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PROVINCIAL NOTICE 49 OF 2019

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UGU DISTRICT MUNICIPALITY**WATER AND SANITATION SERVICES FIRST AMENDMENT BY-LAWS**

As Amended by Council Resolution dated the 26 day of April 2018

Resolution C 94/04/18

NOTICE

UGU DISTRICT MUNICIPALITY: WATER SERVICES BYLAWS FIRST AMENDMENT BY-LAW 2018

Notice is hereby given that in terms of section 133, of the Local Government : Municipal Systems Act, Act 32 of 2000, Ugu District Municipality has passed the Ugu District Municipality: Water Services By-laws first Amendment By-law, 2017 as set out below, thus amending the Ugu District municipality: Water Services By-laws 2009 as published in the Government gazette Number : 153, on 17 September 2009.

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omission from existing enactment.

____ Words underlined with a solid line indicate insertions in existing enactments.

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CHAPTER 1 – DEFINITIONS AND INTERPRETATION

Definitions and Interpretation

- 1(1) In these by-laws, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned, and
- (a) Act means the Water Services Act 108 of 1997 and shall include any regulations promulgated in respect of such Act;
 - (b) **[additional project contribution]** means **an additional contribution payable on the alteration, refurbishment, extension or rebuilding of a project as provided for in section 5B(c);**
 - (c) additional quota means, in relation to— water and sanitation services
 - (a) a supply of water and sanitation services; or
 - (b) the acceptance of sewage,
 the difference between any new quota for such supply or acceptance and the quota in respect of such supply or acceptance in force immediately prior to the coming into operation of the said new quota;
 - (d) **[additional services contribution]** means **an additional water and sanitation services contribution contemplated in section 5A(b);**
 - (e) area of jurisdiction means, in the case of:
 - (i) an authority, including where such authority acts as a water and sanitation services provider as contemplated in section 19(1)(a) of the Act, the area of jurisdiction of such authority as a district municipality, but excluding the area of such district municipality for which a local municipality has been appointed as an authority under the provisions of section 84(3)(a) of the Local Government Municipal Structures Act 117 of 1998;
 - (ii) an authorised provider that is constituted as a local municipality, the area of jurisdiction of such local municipality, or such lesser area thereof as may be agreed between the authority and such local municipality concerned in respect of any approval or registration of such authorised provider; or
 - (iii) an authorised provider other than a district or local municipality, the area agreed between the authority and such authorised provider concerned in respect of any approval or registration of such authorised agent.
 - (iv) Any tribal authority within the UGU District
 - (f) authorised officer means the person [from time to time] who holds the position of Municipal Manager **[either substantively or in an acting capacity from the Council and includes a Deputy Municipal Manager or General Manager Water and Sanitation Services, appointed and constituted in terms of the Municipal Systems Act 62 of 2000 or the Municipal Structures Act No. 117 of 1998,]** or a person delegated in writing by such officer.
 - (g) authorised provider means an authorised provider, or authorised service provider industrial water provider, a water and sanitation services intermediary or a water and sanitation services provider and authority as defined herein, as the case may be.
 - (h) authority means the UGU District Municipality, established under the Local Government Municipal Structures Act 117 of 1998, in its capacity as the water, sewer and sanitation services authority as contemplated in the Water Act 108 of 1998 (as amended).
 - (i) basic water service charges means the basic charge for water and sanitation services provided in accordance with every **[any]** quota and/or (number of units) determined in services charge terms of sections (3) and (4) of these by-laws and payable in respect of any **[project]**

property where a quota or additional quota has been allocated in terms of section 5B(a) or (c)) of these by-laws, and shall include an availability charge for vacant properties.

- (j) borehole means a hole sunk into the earth for the purpose of locating, abstracting or using subterranean water and includes a spring;
- (k) building means the National Building Regulations made in terms of the National regulations Building Regulations and Building Standards Act, (Act No. 103 of 1977);
- (l) calendar days shall mean every day, including Saturdays, Sundays and public holidays;
- (m) certified means certified as true and correct by a Commissioner of Oaths, Notary Public or public servant charged with the issue of the document in question, and “certificate” shall have the same meaning;
- (n) commercial purposes in relation to the supply of water shall mean water supplied to premises which are used for the carrying on of a business or trade;
- (o) communal water services means a consumer connection through which water and sanitation services are supplied to more than one person;
- (p) connecting point means the point at which a drainage installation joins the connecting sewer;
- (q) connecting sewer means a pipe owned by the authority or the authorised provider, 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;
- (r) connection pipe means a pipe, the ownership of which is vested in the authority or the authorised provider, 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 South African Bureau of Standards Manual 0252 Part I;
- (s) conservancy tank means a covered tank used for the reception and temporary retention of sewage and which requires emptying at intervals;
- (t) consumer means the person with whom the authority or authorised provider has concluded an agreement as contemplated in section 6 or 7, provided that:
 - (a) in the event of such person having absconded, and, despite search cannot be located, or
 - (b) in the event of such person having died or becoming incapacitated and no executor, representative or curator is appointed in respect of such person within a reasonable period of time after such death or incapacity, then it shall mean the occupier or person in charge of the premises to which water and sanitation services are provided; (sub-section (xvii) amended by section 2 of the Ugu District Municipality Water and Sanitation Services Amendment By-Law, 2004);
- (u) consumer unit means any structure and/or property and/or unit as defined herein situated on premises to which water services are provided in terms of these by-laws;
- [(v) [contribution shall mean both a water and sanitation services contribution and an additional Sanitation contribution and an additional water contribution, as the case may be;]**
- (w) date of service means the date on which a quota or a new quota is negotiated or deemed to be negotiated, as the circumstances may require;
- (x) date of supply means the date on which a new quota is negotiated or deemed to have been negotiated, as the case may be;
- (y) delivery system means a water installation, which delivers water to a consumer;

- (z) developer means a person including a judicial person who undertakes a development and includes an owner of any property, [**consumer unit**] or premises;
- (aa) development means the construction of any structure or building [**development**], under the authority of any law, of any premises [**by**] or the subdivision thereof into two or more erven or the consolidation thereof with other land and the preparation of such subdivisions or consolidated premises for disposal for any purpose; (sub-section (xxvi) amended by section 3 of the Ugu District Municipality Water and Sanitation Services Amendment By-Law of 2004.
- (ab) development authority means any authority authorised by any law to approve any development or the change of land use authority under any law;
- (ac) domestic waste water waste water resulting from the supply of water to a household;
- (ad) drain means that portion of the drainage installation which conveys sewage within any premises;
- (ae) drainage work includes any drain, sanitary fitting, 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;
- (af) dwelling unit shall without limiting the generality thereof, include a hotel, lodge or other [**consumer unit**] structures and/or buildings occupied or used for residential purposes and used for the permanent as well as temporary accommodation of people;
- (ag) emergency means any situation that in the sole discretion of the authorised service provider poses a risk or potential risk to life, health, the environment or property;
- (ah) environmental cost means the full cost of all measures necessary to restore the environment to its condition prior cost to the damaging incident;
- (ai) environmental option means the option that provides the most benefit or causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as in the short term; which shall be determined for the purposes of these by-laws by the authorised service provider who may after consultation make decision whose decision whether or not such consultation takes place; shall be final
- (aj) extraordinary expense means any abnormal costs which will be incurred by the authority in the provision of water and sanitation services to any proposed private township, any proposed project, or a project in respect of which an additional quota is being negotiated, arising from the elevation of such township or project or the situation of such township or project in relation to the authority's water supply or sewerage scheme;
- (ak) fire hydrant means a potable water installation that conveys water for fire fighting purposes only;
- (al) fire meter means a potable water installation that conveys water for firefighting purposes only and which has a diameter at its aperture, a width of no less than 75 millimetres and no more than 100 millimetres and installed solely for the express purpose of firefighting
- (am) fixed charge means the fixed cost component which the authority requires to recover, before water is sold to consumers by the authority and comprises interest on and redemption of loans, as well as any statutory contributions to any prescribed statutory funds;
- (an) fixed quantity water delivery system means a water installation, which delivers a fixed quantity of water to a consumer in any single day;
- (ao) flood level (1 in 100 year) means that level reached by flood waters resulting from a storm of a frequency of 1 in 100 years;
- (ap) flood plain means the area subject to inundation by flood waters from a storm of a frequency of 1

in 100 years; (1 in 100 year)

- (aq) household means a dwelling, structure, traditional homestead or property primarily occupied for residential purposes;
- (ar) incapacitated for the purposes of the definition of 'consumer' shall mean a person who has been declared incapable of managing his or her affairs by a competent court;
- (as) industrial means effluent emanating from industrial use of water, and includes for purposes of effluent these by-laws, any effluent other than standard domestic effluent or storm water, and includes industrial effluent discharged into a sewage treatment plant;
- (at) industrial use includes the use of potable water, treated water or partially treated water; of water
- (au) industrial water provider means a water and sanitation services provider approved by the authority in terms of section 110 of these by-laws read with section 7 of the Act.
- (av) industries means any persons, organisations or institutions that –
 - (a) use water for mining, manufacturing, generating electricity, land-based transport, construction or any related purpose; or
 - (b) disposes of effluent emanating from such use;
- (aw) installation work means work in respect of the construction of, or carried out, on a water installation;
- (ax) level of service means the level of service contemplated in section 2
- (ay) local authority means and shall any organ of the State or municipality and the entire area of jurisdiction of that municipality as defined in the Republic of South Africa, Act 103 of 1996 read in conjunction with The Municipal Structures Act 117 of 1998 and as defined more fully in Section 2 of The Municipal Systems Act of 2000; and/or any Water Board constituted in terms of Section 108 of the Water Act of 1956 as amended;
- (az) main means a pipe, other than a connection pipe, vesting in the authority and used by it for the purpose of conveying water to a consumer;
- (ba) measuring device means any method, procedure, process or device, apparatus, installation that enables the quantity of water and sanitation services provided to be quantified and includes a method, procedure or process whereby quantity is estimated or assumed, which measures the quantity of water passing through it;
- (bb) meter means a water meter as defined by the Regulations published in terms of the Trade Metrology Act, Act No. 77 of 1973, or, in the case of water meters of size greater than 100 mm, a device which measures the quantity of water passing through it;
- (bc) occupier subject to Section 34(5), means a person who occupies any premises or part thereof, with regard to the title under which he or she occupies, and, in the case where a person in whom the legal title to premises is vested, or is insolvent or dead, or 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;
- (bd) officer means a person duly authorised by an authorised officer to act for and on behalf of a authority or an authorised provider (as the case may be);
- (be) owner subject to section 34(5), means –
 - (a) a person in whom is vested the legal title to the premises or property;
 - (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 authority or authorised provider is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises or a building or buildings thereon, including a person who receives the rent or profits of such premises or any part thereof from any tenant or occupier or who would receive such rent or profits if the premises or any part thereof were let, whether for his own account or as agent for any person entitled thereto or having an interest therein;
- (d) in the case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereunder;
- (e) in relation to -
- (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act 95 of 1986, the developer or the body corporate in respect of the common property, or 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 provider of such person;
- (bf) package plant shall mean a sewer or sewerage system that is the responsibility of and belongs to the owner of any premises as defined herein, or property or Homeowners Association as provided for in Section 21 of the Companies Act of 1973; that is not owned or maintained by any Municipality and read with Section 28 of these By-Laws;
- (bg) person subject to section 34(5), means any natural person, local government body or like authority, a company, close corporation, co-operative or communal property association incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust
- (bh) person in charge for the purposes of the definition of 'consumer' shall include the registered owner (or his/her authorized representative) of the premises to which water and sanitation services are provided;
- (bi) pollution means the introduction into the water supply scheme, water source, river, stream, watercourse or a water installation, of any substance which can make the water harmful to health or impair its quality, by virtue of its *E. coli* **[readings]** count or any other toxic or dangerous material;
- (bj) premises means any piece of land, the external surface boundaries of which are delineated on –
- a general plan or diagram registered in terms of the Land Survey Act, No.9 of 1927, or in terms of the Deeds Registries Act, No. 47 of 1937; or
 - a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, Act No. 95 of 1986, the developer or the body corporate in respect of the common property, or
 - an identified portion of land within a tribal area vested in any tribal Trust within the area of the UGU District Municipality as defined in the Municipal Structures Act.
- (bk) prescribed means prescribed by regulations made in terms of section 13;
- (bl) prescribed tariff means a charge prescribed or approved by the by the authority or by an authorised officer under Chapter 2 Part 2 of these By-Laws;
- (bm) private township for the purposes of these regulations, a private township shall mean any private township as defined by the Deeds' Registry Act or by the Sectional Titles Act or any subdivision in terms of such Act and/or any property used for the purposes of a Home Owners' Association in terms of section 21 of the Companies' Act of 1973 or any gated community or any private township or any similar type of series of constructions whereby more than one unit (as defined herein) is administered from a central source.
- (bn) project means -
- one unit on one subdivision of land or any two or more contiguous subdivisions of land but does not include a special residential project other than any such project to which an alteration is being made to increase the number of units to more than one;
 - a complex of more than one unit on one subdivision of land;

- (c) a building which consists or will, on its completion, consist of more than one unit;
 - (d) a camp; or
 - (e) any business or commercial undertaking established or to be established on a piece of land without the erection of any structure;
- (bo) project quota means the acquisition of water services quota [a **contribution**] payable on the establishment of a project as provided for in [contribution] section 5B(a);
- (bp) public notice means the publication of a notice in a newspaper circulating in the area of the authority, the broadcast of such notice by a radio station which covers the area of the authority and the posting of such notice at such public places in the area of the authority as will bring the contents to the attention of consumers, including at the offices of the authority, and, if applicable, at the offices of the authorised provider, provided that such notice shall be given in the English and/or the isiZulu languages; (sub-section lxii) amended by section 4 of the Ugu District Municipality Water and Sanitation Services Amendment By-Law, 2004)
- (bq) public water means any river, watercourse, bay, estuary, the sea and any other water which the public has a right to use or to which the public has the right of access, read in conjunction with the Water Act of 1956 and the Water Services Act of 1997.
- (br) qualified sampler means a person who takes samples for analysis from the sewage disposal and/or storm water disposal systems and/or from public waters and who has been certified to do so by the authority; by virtue of their qualifications or experience.
- (bs) quota means—
- (a) in relation to a supply of water, the maximum quantity of water expressed in kilolitres per day which may on average in any account period be drawn on any land or in any project in respect to which such quantity of water has been allocated; and
 - (b) in relation to the acceptance, treatment and disposal of sewage, the maximum quantity of sewage expressed in kilolitres per day which may on average in any account period be discharged from any land or from any project in respect to which such quantity of sewage has been allocated;
- (bt) SABS guidelines the guidelines or manuals issued by the SABS Bureau of Standards and published as the guidelines for Human Settlement Planning and Design and the manuals, and more specifically as pertaining to water and sanitation which shall *mutatis mutandis* apply to these by-laws;
- (bu) sanitation scheme means any undertaking or works whereby sanitation services are supplied, and includes all assets and liabilities relating to such undertaking, including, without limiting the generality of the foregoing, the sewer reticulation system, all structures, pipes, valves, pumps, meters or other appurtenances reasonably and necessarily associated with such undertaking, or any part of the undertaking; (sub-section (lxviii) substituted by Section 5 of the UGU District Municipality Water and Sanitation Services Amendment By-Law, 2004. Note: that the words 'drainage system' and 'sewage disposal system' have been replaced by the words 'sanitation scheme' wherever they appear in these by-laws by section 8(b) of the Ugu District Municipality Water and Sanitation Services Amendment By-Law)
- (bv) sanitation services for the purposes of these by-laws shall, in addition to the meaning given thereto in the Act, include industrial effluent; as well as any sewer connection to any sewer or part of any sewer or main; and shall mean a Sanitation Scheme and Sanitation Scheme shall have a corresponding meaning;
- (bw) septic tank means a tank designed to receive sewage and to retain it for such a time and in such a manner as to secure and create adequate decomposition;
- (bx) 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;

- (by) sewage means waste water, industrial effluent, standard domestic effluent and other waste, including human excreta, either separately or in combination, but shall not include storm water;
- (bz) sanitation scheme means any undertaking or works whereby sanitation services are supplied, and includes all assets and liabilities relating to such undertaking, including, without limiting the generality of the foregoing, the sewer reticulation system, all structures, pipes, valves, pumps, meters or other appurtenances reasonably and necessarily with such undertaking, or any part of the undertaking; (sub-section (lxviii) associated substituted by Section 5 of the UGU District Municipality Water and Sanitation Services Amendment By-Law, 2004. Note: that the words 'drainage system' and 'sewage disposal system' have been replaced by the words 'sanitation scheme' wherever they appear in these by-laws by section 8(b) of the Ugu District Municipality Water and Sanitation Services Amendment By-Law)
- (ca) sewer means any pipe or conduit which is the property of or is vested in the authority and which may be used for the conveyance of sewage from the connecting sewer and shall not include a drain as defined;
- (cb) standard domestic effluent means domestic effluent with strength characteristics prescribed from time by the authority or the appropriate Minister under section 9 of the Act in respect of chemical oxygen demand and settleable solids as being appropriate to sewage discharges from domestic premises within the jurisdiction of the authority or the authorised provider, but shall not include industrial effluent;
- (cc) Storage tank means a tank forming part of a water installation and used for the storage of water, other than a cistern serving a water-closet pan or a urinal and a tank used for the storage of hot water;
- (cd) storm water means water resulting from natural precipitation or accumulation and includes rainwater, subsoil water or spring water;
- (ce) structure **[shall mean unit;]** as per SANS 0400 (National Building Regulations)
- (cf) structures act shall mean the Municipal Structures Act 117 of 1998
- (cg) systems act shall mean the Municipal Systems Act 62 of 2000
- (ch) tariff means any tariff determined from time to time in terms of the provisions of these by-laws;
- (ci) terminal water means a water fitting at an outlet of a water installation which controls the discharge of water from a fitting water installation;
- (cj) trade premises means premises upon which industrial effluent is produced;
- (ck) Ugu shall mean a Water Services Provider or water services authority as defined herein;
- (cl) unit means:
- (a) in relation to an accommodation unit or hotel, means a bedroom;
 - (b) in relation to a camp, means a tent, caravan or other temporary or movable structure used or intended or capable of being used for the accommodation of natural persons; and
 - (c) in any other case, any building or portion of a building which is designed for or otherwise capable of separate occupation, whether for business, commercial, industrial, residential or other purposes, the generality of the last mentioned not being limited by the particularity of the former; provided that:
 - (d) any outbuilding which forms an integral part of any unit as hereinbefore defined shall in itself be construed to be a unit; and the number of units in a camp shall be deemed to be the number of units for which provision is made in the relevant licence or authority, or, if such camp is not so licenced or authorised, the number of units determined by the authority, or the authorised provider, as the case may be.

