed charge and/or once-off fixed charge in respect of the provision of water services in accordance with -

(a) its tariff policy;

(b) any by-laws in respect thereof; and

(c) any regulations in terms of Section (10) of the Act read with section 10G of the Local Government Transition Act, 1993 or any law in so far as it is applicable.

(2) Where a fixed charge is levied in terms of subsection (1), it shall be payable by every owner or consumer in respect of water services provided by the Council or its authorized agent to him or her, whether or not water services are used by him or her.

CHAPTER 4

PAYMENT

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6. Payment of Deposit

6. (1) Every consumer must on application for the provision of water services and before such water services will be provided by the Council or its authorized agent, deposit with the Council or its authorized agent a sum of money equal to the estimated tariff and or charge for an average month's water services as determined by the Council or its authorized agent except in the cases of a pre-payment measuring device being used by the Council or its authorized agent.
- (2) The Council or its authorized agent may require a consumer to whom service are provided and who was not previously required to pay a deposit, for whatever reason, to pay a deposit on request, within a specified period.
- (3) The Council or its authorized agent may from time-to-time review the sum of money deposited by a consumer in terms of subsection (1) and, in accordance with such review -
- (a) require that an additional amount be deposited by the consumer, or
 - (b) refund to the consumer such amount as may be held by the Council or its authorized agent in excess of the reviewed deposit.
- (4) Subject to subsection (5), an amount deposited with the Council or its authorized agent in terms of subsections (1) or (2) shall not be regarded

as being in payment or part payment of an account due for water services rendered.

- (5) If, upon the termination of the agreement for the provision of water services, an amount remains due to the Council or its authorized agent in respect of water services rendered to the consumer, the Council or its authorized agent may apply the deposit in payment or part payment of the outstanding amount and refund any balance to the consumer.
- (6) No interest shall be payable by the Council or its authorized agent on the amount of a deposit held by it in terms of this section.
- (7) A deposit shall be forfeited the council or its authorized agent if it has not been claimed within twelve (12) months of the termination of the agreement.

7. Payment for Water Services Provided

- 7. (1) Water services provided by the Council or its authorized agent to a consumer shall be paid for by the consumer at the prescribed tariff or charge set in accordance with sections (4) and (5), for the particular category of water services provided.
- (2) A consumer shall be responsible for payment for all water service provided to the consumer from the date of an agreement until the date of termination thereof.

-
- (4) The Council or its authorized agent may estimate the quantity of waterservices provided in respect of a period or periods within the interval between successive measurements and may render an account to a consumer for the services estimated.
- (5) If a consumer uses water supply services for a category of use other than that for which it is provided by the Council or its authorized agent in terms of an agreement and as a consequence is charged at a rate lower than the rate which should have been charged, the Council or its authorized agent may make an adjustment of the amount charged in accordance with the rate which should have been charged and recover from the consumer the tariffs and charges payable in accordance with such adjustment.
- (6) If amendments to the prescribed tariffs or chares for water services provided become operative on a date between measurements for the purpose of rendering an account in respect of the tariffs or charges -
- (a) it shall be deemed that the same quantity of water services was provided in each period of twenty-four hours during the interval between the measurements; and
 - (b) any fixed charge shall be calculated on a pro rata basis in accordance with the charge that applied immediately before such amendment and such amended charge.

-
- (7) A consumer must pay his or her account at the Council cashier points, an approved agent of the Council or its authorized agent. A consumer shall remain liable of the payment of an account not paid with the Council or its authorized agent or approved agent.
 - (8) A Council or its authorized agent must inform a consumer as to who the approved agents for payment of accounts are.

CHAPTER 5

ACCOUNTS

8. Monthly Account

8. (1) Monthly accounts will be rendered to consumers for the amount due and payable, at the address last recorded with the Council or its authorized agent. The consumer is obliged to notify the council in writing of change of his /her address.
- (2) Failure by the Council or its authorized agent to render an account does not relieve a consumer of the obligation to pay any amount due and payable.
- (3) An account rendered by the Council or its authorized agent for water services provided to a consumer shall be paid not later than the last date of payment specified in such account, which date will be at least twenty one days after the date of the account.

(4) If payment of an account is received after the date referred to in subsection (3), a late payment charge or interest (vat liable) as may be prescribed must be paid by the consumer to the Council or its authorized agent.

(5) Account will-

(a) show the following-

- (i) the consumption or estimated consumption or assumed consumption as determined for the measuring and/or consumption period;
- (ii) the measuring or consumption period;
- (iii) the applicable tariff;
- (iv) the amount due in terms of the consumption;
- (v) the amount due and payable for any other service rendered by the Council or its authorized agent;
- (vi) the amount in arrears, if any;
- (vii) the interest payable on any arrears, if any;
- (viii) the final date for payment;

- (ix) the methods, places and approved agents where payment may be made; and

(b) state that -

- (i) the consumer may conclude an agreement with the Council or its authorized agent for payment of the areas amount in installments, at the Council or its authorized agent's offices before the final date for payment, if a consumer is unable to pay the full amount due and payable;
- (ii) if no such agreement is entered into the Council of its authorized agent will limit the water services after sending a final demand notice to the consumer.
- (iii) legal action may be instituted against any consumer for the recovery of any amount 30 (thirty) days in arrears;
- (iv) The defaulting consumer's name may be listed with a credit bureau or any other equivalent body as a defaulter;
- (v) The account may be handed over to a debt collector or attorney for collection;
- (vi) proof of registration, as an indigent consumer if applicable, on terms of the Council or its authorized agent's indigent policy must be handed in before the final date for payment; and

- (vii) An indigent consumer is only entitled to basic water services and that an indigent consumer will be liable for payment in respect of water services used in excess of the quantity of basic services.

9. **Queries or Complaints in Respect of Account**

9. (1) A consumer may lodge a query or complaint in respect of the accuracy of the amount due and payable in terms of an account rendered to him or her.
- (2) A query or complaint must be lodged with the Council or its authorized agent before or on the due date for payment of the account as soon as reasonably possible thereafter.
- (3) Where a query or complaint is lodged after the due date of the account queried or complained about, such query or complaint must be accompanied by the payment of at least an amount equal to the average amount that was due and payable during the preceding three months.
- (4) The Council or its authorized agent will register the query or complaint and provide the consumer with a reference number.
- (5) The Council or its authorized agent shall –