- (e) any other building, structure or portion of a building or structure, of whatsoever nature, the determination of whether or not such constitutes a unit or not for the purposes of the application of these By-Laws shall vest in the sole discretion of UGU, the authorised water services provider.
- (f) any other building, structure or portion of a building or structure of whatsoever nature, the determination of whether or not such constitutes a unit, or not, for the purposes of the application of these By-Laws shall vest in the sole discretion of UGU, the authorised Water Services Provider.
- (cm) water fitting means a component of a water installation, other than a pipe, through which water passes or in which it is stored;
- (cn) 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 connection pipe relating to such premises or is otherwise laid with the permission of the authority;
- (co) water services development plan means the water and sanitation services development plan adopted by the authority in terms of sections 12 to 18 of the Act; (sub-section (lxxviii) substituted by section 6 of the UGU District Municipality Water and Sanitation Services Amendment By-Law, 2004)
- (cp) water services shall have the same meaning assigned to it in terms of the Act and includes for purposes of these by-laws water for industrial purposes and the disposal of industrial effluent and shall include Sanitation Services;
- (cq) water services **[contribution]** quota acquisition means a water and sanitation services quota acquisition **[contribution]** contemplated in section 5A(a) of these by-laws;
- (cr) water services intermediary means a person registered by the authority in terms section 113 of these By Laws read with Section 24 of the Water Services Act 108 of 1997.
- (cs) water services provider means a person or legal entity approved by the authority in terms of section 104(a) or (b) of these By- Laws, read with sections 6 and 22 of the Water Services Act 108 of 1997, as the case may be, and shall also mean the UGU District Municipality; and includes a Body Corporate and/or Governing Body of communal properties.
- (ct) water services surcharge means a surcharge determined in terms of sections 3 and 4 of these by-laws and payable in respect of any water and sewer services provided to a consumer in excess of the quota set in terms of section 5B(a), (b) or (c) of these by-laws;
- (cu) water means any reference to water and/or sanitation services provided by the UGU District Municipality on behalf of itself or any Municipality as defined in the Municipal Systems Act 62 of 2000 or the Municipal Structures Act 117 of 1998.
- (cv) water supply services includes for purposes of these by-laws water for industrial purposes and the disposal of industrial effluent;
- (cw) water supply scheme means any undertaking or works whereby water and sanitation supply services are supplied, and includes all assets and liabilities relating to such undertaking, including, without limiting the generality of the a foregoing, the water supply reticulation system, all structures, pipes, valves, pumps, meters or other appurtenances reasonably and necessarily associated with such undertaking, or any part of the undertaking; and (sub-section (lxxvi) substituted by section 7 the Ugu District Municipality Water and Sanitation Services Amendment By-Law, 2004. Note that the words 'water supply system' have been replaced by the words 'water supply scheme' wherever they appear in these by-laws by section8(a) of the Ugu District Municipality Water Services Amendment By-Law)
- (cx) water supply system means the structures, aqueducts, pipes, valves, pumps, meters or other appurtenances relating thereto, which are vested in the Council and are used or intended to be used by it in connection with the supply of water, and includes any part of the system;
- (cy) working day means a day other than a Saturday, Sunday or public holiday.

(numbering of sub-sections of section 1(1) amended by section 1 of the Ugu District Municipality Water Services Amending By-Law, 2004).

- (2) In the event of the Minister of Water Affairs and Forestry, at any time after the commencement of these by-laws, prescribing any standards or tariffs in terms of Chapter II of the Act, then, to the extent that any such standard or tariff exceeds any standard or tariff prescribed in terms of these by-laws, the standards or tariffs prescribed by the Minister shall prevail over the standards or tariffs prescribed in terms of these by-laws and these by-laws shall be deemed to have been amended accordingly.
- (3) These by-laws shall be known as the Water and Sanitation Services By-Laws.
- (4) Any reference in Chapter 2 of these by-laws to water and sanitation services must be interpreted as referring to water supply services or sanitation services depending on the services to which they are applicable.
- (5) Nothing contained in these by-laws, or done or omitted to be done by any authority or any authorised provider under these by-laws, shall affect the obligation of any person to obtain any licence or other authority required under the National Water Act 36 of 1998.
- (6) Whenever in these by-laws any approval is required from or on behalf of the authority or any authorised provider, then such approval shall be obtained in accordance with the procedures prescribed in these by-laws, or as prescribed from time to time by the authority or authorised provider, which procedures shall be provided by the authority or authorised provider to any person on application therefor, and in the event of these by-laws or the authority or authorised provider not having prescribed any specific procedure, then such approval shall be applied for in writing by letter addressed to the authority or authorised provider.
- (7) An authority may in writing appoint any officer in its employ or any other suitably qualified person to carry out any function or power vested in it in these by-laws.
- (8) The authority may, by regulation:
 - (a) define the circumstances under which a person or a family shall be deemed to be indigent, provided that it shall take into account any law, regulation, guidelines or policy adopted by the Minister or the Department of Water Affairs and Forestry in this regard,
 - (b) provide that an indigent person or family shall receive a basic water supply and/or basic sanitation, as defined in the Act, free of, or at a reduced, tariff,
 - (c) define the circumstances and the nature of the provision of such services and the withdrawal thereof, and
 - (d) if no minimum standards have been prescribed as contemplated in the definitions of basic water supply and basic sanitation in the Act, prescribe such minimum standards.
- (9) Whenever any provision of these by-laws refer to the supply of water and sanitation services by the authority, such provisions shall apply to the authority as a water services provider as contemplated in section 19(1)(a) of the Act.
- (10) Whenever in these by-laws a meaning, power, function or obligation is vested in the authority or an authorised provider, then such reference shall be interpreted to mean either the authority or the authorised provider or both jointly as the case may be in the particular context.
- (11) The provisions of Parts 4, 5 and 6 of Chapter 2 of these by-laws shall apply only to water and sanitation services provided by the authority as water and sanitation services provider.
- (12) Where any provision in these by-laws refer in the same provision to both the authority and a or any authorised provider, such provisions shall be deemed to apply to the authority in respect of the area described in section 1(1)(iii)(a), but excluding the areas referred to in sections 1(1)(iii)(b) or (c), and to the relevant authorised provider in respect of the areas referred to in sections 1(1)(iii)(b) or (c), taking into account the circumstances and context applicable in each case.
- (13) Schedules attached hereto shall form an integral and binding part of these regulations.

PREAMBLE

WHEREAS the Water Services Act 107 of 1997 ("the Act") provides for the rights of access to basic water supply and basic sanitation;

AND WHEREAS Water Service Authorities are enjoined in terms of Section 11 of the Act to perform a duty to provide access to water services in the area of its jurisdiction, also read with Section 108 of the Water Act of 1956 (as amended);

AND WHEREAS the UGU District Municipality ("UGU") is a Water Services Authority as defined by the Act, UGU now promulgates the regulations set out hereinafter as it is entitled to do, which shall apply to the UGU District Municipality as well as all the local municipalities falling within its area of responsibility as defined in the Municipal Structures Act and Municipal Systems Act, which shall include all urban areas and tribal areas within the jurisdiction of the UGU District Municipality, nothing excepted.

NOW THEREFORE:

CHAPTER 1A – WATER SUPPLY SCHEMES AND SANITATION SCHEMES

PART 1 – PROVISION OF WATER AND SANITATION SERVICES

- 1A(1) The authority may provide water and sanitation services to all consumers or potential consumers in its area of jurisdiction or in the area of jurisdiction of any other district or local municipality subject to and in accordance with the provisions of these By-Laws, the water and sanitation services development plan, the Act and any other applicable law.
- (2) The authority may acquire a bulk supply of water from any lawful source in accordance with the provisions of the water and sanitation services development plan for the purposes of providing water and sanitation services either itself or through any authorised provider and for that purpose the authority may:
- (a) acquire any licence or other authorisation required under the National Water Act 1998 (Act 36 of 1998);
 - (b) construct, operate and maintain any weir, dam, pumphouse, pipeline, water treatment plant or other structure reasonably and necessarily required for that purpose,
 - (c) treat such water to a quality necessary for the provision of water and sanitation services,
 - (d) enter into any appropriate agreements for the purposes of securing the rights to any bulk supply of water,
 - (e) acquire secure rights of access to and use of land or rights to land in any lawful manner, including by way of purchase, donation, lease, servitude or permission to occupy issued under Chapter XI of the KwaZulu Land Affairs Act 1992 (Act No 11 of 1992 (KZ)) or otherwise for the purposes of obtaining such bulk water for such purpose.
- (3) The authority may co-operate with any other person in regard to the provision of water service upon compliance with the provisions of Chapter 8 of the Local Government: Municipal Systems Act 2000 (Act No 32 of 2000).
- (4) The authority may, subject to the provisions of the water and sanitation services development plan and subject to the Act or any other laws, sell or otherwise supply treated or untreated water to any consumer or authorised provider upon such terms and conditions as may be agreed upon.

PART 2 – ACQUISITION, ESTABLISHMENT AND EXTENSION

- 1B (1) The authority may acquire, establish or extend water supply schemes or sanitation schemes in accordance with the provisions of the water and sanitation services development plan.
- (2) The authority shall ensure that it has secure legal rights of access to and use of the land on, under or over which the water supply scheme or sanitation scheme is situated and for that purpose the authority shall be entitled to acquire land or rights to land in any lawful manner, including by way of purchase, donation, lease, servitude or permission to occupy issued under Chapter XI of the KwaZulu Land Affairs Act 1992 (Act No 11 of 1992 (KZ)) or otherwise.

PART 3 – OPERATION AND MAINTNANCE

- 1C (1) The authority may operate and maintain any water supply scheme or sanitation scheme in terms of section 19(1)(a) of the Act itself, or it may enter upon a joint venture with any person or approve a water and sanitation services provider for that purpose in terms of section 19(1)(b) of the Act.
- (2) The provisions of Chapter 5 of these By-Laws shall apply to the approval of any water and sanitation services provider as contemplated in sub-section (1).
- (3) The operation and maintenance of every water supply scheme and sanitation scheme shall comply with the provisions of the water and sanitation services development plan.

PART 4 – ENTRY TO LAND FOR ASSESSMENT PURPOSES

- 1D (1) An officer or officers of the authority may, on seven days written notice to the owner of such land, enter upon any land in order to search, dig, excavate, bore and carry on any works for the discovery, gauging or measurement of the underground water or water rising from any spring, well or fountain, or flowing in any stream, river, water course or channel, or as may be necessary in order to determine the suitability of any site for the construction of storage or other works in relation to any water supply scheme or sanitation scheme or proposed water supply scheme or proposed sanitation scheme, including, in either case, the construction of any temporary works necessary therefore.
- (2) The powers contained in sub-section (1) shall be exercised:
- (a) with due regard to the provisions of section 25 of the Constitution of the Republic of South Africa 1996 (Act No 108 of 1996),
 - (b) in a manner least disruptive to the rights and interests of the owner or lawful occupiers of the land, and
 - (c) subject to the payment of compensation or the rehabilitation of the land or both arising from any direct damage caused to the land by the exercise of such powers.

(Chapter 1A inserted by section 9 of the Ugu District Municipality Water and Sanitation Services Amendment By-Law,2004)

CHAPTER 2

PART 1 – APPLICATION OF BY-LAWS, EXEMPTION FROM APPLICABILITY AND LEVELS OF SERVICE

- 2 (1) These by-laws shall:
- (a) apply to the provision of all water and sanitation services by the authority or any authorised provider or intermediary in the area of jurisdiction of the authority; and
 - (b) shall be interpreted in conformity with any standards or norms and standards for tariffs prescribed by the appropriate Minister from time to time under the powers provided in Chapter 2 of the Act.
- (2) The authority may, by resolution, in writing, exempt any authorised provider, owner, consumer or other person or any category of owners, consumers or other persons, from complying with any provision or provisions of these by-laws, subject to any conditions it may impose, if it is of the opinion that the application or operation of that provision would be so unreasonable as to cause substantial prejudice of a nature or degree which was not intended to flow from the enactment of the provision, and
- (a) that such exemption would be fair and equitable in the circumstances, or
 - (b) the purpose for which the provision had been enacted has substantially been attained upon compliance with the conditions imposed in any particular case, or
 - (c) the need to attain that purpose is for any reason absent in any particular case. provided that the authority shall not grant exemption from any section of these by-laws that may result in -
 - (d) the wastage or excessive consumption of water;
 - (e) the evasion or avoidance of water restrictions;
 - (f) significant negative effects on public health, safety or the environment;
 - (g) the non-payment for services;
 - (h) the installation of pipes and fittings which are not approved by or on behalf of the authority in terms of these by-laws;
 - (i) the Act or any regulations made in terms thereof not being complied with; and
 - (j) the determination of tariffs and charges being applied which are not approved or ratified by the authority.
- (3) The authority may, by resolution, at any time after giving written notice of at least thirty days, withdraw any exemption given in terms of subsection (2).
- (4) The authority shall give public notice of any resolution adopted by it under sub-sections (2) or (3).

- (5) The authority shall, and any authorised service provider may, provide water and sanitation services at different levels of service to accommodate different levels of demand and affordability as prescribed, providing for:
- fully serviced urban;
 - partially serviced peri-urban and rural settlement;
 - minimal serviced rural low density settlements
 - industrial supply.
- (6) The authority may, by regulations made under section 13, further define the level of services described in sub-section (1)(a) to (d).
- (7) The authority may, by regulation:
- define the circumstances under which a person or a family shall be deemed to be indigent, provided that it shall take into account any law, regulation, guidelines or policy adopted by the Minister or the Department of Water Affairs and Forestry in this regard,
 - provide that an indigent person or family shall receive a basic water supply and/or basic sanitation, as defined in the Act, free of, or at a reduced, tariff;
 - define the circumstances and the nature of the provision of such services and the withdrawal thereof; and
 - if no minimum standards have been prescribed as contemplated in the definitions of basic water supply and basic sanitation in the Act, prescribe such minimum standards.
- (8) The authority may, in granting its approval to or the registration of the appointment or any authorised provider in terms of sections 104(1) or (b), 110 or 113 (as the case may be), impose a condition that such authorised provider shall provide water and sanitation services at different levels of service to accommodate different levels of demand and affordability as provided in sub-section(1).
- (9) (a) Any party that is aggrieved by any resolution arising from clause sub (2) hereinabove, shall be bound by and follow the prescribed appeal procedure as set out in Section 62 of the Municipal Systems Act.
- (b) Notwithstanding the provisions of subsection (a) hereof:
- any tariff for the provision of water and sanitation services, any water **[contribution] quota** , additional water **[contribution] quota** , project **[contribution] quota** or additional project **[contribution] quota** or like charge in force at the date of the commencement of these by-laws shall continue to apply and be binding on any person liable for the payment thereof under any law under which such tariff, water **[contribution] quota** , additional water **[contribution] quota** project **[contribution] quota** or additional project **[contribution] quota** or like charge was determined until substituted by any tariff, water **[contribution] quota** , additional water **[contribution] quota** , project **[contribution] quota** or additional project **[contribution] quota** determined in terms of these by-laws; and
 - the payment of any amount contemplated in subsection (b)(i) may be enforced by the authority or any authorised provider as though such payment were due under these by-laws, and to the extent necessary for the purposes of such enforcement, shall be deemed to have been determined under these by-laws.
- (10) In the event of any discrepancy being found to exist between the version of these by-laws in the English language and any other version in any other language, then the version in the English language shall prevail.
- (11) The commencement date of these by-laws shall be the date of the publication of these by-laws in terms of section 13(a) of the Local Government : Municipal Systems Act 32 of 2000.

PART 2 – TARIFFS, CHARGES, WATER **[CONTRIBUTION AND] QUOTAS**

Prescribed tariffs and charges for water and sanitation services

- 3(1) All tariffs and/or charges payable in respect of water and sanitation services rendered by the authority or an authorised provider or a intermediary in respect of any particular water scheme or schemes, including but not limited to, the payment of connection charges, fixed charges or any basic water and sanitation services charge or other additional charges or interest payable in respect of the failure to pay such tariffs or charges on the specified date, or any water **[rate] tariff** will, in the case of the authority, be set, and, in the case of an authorised provider or intermediary , be ratified, by the authority by a resolution adopted by the authority in accordance with –
- the tariff policy of the authority;
 - any by-laws in respect thereof; and

(c) any regulations made in terms of section 10 of the Act;

provided that the authority shall determine its tariff policy in consultation with every applicable authorised provider.

- 3(2) The provisions of Part 2 of Chapter 2 of these by-laws must be read with the provisions of any financial regulations applicable to the authority or any authorised provider, and, in the case of a conflict between these by-laws and any such financial regulations, then the provisions of these by-laws shall prevail.
- 3(3) Each authorised provider shall, at least two months prior to the commencement of each financial year of such authorised provider, submit to the authority a schedule of the tariffs and charges, as contemplated in section 3(1) and (2) and calculated in accordance with the provisions of section 4, that such authorised provider intends to levy during the ensuing financial year and the authority shall, within one month of the receipt of such submissions, ratify or reject such tariff/s and charges in whole or in part. Amended by section 10 of the Ugu District Municipality Water and Sanitation Services Amendment By-Law, 2004
- 3(4) In the event that the authority rejects any tariffs and charges set by an authorised provider, then it shall, in writing, provide reasons to the authorised provider for such rejection and the authority and the authorised provider shall seek to reach agreement on the tariff and charges as expeditiously as possible.
- 3(5) If no agreement contemplated in subsection (4) is reached within 30 days of the receipt by the authorised provider of the written notice contemplated in subsection (4), then the authorised provider may refer such dispute to an arbitrator as provided for in section 35(1) and the decision of such arbitrator shall be final.
- 3(6) Public notice of every tariff and charges adopted or ratified by the authority shall be given and such tariff and charges shall apply to all applicable consumers from a date 30 days after the publication of such notice, provided that the expense of such public notice shall be born by the authority or authorised provider responsible for the application of the tariff and charges.

Determination of Tariffs

- 4 (1) An authority and an authorised provider must -
- (a) when determining the revenue requirements on which tariffs for water and sanitation services are based, take into account -
- (i) recovery of overhead, operational and maintenance costs;
 - (ii) cost of capital;
 - (iii) depreciation; and
 - (iv) unavoidable water losses.
- 4(2) A authority or the authorised provider, may include a monthly fixed charge in the tariffs set for providing water and sanitation services to consumers and other users over and above the tariffs referred to in subsections above.
- 4(3) A authority or the authorised provider,:
- (a) must charge a fee for connecting a consumer or another water and sanitation services institution to a water and sanitation services work.
 - (b) may charge any consumer connected to or connecting to a water and sanitation services work without the authorisation of the relevant authority or authorised provider a connection fee, irrespective of any other action the authority or authorised provider may take against such person.

- (c) in addition to the tariffs or charges prescribed for water and sanitation services actually provided, levy a monthly fixed charge, annual fixed charge or once-off fixed charge in respect of the provision of water and sanitation services in accordance with –
- (i) the tariff policy of the authority;
 - (ii) any by-laws in respect thereof; and
 - (iii) any regulations in terms of section 10 of the Act.
- 4(4) Where a fixed charge is levied in terms of subsection (1), it shall be payable by every owner or consumer in respect of water and sanitation services provided by the authority or an authorised provider to him, her or it, whether or not water and sanitation services are used by him, her or it.(availability charge)
- 4(5) Notwithstanding any provision to the contrary in these by-laws contained, the authority may, and if authorised thereto by the authority, an authorised provider may, waive the payment of any tariff in respect of the supply of water and sanitation services to consumers for all or any portion of water and sanitation services provided to consumers.
- 4(6) Authority and Methods – rating of lots in approved private townships:
Notwithstanding anything contained herein, any lot (whether within or without any local authority area) situate in any approved private township proclaimed as such by the Administrator in terms of the Private Township and Town Planning Ordinance Act of 1934, or proclaimed or declared as such by the Administrator in terms of subsection 4 of Section 33 of the Town Planning Ordinance of 1949, shall for so long as it continues to vest in the township owner as defined in Section 1 of the Town Planning Ordinance of 1949, be deemed to be a separate piece of land for purposes of the said subsection 2: provided that if in terms of any condition of establishment of any such approved private township, the sale of or the construction of buildings on lots situate in any prescribed area or zone of such private township is prohibited, all lots of such area or township shall transfer build upon or permit to be built upon any lot or otherwise, until such time as the said condition is withdrawn or relaxed in terms of any provision made in that respect.
- 4(7) **Special Water [Rate] Tariff**
Where corporation extends the supply of water to an existing private township or an approved private township as defined in the Water Planning Ordinance No. 27 of 1949, in respect of which no obligation for the provision of a satisfaction water supply has been placed upon the township owner, as defined in that Ordinance, such corporation may in order to cover costs of such extension and supply, which cannot be met solely by die charges and the water [rate] tariff referred to in Section 21 and subsection (1) of Section 13 of such Ordinance, respectively, after consultation with the board and with the approval of the Administrator and subject to such conditions as he may impose, in his sole discretion, assess, levy and collect in respect of all water situate in such private township, a special water[rates] tariff, which shall be assessed, levied and collected as if it were the said water [rate] tariff
- 4(8) **Liability for Water and Sanitation [rate] tariff:**
The water [rate] tariff shall a charge upon the property, the subject thereof, and shall be payable by the owner of such property, provided that any person that purchases, leases or otherwise acquires immovable property from the State shall, the purposes of this subject, and subject to the provisions of the State property (Immunity from Rating Act 32 of 1931 and the Rating of Railway Property Act 25 of 1959) be deemed to be the owner thereof as from the date of it's purchase or acquisition by him thereof, or from commencement of the lease.
- 4(8)a Any entity requiring exemption from the Water and Sanitation [rate] tariff shall apply in writing to the authority and the decision of the authority in respect thereof shall be final.

Water and Sanitation Services [**Contributions**] Quota acquisition

5. (1) (a) Whenever a owner is required to obtain any water and sanitation services from the authority or an authorised provider to all or any consumer units or premises in a development as a condition of the approval of such development by a development authority, the authority or any authorised provider **[shall]** may require such developer to acquire additional quota from **[pay a water contribution to]** the authority or any authorised provider as a condition precedent to the provision of such water and sanitation services as **[a contribution] compensation for [to]** the capital costs of installing and providing such water and sanitation services.
The authority may inspect and assess the buildings on a property at any time and recalculate the quota allocation as per the actual land use and change the basic charges on the consumer account and charge basic charge as per the new assessment.
- (b) Whenever the use to which any owner unit or premises may be put is altered or changed and such change requires **[the approval of a development authority under any law and involves or may involve the authority or an authorised provider or additional capital costs]** any additional quota in relation to the installation and provision of water and sanitation services to such consumer unit or premises, the authority or the authorised provider shall:
- (i) upon the development or proposed development of such consumer unit or premises in accordance with such altered use; and
 - (ii) upon being requested to provide water and sanitation services to such consumer unit or premises

or to continue or enlarge and increase the provision of water and sanitation services to such consumer unit or premises, assess, in accordance with the provisions of subsections 5(1)(c) and 5(1)(d) require, an additional water and sanitation services **[contribution] quota [towards costs in which it will or may subsequently be involved in making, in continuing or enlarging the provision of such water and sanitation services]** shall require payment by the developer of the additional **[contribution] quota** so assessed as a condition precedent to the making, continuing or enlargement of such provision.

- (c) The authority or an authorised provider may differentiate between water supply services and sanitation services and in the calculation and levying of any **[contribution.] quota acquisition**
- (d) The **[contribution] acquisition of quota** shall compensate the authority or the authorised provider for the estimated capital expenditure incurred in the provision of water and sanitation services and to which it will be committed in providing the water and sanitation services contemplated in the development after taking into account the authorised provider's existing tariffs **[or rates,]** and such estimate shall take into account capital expenditure in respect of:
 - (i) raw water storage, conveyance and purification works,
 - (ii) trunk mains,
 - (iii) underground and ground level reservoir storage,
 - (iv) reticulation,
 - (v) sewerage reticulation
 - (vi) trunk sewers;
 - (vii) pumping installations; and
 - (viii) sewage treatment networks, as the case may be
 - (ix) development undertaken or partially completed or completed without the authorised provider's knowledge or sanction;
- (e) The minimum quantity of water to be supplied or sewage to be accepted from any lot subject to assessment as herein provided shall be deemed to be:
 - (i) in the case of water, 2 kilolitres per day, where such lot is zoned for industrial purposes and 1 kilolitres per day, where such lot is zoned for any other purpose, and
 - (ii) in the case of sewage, 1.5 kilolitres per day where such lot is zoned for industrial purposes and 0.75 kilolitres per day, where such lot is zoned for any other purpose.
 - (iii) If the **[contributions] quotas** in Clause 5(1)(d) shall *mutatis mutandis* apply to any development or dwelling as defined herein, where the development or dwelling has not previously been approved or approval has taken place without the knowledge and/or consent of UGU. The UGU District Municipality may within its sole discretion set out a tariff as determined, as the decision as determined by it, and the decision made by it in this regard, shall be final.
- (f) Where, due to the elevation of a development, or its situation in relation to the authority's or the authorised provider's water supply scheme or sanitation scheme, or any other exceptional circumstances, the authority or the authorised provider will be put to extraordinary expense in providing water and sanitation services to or from that development, the authority or the authorised provider may require the developer to contribute such sum of money, over and above that provided for in subsections (a) or (b), as will compensate the authority for such extraordinary expense; provided that where such exceptional circumstances arise from engineering considerations necessitating the premature installation of works of a capacity substantially greater than actually required for the provision of water and sanitation services to or from that development, the authority may agree to refund the whole or part of such additional **[contribution] quota** on such basis and at such time as may be agreed upon between the authority or the authorised provider and the developer.
- (g) The provisions of subsection (h) may not be invoked except with the prior written approval of the Council of the authority.
- (h) A developer shall make application to the authority or authorised provider in writing for any assurance required by any development authority that the authority or the authorised provider is able to provide water and sanitation services to any development, and he shall, in such application, provide full details of the development so as to enable the authority or the authorised developer to assess the works required and the estimated capital expenditure which will be required to provide the water services applied for.
- (i) The authority or the authorised provider may, within 30 days of the receipt of such application, request the developer to provide such additional information as it may require in order to make the assessment

called for in subsection (j) and the developer shall provide such additional information.

- (j) The authority or the authorised provider shall, within 60 days of any application received in terms of subsection (j), notify the developer whether it is able to provide the water and sanitation services requested or a part thereof and it shall, at the same time, notify the developer of the **[contribution] amount** payable.
- (k) Subject to subsection (h), neither the authority nor the authorised provider shall undertake any capital expenditure in respect of any development in respect of which a **[contribution] quota** is payable until the amount assessed in terms of subsection (l) has been paid.
- [(l) **The authority or an authorised provider may, on written application by a developer, accept payment of a contribution by way of instalments provided that:**
 - (i) **the contribution payable is irrevocably secured to the satisfaction of the authority or the authorised provider,**
 - (ii) **interest is payable on the capital amount of the contribution, or any balance owing from time to time at a rate at which the authority may borrow money, which interest shall be a first charge on any amount paid by the developer on account of such contribution, and**
 - (iii) **an agreement between the authority or the authorised provider on the one hand and the developer on the other hand is concluded in writing recording at least the amounts of each instalment, the date for the payment of interest and capital, the place of payment and providing that if any one instalment is not paid on the date that it is due, the whole of the contribution then outstanding together with any outstanding interest shall immediately be due and payable, in which case the authority or the authorised provider shall be entitled to undertake such capital expenditure upon the provision of the irrevocable security and the signature of the agreement.]**
- (m) The Council of the authority or an authorised provider may, in respect of any development in its area of jurisdiction, reduce or waive the **[contribution] amount** payable by any developer for good cause, including any development arising from any land reform project as contemplated in sections 25(4)(a), (5), (6), (7) or (8) of the Constitution of the Republic of South Africa, Act 108 of 1996 or any low-income State subsidized housing project. A good cause shall be any project that is of a charitable nature and for the common good of all citizens.
- (n) Where an authorised provider can substantiate the application of a **[contribution] [rate] tariff** in respect of any particular development substantially different from that determined by the authority, such authorised provider may, with the prior approval of the authority, apply such other **[contribution] [rate] tariff**
- (o) The **[contribution] amount** shall be assessed by multiplying the minimum quantity as set out in subsection (g)(i) or (ii) or both as the case may be by the contribution **[rate] tariff** to be applied in the year in which payment is made.
- (p) Any dispute arising from the interpretation and implementation of this section 5(1) between the authority and any authorised provider, or between the authority or any authorised provider and any developer shall be resolved by arbitration as provided in section 35.

Quota

- 5(2)(a) Whenever a consumer establishes a project on any premises and requires water and sanitation services to be provided to such project by the authority or an authorised provider, such consumer shall, prior to the establishment of such project, apply to the authority or the authorised provider from whom such water and sanitation services are to be obtained for the assessment of **[a project contribution and]** a quota in respect of such project in accordance with subsection (d).
- (b) Any quota allocated to any premises in respect of a project on any premises at the commencement of these by-laws under any law superseded by these by-laws or the KwaZulu-Natal Water and sanitation services Ordinance 27 of 1963 shall be deemed to have been allocated under these by-laws, and such quota shall, from such date, be subject to the provisions of these by-laws and any consumer aggrieved by the alteration of any terms and conditions applicable to the quota issued to him as a consequence of the provisions of this subsection (b) may, within 30 days of the commencement of these by-laws and in writing supported by adequate motivation, appeal to the authority for relief.
- (c) Whenever an existing project is altered, refurbished, extended or rebuilt and such alteration, refurbishment, extension or rebuilding requires the approval under any law and involves or may involve

the authority or an authorised provider in additional capital costs in relation to the installation and provision of water and sanitation services to such consumer unit or premises, the consumer in respect of such project shall apply to the authority or the authorised provider for the assessment of an additional **[project contribution and an additional]** quota in accordance with subsection (d).

- (d) A consumer required to apply to the authority or an authorised provider for a quota or an additional quota **[or the assessment of a project contribution or additional project contribution]**, shall, in writing:
 - (i) advise the authority or the authorised provider of his intention and provide sufficient detail in such application to enable the authority or the authorised provider to evaluate the project and determine the nature and quantity of water and sanitation services required and the infrastructure contemplated in subsection (h)(ii) required to provide the requisite water and sanitation services;
 - (ii) state the registered description of the premises at which the project is situated;
 - (iii) state the quota or additional quota which he wants to be supplied to the project on completion;
 - (iv) state his domicilium citandi et executandi;
 - (v) make application, in terms of the authority's bylaws or the authorised provider's conditions of supply, for a temporary supply of water for construction purposes, if needed; and
 - (vi) make application, in terms of the authority's bylaws or the authorised provider's conditions of supply, for a permanent connection for the supply of water to the project on completion.
- (e) The consumer to whom a quota or additional quota has been allocated shall pay:
 - (i) a basic water and sanitation services charge in respect of water and sanitation services provided to such consumer under any quota or additional quota issued to such consumer under subsections (a), (b) or (c), irrespective of the quantity **[used but not exceeding the quota or additional quota issued to such consumer]**; and
 - (ii) a water and sanitation services surcharge in respect of any water and sanitation services used in excess of the quota or additional quota issued to such consumer.
 - (iii) provided that, a basic charge, calculated and determined on the basis of the charge provision of 1 kilolitre of water and the provision of sanitation and administrative services per month, and calculated from the day of final plan approval, to be determined solely by the date of final approval as stamped by UGU on the plans by the authorised official at the relevant Town Planning Department or Local Authority.
- (f) The basic water charge and water and sanitation services surcharge referred to herein shall be paid monthly in terms of the provisions of Parts 3 and 4 of these by-laws.
- (g) **[A project contribution or additional project contribution]** The acquisition of quota or additional quota shall:
 - (i) be paid to, or the payment thereof shall be secured to the satisfaction of, the authority or the authorised provider prior to the provision of the water and sanitation services applied for to the project concerned and the authority or the authorised provider shall have no obligation to provide such water and sanitation services until the requisite amount has been so paid or secured; The authority may limit supply as per approved quota or adjust basic charges as per consumption.
 - (ii) compensate the authority or the authorised provider for the estimated capital expenditure incurred in the provision of water and sanitation services to which it will be committed in providing the water and sanitation services required by the project concerned after taking into account the loan charge element in the authority's or the authorised provider's existing tariffs or **[rates,]** and such estimate shall take into account capital expenditure in respect of raw water storage, conveyance and purification networks, trunk mains, underground and ground level reservoir storage, reticulation, sewerage reticulation, trunk sewers, pumping installations and sewage treatment networks, as the case may be provided that where a water quota [contribution] or additional water [contribution] quota is payable in respect of the same premises on which the project is situated, then the amount of any water quota [contribution] or additional water quota [contribution] shall be deducted from the project contribution] quota or additional project [contribution] quota and the consumer concerned shall only pay the balance of the project [contribution] quota or additional project [contribution] quota left after such deduction, if any, it being the intention that the consumer concerned shall not pay the costs of the same infrastructure twice.
- (h) Where, due to the elevation of a development, or its situation in relation to the authority's or the

authorised provider's water supply scheme or sanitation scheme, or any other exceptional circumstances, the authority or the authorised provider will be put to extraordinary expense in providing water and sanitation services to or from that project, the authority or the authorised provider may require the consumer concerned to contribute such sum of money, over and above that provided for in subsection (e) as will compensate the authority for such extraordinary expense; provided that where such exceptional circumstances arise from engineering considerations necessitating the premature installation of works of a capacity substantially greater than actually required for the provision of water and sanitation services to or from that project, the authority or the authorised provider may agree to refund the whole or part of such additional **[contribution] quota** on such basis and at such time as may be agreed upon between the authority and the consumer concerned.

- (i) The provisions of subsection (i) may not be invoked except with the prior written approval of the Council of the authority.
- (j) The adoption of any resolution in terms of section 4(9)(a) having the effect of waiving any tariff shall not affect the determination of any quota under this clause 5(2) which shall be determined as though such resolution had not been adopted, provided that, once determined, the waiver of any tariff shall nevertheless apply to the payment of the quota amount.

(section 5(2)(k) inserted by section 12 of the Ugu District Municipality Water and Sanitation Services Amendment By-Law, 2004)

- (k) Any such decision shall take effect on the commencement of the next succeeding financial year of the authority or the authorised service provider.

- 5(2A) (a) The authority or an authorised provider may, reassess all or certain quotas allocated to consumers on any one or more of the following grounds:
- (i) that the cost of the provision of water and sanitation services supplied to any quota holder has increased,
 - (ii) that the tariffs determined under section 4 have been increased,
- (b) Any representations received in terms of subsection (b) shall be taken into account by the authority or the authorised provider when making the decision to decrease any quota.
- (c) The authority or an authorised provider shall give public notice of such final decision and shall also give written notice of such decision to the consumer concerned.
- (d) Any such decision shall take effect on the date of the commencement of the next succeeding financial year of the authority or of the authorised provider.

(section 5(2A) inserted by section 12 of the Ugu District Municipality Water and Sanitation Services Amendment By-Law, 2004)

Clearance Certificate

- 5(3)(a) Any water and sanitation services **[contribution] quota** or additional water and sanitation services **[contribution] quota**, assessed and levied by the authority or an authorised provider shall be paid prior to the transfer of any premises to which any such **[contribution] quota** is paid and the competent and relevant **[Registrar of Deeds] Local Municipality** shall not **[register any such transfer]** issue a clearance or occupation certificate unless there is first exhibited to him a certificate issued by the authority **[or an authorised provider that such contribution has been paid.]**

Subdivision

- 5(4)(a) Any water services and sanitation **[contribution] quota** or additional quota **[water services contribution]**, assessed and levied by a competent authority on any lots in any private townships in terms of:
- (i) the conditions of establishment of the subdivision as defined by the Deeds Registries Act or any gated community or any private township or any private industrial park or Section 21 Company incorporating a Home Owners Association; or
 - aa. in the case of a competent authority which is not a local authority, be deemed to be a water and sanitation **[rate] tariff** approved by the authorised provider in terms of Section 25 and to which the provision of Section 46 shall *mutatis mutandis* apply; and

- bb. in the case of a competent authority which is a local authority, be deemed to be a water and sanitation **[rate] tariff** levied in terms of Section 149 of the Local Authorities Ordinance 25 of 1974; and
- (ii) this subsection in which the competent authority may issue a combined Water and Sanitation Clearance Certificate.

PART 3 – APPLICATION FOR WATER AND SANITATION SERVICES

Application for Water and Sanitation Services

- 6 (1) (a) Subject to the provisions of these by-laws and the Act, no person shall, in any area of jurisdiction, gain access to water and sanitation services from any water supply scheme, sanitation scheme or through any other sanitation services unless he or she has applied to the authority or an authorised provider on a form prescribed by the authority or an authorised provider for such services for a specific purpose and such application has been agreed to.
- (b) An authorised provider shall provide only such water and sanitation services as it is entitled to provide in terms of its agreement, approval or registration with the authority, and as provided in the Act.
- (2) Where premises or consumers are provided with water and sanitation services, it shall be deemed that an agreement in terms of subsection (1) exists.
- (3) An authority or an authorised provider must on application for the provision of water and sanitation services by a consumer inform that consumer of the different levels of services available, the tariffs and or charges associated with each level of services and the conditions which shall be applicable to the agreement to provide water and sanitation services.
- (4) A consumer must elect the available level of services to be provided to him or her or it, provided that such level of services is or are available in the area where the consumer requires such services.
- (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 service is available and that any costs and expenditure associated with altering the level of services will be payable by the consumer.
- (6) (a) An application agreed to by the authority or an authorised provider shall, together with such additional conditions as may be imposed, constitute an agreement between the authority or the authorised provider, on the one hand, and the applicant, on the other hand, and such agreement shall take effect on the date referred to or stipulated in such agreement.
- (b) The authority and any authorised provider may impose such reasonable conditions, consistent with the Act and these by-laws, for the supply of water and sanitation services, and such conditions shall be included in any agreement for such supply contemplated in section 6(1)(a) or (b), or 6(2).
- (7A) No municipal authority ~~of~~ or local authority or authorised service provider shall approve any building plan, or issue any rates clearance certificate **[before all water and sanitation contributions have been settled or secured]** unless there is first exhibited to him a certificate issued by the authority to the satisfaction of the authorised provider, namely UGU.
- (7B) A consumer shall be liable for all the prescribed tariffs and or charges in respect of water and sanitation services rendered to him or her by the authority or an authorised provider, until the agreement contemplated herein has been terminated in accordance with these by-laws, or until all or any water, sewer or sanitation services arrears owing by such consumer have been paid, which ever shall be the later date.
- (8) In preparing an application form for water and sanitation services for the purposes of making an application as contemplated in subsection (1), the authority or the authorised provider, 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, provided that in the case of illiterate or similarly disadvantaged persons, the authority or the authorised provider, will take reasonable steps to ensure that the person is aware of and understands the contents of the application form.
- (8A) An application for water and sanitation services shall, if the applicant is not the registered owner of the premises to which such water and sanitation services are to be supplied, be accompanied by:
- (a) the written consent of the such registered owner, in a form prescribed by the authority or an authorised provider, to the provision of such water and sanitation services to the premises, and

- (b) a written undertaking, in a form prescribed by the authority or an authorised provider, signed by such registered owner in favour of the authority or an authorised provider, whereby such registered owner agrees and undertakes to pay to the authority or such authorised provider any outstanding debt owing by the applicant for water and sanitation services provided to the applicant by the authority or the authorised provider in the event that the applicant absconds leaving such debt unpaid.

(sub-section 8A inserted section 13 of the Ugu District Municipality Water and Sanitation Services Amendment By-Law, 2004)

- (9) An application form will require at least the following minimum information -
 - (a) certification by a person authorised under section 1(7) of these by-laws in the case of an application to the authority and by the authorised provider in the case of an application to such authorised provider that the applicant is aware of and understands the contents of the form as completed by or on behalf of such applicant;
 - (b) acceptance by the consumer of the provisions of the by-laws and acceptance of liability for the cost of water and sanitation services rendered until the agreement is terminated or until such time as any arrears have been paid;
 - (c) name and identity number of consumer;
 - (d) address or stand number of premises to or on which water and sanitation services are to be rendered or the communal water and sanitation services work where water and sanitation services will be used;
 - (e) address where accounts will be sent;
 - (f) the purpose for which the water is to be used;
 - (g) the agreed date on which the provision of water and sanitation services will commence.
- (10) Water and sanitation services rendered to a consumer by the authority or any authorised provider are subject to the provisions of these by-laws and the conditions contained in the relevant agreement.
- (11) If an authority or an authorised provider refuses an application for the provision of water and sanitation services, is unable to render such water and sanitation services on the date requested for the provision of such water services to commence or is unable to render the water and sanitation services, the authority or the authorised provider, will inform the consumer of such refusal and/or inability, the reasons therefore and, if applicable, when the authority or the authorised provider, will be able to provide such water services.
- (12) Subject to the provisions of sub-section (11), the authority or an authorised provider shall, in ordinary circumstances, provide water and sanitation services in terms of these by-laws within 60 days of any application for such services being approved by the authority or the authorised provider, as the case may be, or depending on the circumstances of the application within a reasonable time.
- (13) If a consumer absconds, dies or is incapacitated and:
 - (a) despite search cannot be located, or
 - (b) the next of kin of such consumer fail or neglect to cause an executor, representative or curator, as the case may be, to be appointed within twelve months after such death or incapacity to comply with the obligations of the consumer under any agreement concluded under this section or section 7,
 then the authority, or the authorised provider, may serve notice in terms of section 26 on any occupier or person in charge of the premises to which any agreement as aforesaid applies and in such notice the authority or the authorised provider, may notify such occupier or person in charge, that with effect from a date 14 days after the delivery of such notice to such occupier or person in charge, he or she shall be deemed to be the consumer under the aforesaid agreement and liable to comply with all the duties and obligations of the consumer in respect of water and sanitation services supplied to such premises under the said agreement.

(sub-section (13) amended by section 14 of the Ugu District Municipality Water and Sanitation Services Amendment By-Law, 2004)
- (14) Any occupier or person in charge on whom a notice in terms of subsection 13 is served may, during the period of 14 days referred to in that subsection, provide the authority or the authorised provider, with the name and address of the immediate next of kin of the deceased or incapacitated consumer, and, provided that such information is found on investigation by the authority or the authorised provider, to be accurate and provided further that such next of kin is, in fact, a consumer of the water and sanitation services supplied under the agreement, such next of kin shall, instead of the occupier or person in charge, be deemed to be the consumer under the aforesaid agreement and liable to comply with all the duties and obligations of the consumer in respect of water and sanitation services supplied to such premises under the said agreement.

- (15) On receipt of the information from such occupier or person in charge, and provided that such next of kin is, in fact a consumer of the water and sanitation services supplied under the agreement, the authority or the authorised provider, shall serve a written notice in terms of section 26 on such next of kin, notifying such next of kin that with effect from a date of delivery of such notice to such next of kin, he or she shall be deemed to be the consumer under the aforesaid agreement and liable to comply with all the duties and obligations of the consumer in respect of water and sanitation services supplied to such premises under the said agreement.
- (16) The authority or the authorised provider, shall be deemed to have undertaken a reasonable and diligent search has:
- (a) made direct enquiries amongst the community where the premises concerned are located;
 - (b) posted a notice or notices at public places in the vicinity of the premises concerned in the language most commonly spoken in the community where the premises are located, calling upon persons to advise the authority or the authorised provider, of the whereabouts of the consumer concerned.

Special agreements for water and sanitation services

7. The authority or the authorised provider, may enter into a special agreement for the provision of water and sanitation services to -
- (a) an applicant inside its area of jurisdiction or supply, if the service applied for necessitates the imposition of conditions not contained in the prescribed form; and
 - (b) an applicant outside its area of jurisdiction or supply, if such application has been approved by the authority or the authorised provider, having jurisdiction or supplying water and sanitation services in the area in which the premises is situated.
- 7A(1) No local municipality shall approve any plan or specification for the erection, construction, renovation, refurbishment, extension or repair of any building within the area of jurisdiction of the authority under any provision of the National Building Regulations and Building Standards Act 1977 (Act No 103 of 1977) or any other law unless the applicant for such approval first obtains a written certificate from the authority that the water and sanitation services required for the purposes of such building as shown on such plan or specifications can be provided in accordance with these By-Laws and that such proposed water and sanitation services are adequate for the purposes for which such building will be used.
- (2) The authority may grant the certificate referred to herein subject to conditions.
 - (3) Any plan approval fees, inspection fees, draining fees, or any other applicable fees or costs arising in respect of any application for water or sewer services shall be charged by the authorised provider and shall be payable before the authorised provider approves any plan as contemplated in Clause 7A(1) above and any amount to be determined by the authorised provider from time to time and within its sole discretion
 - (4) Should it emerge that any party, or any person, has committed any transgression or irregularity concerning these By-Laws as set out and contemplated in Chapter 2 Part 7 herein, then the Municipality and/or authorised service provider shall have the right to conduct a summary investigation into such transgression or irregularity, and should it be established in the opinion of the Municipality and/or authorised service provider, whose decision shall be final, that any such transgression or irregularity has occurred, then the owner of such property as defined herein, shall be *ipso facto* liable for all costs, payments, penalties and fines arising from such transgression or irregularity of these By-Laws.

PART 4 – Payment
(See Section 1(10))

Payment of deposit

8. (1) (a) Subject to sub-section (b), every consumer must on application for the provision of water services and before such water and sanitation services will be provided by the authority or an authorised provider deposit with the authority or an authorised provider a sum of money or such security in a form prescribed by the authority for the payment of a sum of money being not less than the estimated tariff and/or charge for an average month's water and sanitation services supplied or to be supplied by the authority or the authorised provider if such application is approved.
- (b) The authority may be regulation prescribe a formula for the calculation of the deposit payable under sub-section (a).

(sub-section (1) amended by section 17 of the Ugu District Municipality Water and sanitation services Amendment By-Law, 2004)

- (2) The authority may require a consumer to whom services 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 authority shall determine the actual deposit payable in terms of subsections (1) or (2), and it shall take the following factors into account in making such determination –
- (a) the income of the consumer;
 - (b) the capacity of the consumer to pay and set aside such amount;
 - (c) the frequency of default in payment of water accounts by the consumer or members of the community of which the consumer is a member;
 - (d) the estimated amount of the monthly water consumption of the consumer;
 - (e) its tariff policy and the criteria contemplated in section 3(1)(a).
- (4) The authority 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 authority in excess of the reviewed deposit.
- (5) Subject to subsection (6), an amount deposited with the authority in terms of subsections (1) or (2) shall not be regarded as being in payment or part payment of an account due for water and sanitation services rendered.
- (6) If, upon the termination of the agreement for the provision of water and sanitation services, an amount remains due to the authority in respect of water and sanitation services rendered to the consumer, the authority may apply the deposit in payment or part payment of the outstanding amount and refund any balance to the consumer.

MAY RECOVER ALL OUTSTANDING COST AGAINST WATER ACCOUNT

- (7) No interest shall be payable by the authority on the amount of a deposit held by it in terms of this section.

- (8)

(section 8(8) deleted by section 18 of the Ugu District Municipality Water and Sanitation Services Amendment By-Law, 2004)

- (9) (a) Should after the termination of the Agreement for the provision of water and sanitation services, the consumer not have claimed the refund of the deposit back from the authorised provider, then the deposit, or any balance remaining in respect of such deposit, or balance; shall after the expiration of a 36 (thirty six) month period be forfeited to the authorized provider, provided that:
- (i) in respect of 8(9)(a) above, that should application be made to the authorised provider by a consumer in respect of such forfeited amount, then the authorised provider shall then have the discretion, where it appears just and equitable to exercise such discretion, to refund such deposit or a portion of such deposit as appears to be proper in the circumstances; save that the decision of the authorised provider shall be final.

(10) Guarantees

- (a) Where an applicant for any credit service is, in law, a juristic person, such applicant shall, if required by the authorised provider, in addition to any other security provided for, in terms of this section, lodge with the authorised provider a guarantee for an amount to specified by the authorised provider, and provided if required by the authorised provider by a recognised financial institution in a form that is satisfactory and acceptable to the authorised provider.
- (b)
 - (1) Any guarantee provided shall not be regarded as being in payment of any current account or any arrears due to the authorised provider; and
 - (2) Where liability for monthly charges ceases, the authorised provider shall issue a written release of any guarantees given on behalf of the juristic person or persons concerned.
 - (3) The determination of the cessation of any monthly charges or liability shall be solely within the discretion of the authorised provider which shall however, be exercised reasonably.
 - (4) The authorised provider may at any time require by notice to any liable party or juristic person to furnish a further guarantee, which may in the discretion of the authorised provider, be from a recognised financial institution for any additional amount as the authorised provider may reasonably determine is necessary, in a time period as set out in such notice.

(11) Payment of Accounts

- (a) The authorised provider may, in its discretion, accept a cheque as payment for any monies due owing and payable to it, save that:
- (b) Any cheque or any other negotiable instrument negotiated or delivered to the authorised provider in partial or in full payment of any outstanding amount due to the authorised provider is dishonoured in any form or returned by any financial institution or any other juristic person on which it is drawn, then the authority may levy an administrative charge against the consumer or juristic person which as issued such negotiable instrument in accordance with the UGU District Municipality's credit control and debt collections policy, and
- (c) Where any cheque or negotiable instrument is dishonoured due to insufficient funds, such dishonour shall constitute sufficient reason for the authority to reconsider the payment risk associated with the consumer or juristic person and may adjust, or charge or alter any consolidated deposit called for from the consumer accordingly, which decision shall vest solely with the authorised provider, but which however, shall be exercised reasonably.

(12) Jointly and Collectively Owned Properties

All co-owners in respect of a collectively or jointly owned units or premises, shall be jointly and severally liable for all amounts charged against the whole or any portion of such units or premises, irrespective of how many joint or collective owners there may be.

(13) Information

- (1) Every consumer shall be obliged to furnish the authorized provider with a series of addresses which shall as far as possible include all of the following:
 - (a) A physical address;
 - (b) A P.O. Box number;
 - (c) A facsimile number;
 - (d) an email addressIn respect of which (a) and (b) set out hereinabove shall for the purposes of the Consumer's Agreement with the authorized provider, constitute a *domicilium citandi et executandi* address for the service of any documents or legal process.
- (2) It shall be incumbent upon the consumer to notify the authorised provider of any change of address in respect of the information supplied to the authorized provider within 7 (seven) days from such change.
- (3) Should any consumer fail to uplift a registered letter which has been forwarded by the authorized provider to the consumer by pre-paid registered post to either the physical addresses

or postal box number which have been supplied by the consumer, as domicilium addresses, then the authorised provider shall be entitled, notwithstanding the failure of the consumer to uplift such letter, to assume that constructive delivery has taken place and that the consumer has in fact received the letter or communication and is aware and conversant with the content thereof.

- (4) (1) No consumer who, when reasonably called upon by the authorised provider to furnish it's name and/or address or any other information referred to herein, shall:
 - (a) fail to provide such information; and/or
 - (b) furnish false or incorrect information, as so requested;
- (2) Should any person fail to provide such information as set out herein and as is reasonably required by the authorised provider, then the authorised provider shall be entitled to proceed against the consumer in terms of Part 7 Clause 34 of these Bylaws and shall be liable in Law as set out in such clause.
- (5) The authority may at any time, by notice, require any consumer to provide any information pertaining to any aspect whatsoever of the premises or units, that it may reasonably require and is necessary for it to determine if any changes may be necessary to any deposits, guarantees, billings, agency agreements, address for service or any other such information reasonably required in order for the authority to carry out it's functions within in the prevailing circumstances.
- (6) Should the consumer fail to provide any such information as so requested by the authorized provider, this shall constitute a contravention of Part 7 Section 34(j) of these Bylaws and the consumer shall be liable for prosecution.
- (7) A notice of change of address, provided by a consumer shall not be considered as valid until an acknowledgement of change of address expressed in writing is received by the authorised provider and the authorised provider has by way of signature or by email or by fax or by letter acknowledged receipt of such notice.
- (13) Whenever any payment or sum of money outstanding is charged against a property in favour of the authorised provider, the authorised provider may enforce such charge or payment by way of:
 - (a) proceeding against the owner of the property as defined herein by a Court of competent jurisdiction for the outstanding amount so charged, or levied against the property, and/or
 - (b) may disconnect or refuse to connect any water, sanitation or sewerage supply, solely within the discretion of the authorised provider, as the case may be, but in accordance with the provisions of these Bylaws and read in conjunction with the existing Laws of South Africa.

Payment for water and sanitation services provided

- 9. (1) Water and sanitation services provided by the authorised provider to a consumer shall be paid for by the consumer at the prescribed tariff or charge set in accordance with Sections 3 and 4, for the particular category of water and sanitation services provided.
- (2) A consumer shall be responsible for payment for all water and sanitation services provided to the consumer from the date of an agreement until the date of termination thereof.
- (3) The authority may estimate the quantity of water and sanitation services 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 so estimated.
- (4) If a consumer uses water supply services for a category of use other than that for which it is provided by the authority in terms of an agreement and as a consequence is charged at a **[rate] tariff** lower than the **[rate] tariff** which should have been charged, the authority may make an adjustment of the amount charged in accordance with the **[rate] tariff** which should have been charged and recover from the consumer the tariffs and charges payable in accordance with such adjustment.
- (5) If amendments to the prescribed tariffs or charges for water and sanitation 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 and sanitation 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.
- (6) A consumer must pay his, her or its account to the authority and shall remain liable for the payment of an account not paid to the authority.
- (7) A authority must inform a consumer as to who the authorised agents (if any) are who are authorised to receive payment of accounts on its behalf.

PART 5 – ACCOUNTS

Accounts

- 10 (1) The authority or an authorised provider shall render an account to consumers at such intervals as may be prescribed from time to time by regulation (herein called the billing cycle) provided that, in the absence of such regulation, the billing cycle shall be monthly.
- (a) The account referred to in sub-section (1) shall be sent or delivered to each consumer at the address last recorded with the authority or the authorised provider.
 - (b) The account shall state the amount due and payable by the consumer to the authority or the authorised provider for the water and sanitation services supplied to the consumer described in the account as at the date stated in the account.
- (sub-section (1) substituted by section 19 of the Ugu District Municipality Water and sanitation services Amendment By-Law, 2004)
- (2) Failure by the authority 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 authority for water and sanitation services provided to a consumer shall be paid not later than the last date for 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, as provided for in section 13(6) as may be prescribed, must be paid by the consumer to the authority.
- (5) Accounts 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 authority or the authorised 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 the names and location of any authorised agents where payment may be made; and
 - (b) state that –
 - (i) the consumer may conclude an agreement with the authority for payment of the arrears amount in instalments, at the authority 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 authority will limit the water and sanitation services after sending a final demand notice to the consumer; and
 - (iii) that legal action may be instituted against any consumer for the recovery of any amount sixty days in arrears;
 - (iv) proof of registration, as an indigent consumer, in terms of the authority's indigent policy must be handed in before the final date for payment; and
 - (v) an indigent consumer is only entitled to a basic water supply and basic sanitation as defined in the Act and that an indigent consumer will be liable for payment in respect of water and sanitation services used in excess of the quantity of

such basic water supply or basic sanitation.

- (6) Notwithstanding the provisions of sections 25 and 26, where the premises to which water and sanitation services are provided are situated in an area which does not have a formal physical or postal address, the authority may direct the officer charged with reading the meters measuring the quantity of water services provided to such premises on or about the same date in each month to advise the consumer or a person apparently over the age of 16 years and present at the premises, of the amount payable for the water and sanitation services supplied to such premises during the immediate preceding month, and he or she shall direct such consumer to make such payment at the nearest office appointed by the authority for the receipt of payments for water and sanitation services within five working days.
- (7) At the time that the consumer concerned calls at the office referred to in subsection (6) as directed, the authority shall present such consumer with a written account which complies with the provisions of subsection (5) and which account shall be deemed to be the account rendered as provided for in subsection (1).
- (8) All payments made to the authority in respect of any amount payable under these by-laws, including any arrears, interest or penalties shall be made in cash, by bank guaranteed cheque or by electronic deposit to the authorities banking account, and such payment shall be deemed to have been received when:
 - (a) an official receipt is issued therefore by the authority, or
 - (b) such amount is credited to the bank account of the authority in such a manner that the authority may immediately deal therewith, whichever is the sooner.
- (9) All payments shall be made only to the offices of the authority or at such other places as the authority may in writing appoint.

Queries in respect of account

11. (1) A consumer may lodge a query in respect of the accuracy of the amount due and payable in terms of an account rendered to him, her or it with the authority.
- (2) A query must be lodged with the authority before or on the due date for payment of the account or as soon as reasonably possible thereafter.
- (3) Where a query is lodged, such query 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 authority will register the query and shall acknowledge receipt of the query within two working days of the receipt thereof and provide the consumer with a reference number.
- (5) The authority shall –
 - (a) investigate or cause the query to be investigated within fourteen working days after the query or complaint was registered; and
 - (b) must inform the consumer, in writing, of his or her finding as soon as possible thereafter.

Appeals against finding of authority in respect of queries

12. (1) A consumer may in writing appeal to the authority against a finding of the authority in section 11.
- (2) An appeal and request in terms of subsection (1) must be made in writing and lodged with the authority within twenty-one days after the consumer became aware of the finding referred to in subsection (1) and must –
 - (a) set out the reasons for the appeal; and
 - (b) be accompanied by any deposit determined by the authority in terms of these by-laws for the testing of a measuring device, if applicable.
- (3) The authority shall appoint an officer conversant in the English or Zulu language who shall assist a consumer who is illiterate or not able functionally to understand the appeals process to prepare, lodge and prosecute his or her appeal and such officer shall at all times act impartially in regard to such assistance and shall observe the confidentiality of any information imparted to him or her by the consumer unless authorised to disclose such information by the consumer.

(sub-section (3) amended by section 20 of the Ugu District Municipality Water and sanitation services Amendment By-Law, 2004)

- (4) The authority may on appeal by a consumer request him, her or it to pay the full amount due and payable in terms of the account appealed against.
- (5) The consumer is liable for all other amounts, other than that appealed against, falling due and payable during the adjudication of the appeal.
- (6) An appeal must be decided by the authority within twenty-one days after an appeal was lodged and the consumer must be informed of the outcome in writing, as soon as possible thereafter.
- (7) The decision of the authority is final and the consumer must pay any amounts due and payable in terms of the decision within twenty-one days of him, her or it being informed of the outcome of the appeal.
- (8) The authority may condone the late lodging of appeals or other procedural irregularities.
- (9) If it is alleged in an appeal that a measuring device is inaccurate, the device must be subjected to a standard industry test to establish its accuracy. The consumer must be informed of the possible cost implications including the estimated amount of such test, as set out in subsection (10) (a) below, prior to such test being undertaken.
- (10) If the outcome of any test shows that a measuring device is –
 - (a) within a prescribed range of accuracy, the consumer will be liable for the costs of such test and any other amounts outstanding and such costs will be debited against the consumer's account;
 - (b) is outside a prescribed range of accuracy, the authority will be liable for the costs of such test and the consumer must be informed of the amount of any credit to which he or she is entitled.
- (11) prescribed charge referred to in subsection (2)(b), if applicable shall be –
 - (a) retained by the authority if the measuring device is found not to be defective; or
 - (b) refunded to the applicant if the measuring device is found in terms of those subsections to be defective.
- (12) A measuring device shall be deemed to be defective if, when tested in accordance with a standard industry test or if the measuring device is a meter, the regulations published under section 9 of the Act, it does not meet generally accepted specifications or the specifications as set out in the regulations.
- (13) In addition to subsection (10) the authority must, if the measuring device is found defective
 - (a) repair the measuring device or install another device which is in good working order, without charge to the consumer, unless the costs thereof are recoverable from the consumer due to a contravention of section 45(6); and
 - (b) determine the quantity of water and sanitation services for which the consumer will be charged in lieu of the quantity measured by the defective measuring device by applying the provisions of section 51.
- (14) Any appeal under this section shall be heard by a sub-committee of the Council of the water service authority specially appointed for such purpose, and the appellant may, in his discretion, appoint a person of his choosing, who need not be a member of the said Council, to be a member of such sub-committee with full power to participate and vote at any meeting of such sub-committee.
- (15) The authority may, by agreement with any water and sanitation services provider approved in terms of sections 101 or 102, any water and sanitation services provider nominated in terms of section 109, or any water and sanitation services intermediary registered in terms of section 111, receive, hear and adjudicate on any appeals lodged with it by any person receiving water and sanitation services from such water and sanitation services provider or water and sanitation services intermediary, subject to such conditions as may be contained in any such agreement.
- (16) The authority may impose a right of appeal as contemplated in sub-section (16) as a condition of approval, nomination or registration of a water and sanitation services provider or water and sanitation services intermediary, as the case may be.

Arrears

13. (1) If a consumer fails to pay the amount/s due and payable on or before the final date for payment, the unpaid amount is in arrears and a final demand and disconnection notice may be hand delivered or sent, per mail, to the most recent recorded address of the consumer, within fourteen days.
- (sub-section (1) amended by section 21 of the Ugu District Municipality Water and sanitation services Amendment By-Law, 2004)
- (2) In the case of a consumer contemplated in section 10(6), such final demand shall be delivered to the consumer concerned at the premises to which the water and sanitation services are supplied by an officer appointed by the authority for that purpose, and delivery of the demand in the following manner shall be deemed to be proper delivery of the demand:
- (a) by delivery of the final demand to the consumer personally;
 - (b) in the absence of the consumer after two consecutive attempts to serve the demand on him or her personally, by delivery of the final demand to a person apparently over the age of 16 years present at the premises;
 - (c) in the absence of any person over the age of 16 years present at the premises after two consecutive attempts to serve the demand on such person, by affixing the demand to a prominent structure at the premises.
- (3) The authority shall appoint an officer conversant in the home language of a consumer who is illiterate or not able functionally to understand the purpose and consequences of a final demand to assist the consumer in responding to such demand, to defend such consumer if such consumer has a viable defence, and generally to ensure that the consumer is treated fairly and in accordance with the provisions of these by-laws and the Act, and such officer shall at all times act impartially in regard to such assistance and shall observe the confidentiality of any information imparted to him or her by the consumer unless authorised to disclose such information by the consumer.
- (4) Failure to deliver or send a final demand notice within fourteen days does not relieve a consumer from paying such arrears.

(sub-section (4) amended by section 22 of the Ugu District Municipality Water and sanitation services Amendment By-Law, 2004)

- (5) The final demand notice must contain the following statements, in the English or Zulu language –
- (a) the amount in arrears and any interest payable;
 - (b) that the consumer may conclude an agreement with the authority for payment of the arrears amount in instalments within fourteen days of the date of the final demand notice;
 - (c) that if no such agreement is entered into within the stated period that the water and sanitation services will be limited and that legal action may be instituted against any consumer for the recovery of any amounts sixty days in arrears;
 - (d) proof of registration, as an indigent consumer, in terms of the authority's indigent policy must be handed in before the final date of the final demand notice.
 - (e) that an indigent consumer is only entitled to basic water supply and or basic sanitation, as defined in the Act and in accordance with any regulations adopted by the authority in terms of section 2(8) and that an indigent consumer will be liable for payment in respect of water and sanitation services used in excess of the quantity of basic services.

(sub-section (5) amended by section 23 of the Ugu District Municipality Water and Sanitation Services Amendment By-Law, 2004)

- (6) Interest may be levied on all arrears at a rate prescribed by the authority from time to time.
- (7) The amount due and payable by a consumer constitutes a consolidated debt, and any payment made by a consumer of an amount less than the total amount due, will be allocated in reduction of the consolidated debt in the following order –
- (a) towards payment of arrears ;
 - (b) towards payment of the current account ; and
 - (c) towards payment of interest.
- (8) The authority may, within fourteen working days after the expiry of the due date allowed for payment in terms of the final demand notice –
- (a) limit the provision of water and sanitation services to the defaulting consumer; and
 - (c) hand deliver or send, per registered mail, to the last recorded address of the consumer, a discontinuation notice informing him or her that the provision of water and sanitation services will be disconnected within fourteen days of the date of the discontinuation notice;

- if –
- (d) no payment was received within the allowed period;
 - (e) no agreement was entered into for the payment of arrears in instalments;
 - (f) no proof of registration as indigent was handed in within the fourteen day period allowed;
- or
- (g) no payment was received in accordance with an agreement for payment of arrears.
- (9) A discontinuation notice must contain –
- (a) the amount in arrears and any interest payable;
 - (b) a statement that the consumer may conclude an agreement with the authority for payment of the arrears amount in instalments, within fourteen days of the date of the discontinuation notice;
 - (c) that if no such agreement is entered into within the stated period, the authority may discontinue the provision of water and sanitation services with immediate effect, notwithstanding any legal action instituted or in the process of being instituted against the consumer for the recovery of the arrears amount; and
 - (d) proof of registration, as an indigent consumer, in terms of the authority's indigent policy must be handed in within fourteen days of the date of the discontinuation notice.
- (10) The authority may, within ten working days after the expiry of the fourteen day period allowed for payment in terms of the discontinuation notice, discontinue water and sanitation services to the defaulting consumer, if –
- (a) no payment was received within the allowed period;
 - (b) no agreement was entered into for the payment of arrears in instalments;
 - (c) no proof of registration as indigent was furnished within the fourteen day period allowed;
- or
- (d) no payment was received in accordance with an agreement for payment of arrears.
- (11) Where an account rendered to a consumer remains outstanding,] the defaulting consumer may be handed over to a debt collector or an attorney for collection of the amount owing to the authority without prejudice to the right of the authority or the authorised provider to limit or discontinue the water and sanitation services under the provisions of these By-Laws or any other law.
- (sub-section (11) amended by section 24 of the Ugu District Municipality Water and sanitation services Amendment By-Law, 2004)
- (12) A consumer will be liable for any administration fees, costs incurred in taking action for the recovery of arrears and any penalties, including the payment of a higher deposit.
- (13) No action taken in terms of this section due to non-payment, will be suspended or withdrawn, unless the arrears, any interest thereon, administration fees, additional charges, costs incurred in taking relevant action and any penalties, including the payment of a higher deposit, payable are paid in full.
- (14) The authority will not be liable for any loss or damage suffered by a consumer due to his, her or its water and sanitation services being disconnected.
- (15) An agreement for payment of the arrears amount in instalments, entered into after the water services was discontinued, will not result in the water and sanitation services being restored until the arrears, any interest thereon, administration fees, costs incurred in taking relevant action and any penalties, including payment of a higher deposit, payable are paid in full.

Agreement for the payment of arrears in instalments

14. (1) Only a consumer with positive proof of identity or a person authorised, in writing, by that consumer, or, if a consumer is illiterate, a person authorised by such consumer personally in the presence of an officer appointed by the authority for that purpose, will be allowed to enter into an agreement for the payment of arrears in instalments.

- (2) The amount due and payable by a consumer constitutes a consolidated debt, and any payment made by a consumer of an amount less than the total amount due, will be allocated in reduction of the consolidated debt in the following order –
- (a) towards payment of the current account;
 - (b) towards payment of arrears; and
 - (c) towards payment of interest.
- (3) A consumer may be required to complete a debit order for the payment of arrears.
- (4) No agreement for the payment of arrears will be longer than twelve months, unless the circumstances referred to in subsection (5) prevail.
- (5) The authority may, on an individual basis, allow a longer period than twelve months for the payment of arrears if special circumstances prevail, that in the opinion of the authority warrants such an extension and which the consumer reasonably could not prevent or avoid. Documentary proof of any special circumstances must be furnished by the consumer on request by the authority.
- (6) The authority may, in exercising his or her discretion under subsection (5) have regard to a consumer's –
- (a) credit record;
 - (b) consumption;
 - (c) level of service;
 - (d) previous breaches of agreements for the payment of arrears in instalments; and
 - (e) any other relevant factors.
- (7) A copy of the agreement will, on request and free of any charge, be made available to the consumer.
- (8) If a consumer fails to comply with an agreement for the payment of arrears in instalments, the total of all outstanding amounts, including the arrears, any interest thereon, administration fees, costs incurred in taking relevant action, and penalties, including payment of a higher deposit, will be immediately due and payable, without further notice or correspondence.
- (9) If a consumer fails to comply with an agreement for the payment of arrears in instalments, entered into after receipt of a discontinuation notice, access to services may be discontinued without further notice or correspondence in addition to any other actions taken against or that may be taken against such a consumer.
- (10) No consumer will be allowed to enter into an agreement for the payment of arrears in instalments, where that consumer failed to honour a previous agreement for the payment of arrears in instalments, entered into after the receipt of a discontinuation notice.

PART 6 – TERMINATION, LIMITATION AND DISCONTINUATION OF WATER AND SANITATION SERVICES

Termination of agreement for the provision of water and sanitation services

15. (1) A consumer may terminate an agreement for the provision of water and sanitation services by giving to the authority, not less than thirty working days' notice in writing of his or her intention to do so
- (2) The authority may, by notice in writing of not less than thirty calendar days, advise a consumer of the termination of his or her agreement for the provision of water and sanitation services if -
- (a) he or she has not used the water and sanitation services during the preceding six months and has not made arrangements to the satisfaction of the authority for the continuation of the agreement;
 - (b) he or she has failed to comply with the provisions of these by-laws and has failed to rectify such failure to comply on notice in terms of section (26) or to pay any tariffs or charges due and payable after the procedure set out in section 13 was applied;
 - (c) in terms of an arrangement made by it with another water and sanitation services institution to provide water and sanitation services to the consumer.
- HAS DEVELOPED WITHOUT APPROVAL
- (3) The authority, may, after having given notice, terminate an agreement for services if a consumer has vacated the premises to which such agreement relates.

Limitation and or discontinuation of water and sanitation services provided

16. (1) The authority may limit or discontinue water and sanitation services provided in terms of these by-laws –
- (a) on failure to pay the prescribed tariffs or charges on the date specified, after the provisions of section 13 was applied;
 - (b) on failure to comply with any other provisions of these by-laws, after notice in terms of any provisions of these by-laws in the form required by section 26 was given;
 - (c) at the written request of a consumer;
 - (d) if the agreement for the provision of services has been terminated in terms of section 15 and it has not received an application for subsequent services to the premises within a period of ninety days of such termination;
 - (e) the building on the premises to which services were provided has been demolished;
 - (f) if the consumer has interfered with a limited or discontinued service; or
 - (g) in an emergency.
 - (h) To be in line with the quota allocation for each property.
- (2) The extent of the limitation of any water supply in terms of sub-section (1) shall be determined by the authority in accordance with the circumstances prevailing in respect of any particular instance, the requirements of the Act and of any law, regulation or by-law regarding health and hygiene and must be just and equitable in the circumstances.
- (3) The authority will not be liable for any damages or claims that may arise from the limitation or discontinuation of water and sanitation services provided in terms of subsection (1).
- (4) Whenever a water service has been limited or discontinued under the provisions of subsections (1)(a) or (b), then, subject to any applicable provisions of the Act, the consumer concerned shall nevertheless be entitled to such water and sanitation services at a location determined by the authority or an authorised provider as may be supplied free as a consequence of the adoption of a resolution to waive any applicable tariff under section 4(9).

(sub-section (4) inserted by section 25 of the Ugu District Municipality Water and sanitation services Amendment By-Law, 2004)

Interruption of Supply at Consumer's Request

17. (1) The authority may, at the written request of the owner or a consumer –
- (a) turn off the supply of water to his premises; and
 - (b) re-instate the supply, on the dates requested by him.
- (2) The owner or consumer shall prior to the reinstatement of his water supply pay the prescribed

charge for the turning-off of his supply of water, and for its reinstatement.

(section 17 amended by section 26 of the Ugu District Municipality Water and sanitation services Amendment By-Law, 2004)

Restoration of water and sanitation services

18. (1) Where water and sanitation services are disconnected under the provisions of section 16(1), the authority or an authorised provider may provide a basic water supply or basic sanitation in such manner and by such means and in such place as the authority or the authorised provider may, in its discretion, decide.
- (2) When a consumer enters into an agreement with an authority for the payment of the arrears amount in instalments after the receipt of a final demand notice or a discontinuation notice the water and sanitation services will be restored to the type of service the consumer elected in terms of the agreement for the provision of water and sanitation services, within two working days.

(section 18(1) inserted, and existing section 18 renumbered as sub-section (2) by section 27 of the Ugu District Municipality Water and sanitation services Amendment By-Law, 2004)

PART 7 – GENERAL PROVISIONS

Standard Conditions by Authorised Providers

19. (1) An authorised provider shall:
 - (a) adopt standard conditions for insertion in every agreement entered into by it under sections 6 or 7 for the matters dealt with in Parts 3, 4 and 5 of Chapter 2 which conditions shall apply equally to all consumers receiving water and sanitation services of the same level and kind;
 - (b) lodge a copy of the such standard conditions with the authority for approval prior to imposing them in any agreement under sections 6 and 7;
 - (c) not amend, vary or waive such standard conditions without the prior written approval of the authority.

Responsibility for compliance with these by-laws

20. (1) The owner of premises is responsible for ensuring compliance with these by-laws in respect of all or any matters relating to any installation.
- (2) The consumer is responsible for compliance with these by-laws in respect of matters relating to the use of any installation.

Unauthorised use of water and sanitation services

21. (1) The authority or an authorised provider may, irrespective of any other action it may take against such person in terms of these by-laws, by written notice order a person who has gained access to water and sanitation services from the water supply scheme, sanitation scheme or any other sanitation services without an agreement in terms of sections 6 or 7, with the authority or the authorised provider, for the rendering of those services,
 - (a) To apply for such services in term of sections 6 or 7 and
 - (b) to undertake such work as may be necessary to ensure that the consumer installation through which access was gained complies with the provisions of these by-laws.
- (2) The provisions of section 26 shall apply to a notice in terms of subsection (1) above.
- (3) No owner or lawful occupier of any premises shall cause or permit any water derived from a stream, river, watercourse, channel, dam, reservoir, borehole, well, spring or fountain on any premises to enter into any water supply scheme or sanitation scheme without the prior written consent of the authority or an authorised provider.

(sub-section (3) inserted by section 28 of the Ugu District Municipality Water and sanitation services Amendment By-Law, 2004)

Purpose of water and sanitation services

22. Where the purpose or extent for which water and sanitation services are used is changed, the consumer must enter into a new agreement with the authority or an authorised provider.

Interference with water supply scheme or any sanitation services

23. (1) No person other than the authority, or an authorised provider, shall manage, operate or maintain the water supply scheme or any sanitation system, unless authorised by these by-laws.
- (2) No person other than the authority or an authorised provider shall effect a connection to, or tamper with, the water supply scheme or sanitation scheme or render any other sanitation services.
- (3) For the purpose of this section 23, “tamper”, “tampering” or “tampered with” shall mean wilfully or negligently and in any manner whatsoever, interfering, altering, damaging, removing, replacing, repairing or otherwise intervening with any water supply scheme or sanitation scheme, including any such system owned or operated by an authorised provider, or permitting or causing any person to wilfully or negligently interfere, alter, damage, remove, replace, repair or other wise intervene with any such system, unless such act is authorised by the provisions of these by-laws or by the written prior consent of the authority or the authorised agent as the case may be.
- (4) Whenever the authority, or the authorised provider, is of the opinion that a water supply scheme or sanitation scheme is being tampered with, it may:
- a. forthwith serve a notice, in accordance with the provisions of section 25, on the owner of, or consumer at, the premises being served by the affected water supply scheme or sanitation scheme notifying such owner or consumer
 - i. of the tampering which is alleged to have taken place,
 - ii. that the water supply scheme or sanitation scheme will be disconnected and the date on which such disconnection will take place,
 - iii. the steps required to rectify the tampering,
 - iv. the date by which such tampering shall have been rectified,
 - v. the costs which must be paid in order to remedy any damage caused to such system and to re-connect the water supply or sanitation service, and
 - vi. calling upon such owner or consumer to provide acceptable proof, if available, to the authority, or the authorised provider, that such owner or consumer is not the perpetrator of such tampering within a time stipulated in such notice.
 - b. simultaneously with the service of the notice contemplated in sub-section (a), or at any time subsequent thereto, in such manner as it may deem appropriate in the circumstances, disconnect the water supply or sanitation service being supplied to such owner or consumer.
- (5) In the event of the owner or consumer:
- a. producing proof acceptable to the authority or the authorised provider, that he is not the perpetrator of the tampering concerned, or fully complying with the provisions of the notice referred to in sub-section (4)(a), then the water supply or sanitation service shall forthwith be restored if, at the date such proof is provided or such notice is fully complied with, such supply has been disconnected as provided in sub-section (4)(b);
 - b. failing to comply with any provision of the notice referred to in sub-section (4)(a) within the time stipulated in such notice for such compliance, or such further period as the authority or the authorised provider, has in writing agreed to, cancel the agreement contemplated in sections 6 or 7 and discontinue the water supply or sanitation service permanently.
- (6) An owner or consumer whose water supply or sanitation service has been disconnected under the provisions of sub-section 5(b) shall be liable to pay all costs and expenses necessarily and reasonably incurred by the authority or the authorised provider, in about dealing with the tampering, and all such damages as it may have suffered as a consequence of such tampering, and such costs and damages may be recovered from such owner or consumer by civil action, and no person shall be entitled to receive any water supply or sanitation service from the authority or the authorised provider, unless and until all such costs, expenses and damages shall have been paid, together with any other amount owing by such person under any provision of these by-laws.

Obstruction of access to water supply scheme or any sanitation services

24. (1) No person shall prevent or restrict physical access to the water supply scheme or sanitation scheme by the authority or an authorised provider or any person duly authorised by them in writing.
- (2) If a person contravenes subsection (1), the authority or an authorised provider may -
- (a) by written notice require such person to restore access at his or her own expense within a specified period; or
 - (b) if it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such person.

Notice and Documents

25. (1) A notice or document issued by the authority in terms of these by-laws must be deemed to be duly authorised if it is signed by or on behalf of the authority.
- (2) A notice or document issued by an authorised provider in terms of these by-laws must be deemed to be duly authorised if it is signed by or on behalf of the authorised provider.
- (3) If a notice or document is to be served on a owner, consumer or any other person in terms of these by-laws such service shall be effected by -
- (a) delivering it to him or her personally or to his or her duly authorised agent;
 - (b) delivering it at his or her residence, village or place of business or employment to a person apparently over the age of sixteen years of age and apparently residing or employed there;
 - (c) if he or she has nominated an address for legal purposes, delivering it to such an address;
 - (d) if he or she has not nominated an address for legal purposes, delivering it to the address given by him or her in his or her application for the provision of water and sanitation services, for the reception of an account for the provision of water and sanitation services;
 - (e) sending by pre-paid registered or certified post addressed to his or her last known address;
 - (f) in the case of a legal person, by delivering it at the registered office or business premises of such legal person; or
 - (g) if service cannot be effected in terms of subsections (a) to (f), by affixing it to a principal door of entry to the premises concerned.
- (4) In the case where compliance with a notice is required within a specified number of working days, such period shall be deemed to commence on the date of delivery or sending of such notice.

Power to serve, and compliance with notices

26. (1) The authority or an authorised provider may, by written notice, order an owner, consumer or any other person who fails, by act or omission, to comply with any provisions of these by-laws or of any condition imposed thereunder to remedy such breach within a period specified in the notice, which period shall not be less than seven days.
- (2) If a person fails to comply with a written notice served on him or her by the authority or an authorised provider in terms of these by-laws within the specified period, it may take such action that in its opinion is necessary to ensure compliance, including -
- (a) undertaking the work necessary itself and recovering the cost of such action or work from that owner, consumer or other person;
 - (b) limiting or discontinuing the provision of services; and
 - (c) instituting legal proceedings;
 - (d) institute criminal proceedings in terms of Section 34.
- (3) A notice in terms of subsection (1) will -
- (a) give details of the provision of the by-laws not complied with;
 - (b) give the owner, consumer or other person a reasonable opportunity to make representations and state his or her case, in writing, to the authority or an authorised provider within a specified period, unless the owner, consumer or other person was given such an opportunity before the notice was issued;
 - (c) specify the steps that the owner, consumer or other person must take to rectify the failure to comply;
 - (d) specify the period within which the owner, consumer or other person must take the steps

- specified to rectify such failure; and
- (e) indicate that the authority or an authorised provider –
 - (i) may undertake such work necessary to rectify the failure to comply if the notice is not complied with and that any costs associated with such work may be recovered from the owner, consumer or other person; and
 - (ii) may take any other action it deems necessary to ensure compliance.
- (4) In the event of an emergency the authority or an authorised provider may, without prior notice, undertake the work required by subsection 3(e)(i) and recover the costs from such person.
- (5) The costs recoverable by the authority or an authorised provider in terms of subsections (3) and (4) is the full cost associated with that work and includes, but is not limited to, any exploratory investigation, surveys, plans, specifications, schedules of quantities, supervision, administration charge, the use of tools, the expenditure of labour involved in disturbing or rehabilitation any part of a street or ground affected by the work and the environmental cost.

Power of entry and inspection

- 27. (1) Any person authorised in writing by the appropriate management structure of the authority or of an authorised provider may:
 - (a) at any reasonable time and without prior notice, except in the circumstances set out in subsection (3), enter any property and inspect any water supply scheme or sanitation scheme in order to ascertain whether the Act or these By-Laws are being complied with;
 - (b) after reasonable notice to the owner or occupier of any property, enter that property with the necessary persons, vehicles, equipment and material:
 - (i) to repair, maintain, remove or demolish any water supply scheme or sanitation scheme belonging to or operated by the authority or an authorised provider;
 - (ii) to remove vegetation interfering with any water supply scheme or sanitation scheme belonging to or operated by the authority or an authorised provider;
 - (iii) to establish the suitability of any water source or site for the construction of a water supply scheme or sanitation scheme;
 - (iv) to search, excavate, bore or carry on any activity necessary for the recovery or Measurement of water; and
 - (c) after notice to the owner or occupier of any property, cross the property in order to enter another property lawfully.
- (2) Any person entering property must identify himself or herself and present his or her authorization on request.
- (3) A dwelling may only be entered—
 - (i) where it is necessary in terms of these By-Laws to do so; and
 - (ii) on reasonable notice; and
 - (iii) at a reasonable time.

(section 27 substituted by section 29 of the Ugu District Municipality Water and sanitation services Amendment By-Law, 2004)

False Statements or Information

- 28. No person shall make a false statement or furnish false information to the authority or an authorised provider or falsify a document issued in terms of these by-laws.

Availability of By-laws

- 29. (1) A copy of these by-laws shall be available for inspection at the offices of the authority and of every authorised provider at all reasonable times.
- (2) A copy of the by-laws may be obtained against payment of such reasonable charge as the authority may from time to time prescribe from the authority or any authorised provider.

Trespassing on Water supply scheme

- 30. (1) No person shall, without the prior written permission of the authority or the relevant authorised provider, enter upon an area enclosed by a fence or where entry is prohibited by notice boards, or a structure used by the authority or such relevant authorised provider in connection with the provision of water and sanitation services.

Damage to Water Supply Scheme

31. (1) No person shall damage or endanger the water supply or sanitation disposal system, or cause or permit it to be damaged or endangered.
- (2) Any person who intends performing work which may cause damage to any water supply or sanitation disposal system on land owned by or vested in the authority or any authorised provider or over which it has a servitude or other right, shall prior to commencement of such work, ascertain from the authority or authorised provider if any part of the water supply or sanitation disposal system is situated on the land.
- (3) If work, which in the opinion of the authority or the relevant authorised provider, could damage or endanger a water supply or sanitation disposal system is to be performed or is being performed on land referred to in subsection (2) or on land adjacent thereto, the authority or relevant authorised provider may by notice in writing require the person concerned not to commence, or to cease performing, the work until such time as he or she has complied with the conditions specified in such notice.

Pollution of Water Supply

32. (1) Unless such act is specifically authorised in writing by the authority, no person shall commit an act which may cause pollution of any nature to water in a reservoir or other place owned, controlled by or vested in the authority or any authorised provider either in whole or in part, and used by them in connection with the supply of water.
- (2) No person shall, except at such places as are designated by notice boards or in such receptacles as are provided by the authority, discharge rubbish, night-soil, industrial waste or other matter which may cause pollution of any nature on any part of a catchment area relating to the supply of water by the authority or any authorised provider.
- (3) If a person contravenes subsection (1) or (2) the authority or any relevant authorised provider may:
- (a) by notice in writing require the person immediately to cease such act and take specified action within a specified period; or
 - (b) if it is of the opinion that the situation is a matter of urgency, without prior notice take such action as it may deem necessary and recover the cost from the person.

Liabilities and Compensation

33. (1) The authority shall not be liable for damages or compensation arising from anything done in good faith by it, or any person acting on its behalf and being duly authorised thereto, in terms of these by-laws, and shall not be liable for any water leaks as defined herein.
- (2) The authorised provider shall not be liable for any claim of damages or costs of whatsoever nature, arising from a leak in the water supply system, or water supply provider to any property or any owner, and should any leak occur within the perimeter or fencing (which shall include any boundary wall or fence or hedge), then any water loss which occurs within such perimeter area shall be for the sole cost of the property owner as defined herein and the authorised provider accepts no liability and shall not be liable in any matter whatsoever and tenders no rebate in respect of such leak.
- (3) Should any leak be established within the confines or in a portion of a local authority property, or on the property under the control of the authorised provider, then the property owner shall not be liable for such leak and any costs arising therefrom, save for any claims in respect of leaks, which occur on the property of any local authority or authorised provider, shall be limited to 1 (one) year after the discovery of the leak concerned.
- (4) The authorised provider, namely UGU, shall not be liable to any owner for any leak which is found on the property of the local authority.

Offences and Penalties

34. (1) A person who -
- (a) fails or refuses to give access required by an officer of the authority or an authorised provider in terms of section 24;
 - (b) obstructs or hinders an officer of the authority or an authorised provider in the exercise of his or her powers or performance of his or her functions or duties under these by-laws;

- (c) contravenes or fails to comply with a provision of these by-laws;
- (d) contravenes or fails to comply with any notice, condition or prohibition imposed in terms of these by-laws;
- (e) contravenes or fails to comply with any conditions imposed upon the granting of any application, consent, approval, concession, exemption or authority in terms of these by-laws;
- (f) fails to comply with the terms of a notice served upon him or her in terms of these by-laws; or
- (g) draws water from a fire hydrant save in circumstances contemplated in Section 42, provided that this sub-section shall not apply to any person in the *bona fide* employ of the authority or an authorised provider in and about fire fighting or the emergency services;
- (h) causes, enables or permits any water derived from a stream, river, watercourse, channel, dam, reservoir, borehole, well, spring or fountain on any premises to enter into any water supply scheme or sanitation scheme without the prior written consent of the authority or an authorised provider;
- (i) fails to comply with a written notice served by an authorised officer in terms of Section 26 herein.

(sub-section (h) inserted by section 30 of the Ugu District Municipality Water and sanitation services Amendment By Laws, 2004)

- (j) who fails to provide or provides false information as requested in terms of Part 4 Clause 8(13) of these Bylaws.

shall be guilty of an offence and liable on conviction to a fine not exceeding R 4 000,00 or in default on payment, to imprisonment for a period not exceeding 6 months and in the event of a continued offence to a further fine not exceeding R 2 000,00 for every day during the continuance of such offence after a written notice from the authority or an authorised provider has been issued and in the event of a second offence to a fine not exceeding R 6 000,00 or, in default on payment to imprisonment for a period not exceeding 12 months.

- (3) An authorised provider who:
 - (a) renders any account, seeks to recover any amount, accepts payment of any amount in respect of any tariff, levy, charge or **[rate] tariff** for water and sanitation services provided by such authorised provider which is not ratified by the authority in terms of section 4(1) of these by-laws;
 - (b) fails or refuses to give access required by an officer of the authority in terms of section 24;
 - (c) obstructs or hinders any officer of the authority in the exercise of his or her powers or performance of his or her functions or duties under these by-laws;
 - (d) contravenes or fails to comply with a provision of these by-laws;
 - (e) contravenes or fails to comply with a condition or prohibition imposed in terms of these by-laws;
 - (f) contravenes or fails to comply with any conditions imposed upon the granting of any application, consent, approval, concession, exemption or authority in terms of these by-laws; or
 - (g) fails to comply with the terms of a notice served upon him or her in terms of these by-Laws shall be guilty of an offence and liable on conviction to a fine not exceeding R50 000,00 or in default on payment, to imprisonment for a period not exceeding 6 months and in the event of a continued offence to a further fine not exceeding R10 000,00 for every day during the continuance of such offence after a written notice from the authority has been issued and in the event of a second offence to a fine not exceeding R75 000,00 or, in default on payment to imprisonment for a period not exceeding 12 months.
- (4) In addition to any penalty imposed under sub-section (2), the authority may revoke any approval or registration of such authorised provider under sections 104(1) or (b), 110 or 113 (as the case may be).
- (5) Notwithstanding the definitions of the words 'owner', 'occupier', 'consumer' or 'person' contained in section 1(1) of these by-laws, the said words shall, in addition to the meanings assigned to them in the said section 1(1) and for the purposes of enforcing the penalties provided for in these by-laws, include, in the case of:
 - (a) a firm or partnership, all or any one or more of the members of such firm or partnership, and, in the case of:
 - (b) a company, close corporation, co-operative, communal property association or other juristic person other than a firm or partnership in the ordinary meaning of those terms, the directors, managers or members of any managing body of such company, close corporation, co-operative, communal property association or other juristic person, and, in

- the case of:
- (c) a trust, the individual trustees thereof in their personal capacities.

Arbitration

35. (1) Whenever in these by-laws any issue in dispute is to be referred to arbitration then the provisions of sub-sections (a) to (k) of this sub-section (1) shall apply.
- (a) A party wishing to refer any dispute to arbitration shall serve written notice on every other party with a direct interest in such dispute and in such notice it shall specify the nature of the dispute and the names of at least two persons who such party suggests should be appointed to arbitrate such dispute.
 - (b) Any party to whom a notice referred to in sub-section (a) is delivered may, within 14 days of the receipt of such notice, give the party who sent such notice a written reply stating which, if any, of the persons nominated as arbitrators it is willing to appoint.
 - (c) If a party to whom a notice referred to in sub-section (1) is delivered does not provide a reply as contemplated in sub-section (b), then such party shall be deemed to have agreed to the appointment of one of the arbitrators referred to in the notice referred to in sub-section (1), the actual arbitrator to be decided on by the party giving such notice.
 - (d) If the party to whom a notice referred to in sub-section (1) is delivered rejects the arbitrators nominated in such notice, then the party giving such notice shall refer the appointment of an arbitrator to the President of the Natal Law Society with a request that he or she appoint an arbitrator and such appointment shall be final and binding.
 - (e) Arbitrations shall be conducted in accordance with the provisions of the Arbitration Act, No 42 of 1965, subject to the provisions of these by-laws and the Act.
 - (f) The issue which the arbitrator shall be asked to decide will be determined by the party referring the dispute to arbitration.
 - (g) The arbitrator shall have the power to decide on the procedure he/she shall adopt in the conduct of any arbitration proceedings.
 - (h) The parties to any dispute may elect to have legal representation at any hearing before any arbitrator.
 - (i) Each party shall bear its own costs of the arbitration proceedings, including the costs of legal representation.
 - (j) Each party shall bear an equal share of the costs of the arbitrator and any costs associated with such appointment, the party first referring any dispute to arbitration under the provisions of this section being responsible for the collection and payment of such costs; provided that in the event of the arbitrator being of the opinion that any party to the conflict has acted in bad faith, maliciously or frivolously, or in the event of any party liable to contribute towards any costs in terms hereof failing or refusing to pay such costs within a reasonable period of demand being made therefore, then such arbitrator may direct that such party shall refund to any other party the reasonable costs of such arbitration or any part thereof, or pay such **[contribution] quota**, and such award shall constitute a liquid debt due by the party against whom it is made in favour of the other parties to this agreement.
 - (k) Any decision of an arbitrator shall be binding on the parties to the dispute and shall not be made the subject of any legal proceedings by any such party.

CHAPTER 3 – WATER SUPPLY SERVICES

PART 1 – CONNECTION TO WATER SUPPLY SCHEME

Provision of connection pipe

36. (1) If an agreement for water supply services in respect of premises has been concluded and no connection pipe exists in respect of the premises, the owner shall make application to the authority or relevant authorised provider as the case may be on the prescribed form and pay the prescribed charge for the installation of such a pipe
- (2) If an application is made for water supply services which are of such an extent or so situated that it is necessary to extend, modify or upgrade the water supply scheme in order to supply water to the premises, the authority or an authorised provider may agree to the extension subject to such conditions as it may impose.

Location of connection pipe

37. (1) A connection pipe provided and installed by the authority or an authorised provider shall –
- (a) be located in a position agreed to between the owner and the authority or the authorised provider, and be of a suitable size as determined by the authority or the authorised provider,;
 - (b) terminate at –
 - (i) the boundary of the land owned by or vested in the authority or the authorised provider, or over which it has a servitude or other right; or
 - (ii) at the outlet of the water meter if it is situated on the premises; or
 - (iii) at the isolating valve if it is situated on the premises.
 - (c) in the case of unsurveyed land occupied communally, a point determined by the authority or an authorised provider not exceeding 19 meters from the nearest water mains of the authority or an authorised provider.
- (sub-section (c) inserted by section 31 of the Ugu District Municipality Water and sanitation services Amendment By-Law, 2004)
- (2) In reaching agreement with an owner concerning the location of a connection pipe, the authority or the authorised provider, shall ensure that the owner is aware of -
- (a) practical restrictions that may exist regarding the location of a connection pipe;
 - (b) the cost implications of the various possible locations of the connection pipe;
 - (c) whether or not the authority or the authorised provider, requires the owner to indicate the location of the connection pipe by providing a portion of his or her water installation at or outside the boundary of his or her premises, or such agreed position inside or outside his or her premises where the connection is required, for the authority or the authorised provider, to connect to such installation.
- (3) A authority or the authorised provider, may at the request of any person agree, subject to such conditions as he or she may impose, to a connection to a main other than that which is most readily available for the provision of water supply to the premises; provided that the applicant shall be responsible for any extension of the water installation to the connecting point designated by the authority or the authorised provider, and for obtaining at his or her cost, such servitudes over other premises as may be necessary.
- (4) An owner must pay the prescribed connection charge.

Provision of single water connection for supply to several consumers on same premises

38. (1) The number of connecting pipes to a water supply scheme on any premises shall be determined by the authority or authorised provider in its discretion.
(sub-section (1) substituted by section 32 of the Ugu District Municipality Water and sanitation services Amendment By Laws 2004)
- (2) Where the owner, or the person having the charge or management of any premises on which several consumer unit are situated, requires the supply of water to such premises for the purpose of supply to the different consumer unit, the authority or the authorised provider, may, in its discretion, provide and install either -
- (a) a single measuring device in respect of the premises as a whole or any number of such units or consumer units; or
 - (b) a separate measuring device for each consumer unit or any number thereof.
- (3) Where the authority or the authorised provider, has installed a single measuring device as contemplated in subsection (2)(a), the owner or the person having the charge or management of the premises, -
- (a) must if the authority or the authorised provider, so requires, install and maintain on each branch pipe extending from the connection pipe to the different consumer unit –
 - (i) a separate measuring device; and
 - (ii) an isolating valve; and
 - (b) will be liable to the authority or the authorised provider, for the tariffs and charges for all water supplied to the premises through such a single measuring device, irrespective of the different quantities consumed by the different consumers served by such measuring device.
- (4) Notwithstanding subsection (1), the authority or the authorised provider, may authorise that more than one connection pipe be provided on the water supply scheme for the supply of water to any premises comprising sectional title units or if, in the opinion of the authority or the authorised provider, undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connection pipe.
- (5) Where the provision of more than one connection pipe is authorised by the authority or the authorised provider, under subsection (4), the tariffs and charges for the provision of a connection pipe is payable in respect of each water connection so provided.

Interconnection between premises or water installations

39. An owner of premises shall ensure that no interconnection exists between –
- (a) the water installation on his or her premises and the water installation on other premises; or
 - (b) where several consumer units are situated on the same premises, the water installations of the consumer units or units; or
 - (c) unless he or she has obtained the prior written consent of the authority or the authorised provider, and complies with any conditions that it may have imposed.

Disconnection of water installation from connection pipe

40. The authority or the authorised provider, may disconnect a water installation from the connection pipe and remove the connection pipe if –
- (a) the agreement for supply has been terminated in terms of section 15 and it has not received an application for a subsequent supply of water to the premises served by the pipe within a period of 90 days of such termination, or such longer period as the authority or the authorised provider may determine; or
 - (b) any consumer unit has been demolished; or
 - (c) any illegal interference with any water supply scheme, sanitation scheme or water installation has occurred

(section 40 amended by section 33 of the Ugu District Municipality Water and sanitation services Amendment By-Law)

PART 2 – COMMUNAL WATER AND SANITATION SERVICES NETWORKS

Provision of a water and sanitation services network for water supply to several consumers

41. An authority or the authorised provider, may install a communal water and sanitation services work for the provision of water and sanitation services to several consumers at a location it deems appropriate, provided that the consumers to whom water and sanitation services will be provided through that water and sanitation services have been consulted in respect of the level of service, the tariff that will be payable and location of the work.

PART 3 – TEMPORARY SUPPLY

Water supplied from a hydrant or fire meter

42. (1) The authority or the authorised provider, may authorise a temporary supply of water to be taken from one or more fire hydrants or fire meters specified by it, or from such other source identified for that purpose by the authority or the authorised provider, subject to such conditions and period, which shall not exceed three months, as may be prescribed by it.
- (2) The authority or the authorised provider, may convey any water required as a temporary measure by tanker to any place where such temporary supply of water is required, subject to such conditions and period, which shall not exceed three months, as may be prescribed by it.
- (3) A person who desires a temporary supply of water referred to in subsection (1) must apply for such water and sanitation services in terms of section 4.
- (4) The supply of water in terms of subsection (1) must be measured and the quantity of water drawn shall be reported in writing to the authority or the authorised provider as the case may be within 14 days of the date on which such water is drawn.
- (5) The authority or the authorised provider, may for purposes of measuring provide a potable water meter to be returned to the authority or the authorised provider, on termination of the temporary supply, which portable meter or hydrant or fire meter and all other fittings and apparatus used for the connection of the portable water meter to a hydrant, shall remain the property of the authority or the authorised provider, and will be provided subject any conditions imposed by the authority or the authorised provider;
- (6) Any person authorised to receive a temporary supply of water shall pay therefor in accordance with the tariff or charge determined by the authority.
- (7) Where water is drawn from a fire hydrant or fire meter in any emergency, including the fighting of fire, the person so drawing water shall, within 24 hours, notify the authority or the authorised provider, of such activity, the purpose for which the water was drawn, the nature, cause and duration of the emergency and shall specify the time during which such water was so drawn.
- (8) The onus of establishing that water was drawn from a fire hydrant as provided in sub-section shall vest in the person drawing such water, and such person shall be liable for the cost of such water in accordance with the applicable tariff.

PART 4 – STANDARDS AND GENERAL CONDITIONS OF SUPPLY

Quantity, quality and pressure

43. Water supply services provided by the authority or the authorised provider, will comply with the minimum standards set for the provision of water supply services in terms of section 9 of the Act.

General conditions of supply

44. (1) The authority or the authorised provider, shall specify the maximum pressure to which water will be supplied from the water supply scheme, which shall be no less than 1.5 bars. Where a consumer requires water to be supplied at a greater height or pressure than so specified, the consumer will be solely responsible therefore and for any cost implications.
- (2) The authority or the authorised provider, may, in an emergency, interrupt the supply of water to any premises without prior notice.
- (3) If in the opinion of the authority or the authorised provider, the consumption of water by a consumer adversely affects the supply of water to another consumer, it may apply such restrictions as it may deem fit to the supply of water to the first mentioned consumer in order to ensure a reasonable supply of water to the other consumer and will inform that consumer of such restrictions.
- (4) The authority or an authorised provider may, where, in its opinion, a consumer, in respect of any premises or any consumer unit, consistently and continuously consumes water in excess of 2 kilolitres per day, serve written notice on such consumer that the provisions of sub-sections (5) to (7) shall apply to such consumer.
- (5) A consumer on whom a notice in terms of sub-section (4) has been served shall, within 30 days of the date of the service of such notice, install a cistern capable of holding not less than the average daily consumption in water in terms of the Guidelines of Basic Human Settlement Planning and Design as issued by SABS (as defined herein), of water consumed on the premises, or consumer unit concerned, which cistern shall be installed at a point on the water installation of such consumer on such premises or which supplies the particular consumer unit approved by the authority or authorised provider concerned, and such consumer shall thereafter and for as long as the authority or authorised provider concerned requires such cistern to be so installed, maintain such cistern in good working and watertight order.
- (6) Such cistern shall:
- a. be provided with a float control valve, of a size and quality approved by the authority or authorised provider concerned, at the point where water enters the cistern for the purpose of controlling the supply of water into such cistern, and
 - b. be provided with an outlet pipe of sufficient diameter to enable water to flow out of the cistern into the water installation freely and consistent with the requirements of the water installation.
- (7) For the purposes of subsection (4):
- a. water shall be deemed to be consistently and continuously consumed if, in respect of the particular premises or consumer unit, the average consumption of water, measured as provided in these by-laws, determined over a period of six consecutive months, equals 2 kilolitres per day or more; and
 - b. the average daily consumption shall be calculated on the basis of actual consumption recorded, in respect of the particular premises or consumer unit, during the preceding twelve month period, or if such consumer shall have consumed water for a lesser period, then the daily average shall be calculated based on the number of days comprising such lesser period.

PART 5 – MEASUREMENT OF WATER SUPPLY SERVICES

Measuring of quantity of water supplied

45. (1) The authority or the authorised provider, will measure the quantity of water supplied at regular intervals.
- (2) Any measuring device through which water is supplied to a consumer by the authority or the authorised provider, and the associated apparatus shall be provided and installed by the authority or the authorised provider, shall remain the property, and may be changed and maintained by the authority or the authorised provider, when deemed necessary by it.
- (3) The authority or the authorised provider, may install a measuring device, and the associated apparatus, on premises at any point on the service pipe.
- (4) If the authority or the authorised provider, installs a measuring device on a service pipe in terms of subsection (3), it may install a section of pipe and associated fittings between the end of the connection pipe and the meter, and such section shall be deemed to form part of the water supply scheme.
- (5) If the authority or the authorised provider, installs a measuring device together with its associated apparatus on a service pipe in terms of subsection (3), the owner shall -
- (a) provide a place satisfactory to the authority or the authorised provider, in which to install it;
 - (b) ensure that unrestricted access is available to it at all times;
 - (c) be responsible for its protection and be liable for the costs arising from damage thereto, excluding damage arising from normal fair wear and tear;
 - (d) ensure that no connection is made to the pipe in which the measuring device is installed, between the measuring device and the connection pipe serving the installation; and
 - (h) make provision for the drainage of water which may be discharged, from the pipe in which the measuring device is installed, in the course of work done by the authority or the authorised provider, on the measuring device.
- (6) No person other than the authority or an authorised provider shall -
- (a) disconnect a measuring device and its associated apparatus from the pipe in which they are installed;
 - (b) break a seal which the authority or the authorised provider, has placed on a meter; or
 - (c) in any other way interfere with a measuring device and its associated apparatus.
- (7) If the authority or the authorised provider, considers that, in the event of the measuring device being a meter that the size of a meter is unsuitable by reason of the quantity of water supplied to premises, it may install a meter of such size as it may deem necessary, and may recover from the owner of the premises concerned the prescribed charge for the installation of the meter.
- (8) The authority or the authorised provider, may require the installation, at the owner's expense, of a measuring device to each dwelling unit, in separate occupancy, on any premises, for use in determining quantity of water supplied to each such unit; provided that where fixed quantity water delivery systems are used, a single measuring device may be used to supply more than one unit.

Quantity of water supplied to consumer

46. (1) For purposes of assessing the quantity of water measured by a measuring device installed by the authority or the authorised provider, on the premises of a consumer or, where applicable, estimated or determined by the authority or the authorised provider, in terms of any provision of these by-laws, it will, for the purposes of these by-laws, be deemed, unless the contrary can be proved, that-
- (a) the quantity is represented by the difference between measurements taken at the beginning and end of such period;
 - (b) the measuring device was accurate during such period; and
 - (c) the entries in the records of the authority or the authorised provider, were correctly made; provided that if water is supplied to, or taken by, a consumer without its passing through

a measuring device, the estimate by the authority or the authorised provider, of the quantity of such water shall be deemed to be correct.

Estimate of Quantity

- 47 (1) Where water supplied by the authority or the authorised provider, to any premises is in any way taken by the consumer without such water passing through any measuring device provided by the authority or the authorised provider, the authority or the authorised provider, may for the purpose of rendering an account estimate, in accordance with subsection (3), the quantity of water supplied to the consumer during the period from the last previous reading of the water meter until the date it is discovered that water is so taken by the consumer.
- (2) For the purposes of subsection (1) an estimate of the quantity of water supplied to a consumer shall be based on the following provisions, as the authority or the authorised provider, may decide
- (a) the average monthly consumption of water on the premises during any three consecutive measuring periods during the twelve months' period prior to the date on which the taking of water in the manner mentioned in subsection (1) was discovered; or
 - (b) the average monthly consumption on the premises registered over three succeeding measuring periods after the date referred to in subsection (2)(a).
- (3) Nothing in these regulations shall be construed as imposing on the authority or the authorised provider, an obligation to cause any measuring device installed by the authority or the authorised provider, on any premises to be measured at the end of every month or any other fixed period, and the authority or the authorised provider, may estimate the quantity of water supplied over any period during the interval between successive measurements of the measuring device and render an account to a consumer for the quantity of water so estimated.
- (4) The Authority or the authorised provider, must, on receipt from the consumer of written notice of not less than seven days and subject to payment of the prescribed charge, measure the quantity of water supplied to consumer at a time or on a day other than that upon which it would normally be measured.
- (5) If a contravention of subsection 45(6) occurs, the consumer shall pay to the authority or the authorised provider, the cost of such quantity of water as in the authority or the authorised provider's opinion was supplied to him or her.
- (6) Until such time as a measuring device have been installed in respect of water supplied to a consumer the estimated or assumed consumption of that consumer must be based on the average consumption of water supplied to the specific zone within which the consumer's premises is situated, during a specific period.
- (7) Where in the opinion of the authority or the authorised provider, it is not reasonably possible or cost effective to measure water supplied to each consumer within a determined zone, the authority or the authorised provider, may, determine a basic tariff or charge to be paid by each consumer within that zone irrespective of actual consumption.
- (8) A tariff or charge determined in terms of subsection (7) will be based on the estimated average consumption of water supplied to that zone.
- (9) Where water supply services are provided through a communal water and sanitation services work the amount due and payable by consumers gaining access to water supply services through that communal water and sanitation services work, must be based on the estimated average consumption of water supplied to that water and sanitation services work.

Defective measurement

48. (1) If a consumer has reason to believe that a measuring device, used for measuring water, which was supplied to him or her by the authority or the authorised provider, is defective he or she may make application in writing for the measuring device to be tested against payment of the prescribed charge.
- (2) The provisions of Sections 12(9) to 12(13) will apply to such an application.

Special measurement

49. (1) If the Authority or the authorised provider, wishes, for purposes other than charging for water consumed, to ascertain the quantity of water which is used in a part of a water installation, it may by written notice advise the owner concerned of its intention to install a measuring device at such point in the water installation as it may specify.
- (2) The installation of a measuring device referred to in Subsection (1), its removal, and the restoration of the water installation after such removal shall be carried out at the expense of the authority or the authorised provider..
- (3) The provisions of sections 45(5) and 45(6) shall apply insofar as they may be applicable in respect of a measuring device installed in terms of subsection (1).

No reduction of amount payable for water wasted PIPE BREAK ON PROPERTY

50. (1) A consumer shall not be entitled to a reduction of the amount payable for water wasted or, save as provided in terms of sub-section (2), water losses in a water installation.
- (2) The authority may by regulation provide for the waiver in whole or in part of any amount payable under these By-Laws by any consumer for water and sanitation services provided by the authority or an authorised provider to a consumer where water is lost as a result of a leak and such waiver is just and equitable.
- (sub-section (1) amended, and sub-section (2) inserted by section 34 of the Ugu District Municipality Water and Sanitation Services Amendment By-Law, 2004)

Adjustment of quantity of water supplied through defective measuring device

51. (1) If a measuring device is found to be defective in terms of section 12(13), the authority or the authorised provider, may estimate the quantity of water supplied to the consumer concerned during the period in which, in its opinion, such measuring device was defective, on the basis of the average daily quantity of water supplied to him or her over
- a period between two successive measurements subsequent to the replacement of the measuring device; or
 - a period in the previous year corresponding to the period in which the measuring device was defective; or
 - the period between three successive measurements prior to the measuring device becoming defective; whichever it considers the most appropriate.
- (2) If the quantity of water supplied to a consumer during the period when his or her measuring device was defective cannot be estimated in terms of subsection (1), the Authority or the authorised provider, may estimate the quantity on any basis that is available to it.

PART 6 – INSTALLATION WORK**Approval of installation work**

52. (1) If an owner wishes to have installation work done, he or she must first obtain the authority or the authorised provider's written approval; provided that approval shall not be required in the case of water installations in dwelling units or installations where no fire installation is required in terms of SABS Code 0400 or for the repair or replacement of an existing pipe or water fitting other than a fixed water heater and its associated protective devices.
- (2) Application for the approval referred to in subsection (1) shall be made on the prescribed form and shall be accompanied by -
- the prescribed charge, if applicable; and
 - copies of the drawings as prescribed by the authority or the authorised provider,, giving information in the form required by Clause 4.1.1 of SABS Code 0252 : Part I;
 - a certificate certifying that the installation has been designed in accordance with SABS Code 0252 : Part I or has been designed on a rational basis.
- (3) The provisions of subsections (1) and (2) shall not apply to a qualified plumber who replaces a fixed water heater or its associated protective devices.

- (4) Authority given in terms of subsection (1) shall lapse at the expiry of a period of twenty-four months after the first day of the month succeeding the month in which the authority is given.
- (5) A complete set of approved drawings of installation work shall be available at the site of the work at all times until such work has been completed, where approval was required in terms of subsection (1).
- (6) If installation work has been done in contravention of subsection (1) or (2), the authority or the authorised provider, may by written notice require the owner of the premises concerned to –
 - (a) comply with that regulation within a specified period;
 - (b) if work is in progress, to cease the work; and
 - (c) to remove all such work which does not comply with these by-laws.

Provision and maintenance of water installations

- 53. (1) An owner must provide and maintain his or her water installation at his or her own cost and, unless permitted in terms of section (54), must ensure that the installation is situated within the boundary of his or her premises.
- (2) Before doing work in connection with the maintenance of a portion of his or her water installation which is situated outside the boundary of his premises, an owner shall obtain the written consent of the authority or the authorised provider, or the owner of the land on which such portion is situated, as the case may be.

Use of pipes and water fittings to be authorised

- 54. (1) No person shall, without the prior written authority of the authority or the authorised provider, install or use a pipe or water fitting in a water installation within the authority or the authorised provider's area of jurisdiction, , unless it is included in the Schedule of Approved Pipes and Fittings as compiled by the authority or the authorised provider.
- (2) Application for the inclusion of a pipe or water fitting in the Schedule referred to in subsection (1) must be made on the form prescribed by the authority or the authorised provider, and be accompanied by the prescribed charge.
- (3) A pipe or water fitting may be included in the Schedule referred to in subsection (1) if-
 - (a) it bears the standardization mark of the South African Bureau of Standards in respect of the relevant SABS specification issued by the Bureau; or
 - (b) it bears a certification mark issued by the SABS to certify that the pipe or water fitting complies with an SABS Mark specification or a provisional specification issued by the SABS, provided that no certification marks shall be issued for a period exceeding two years.
- (4) The authority or the authorised provider, may, in respect of any pipe or water fitting included in the Schedule, impose such additional conditions, as it may deem necessary in respect of the use or method of installation thereof.
- (5) A pipe or water fitting shall be removed from the Schedule if it -
 - (a) no longer complies with the criteria upon which the inclusion was based; or
 - (b) is no longer suitable for the purpose for which its use was accepted.
- (6) The current schedule shall be available for inspection at the office of the authority or the authorised provider, at any time during working hours.
- (7) The authority or the authorised provider, may sell copies of the current schedule at the prescribed charge.

Labeling of terminal water fittings and appliances

55. All terminal water fittings and appliances using or discharging water shall be marked, or have included within the packaging of the item, the following information:
- (a) the range of pressure in kPa over which the water fitting or appliance is designed to operate;
 - (b) the flow rates, in litres per minute, related to the design pressure range, provided that this information shall be given for at least the following water pressures -
 - (i) 20 kPa
 - (ii) 100kPa
 - (iii) 400kPa

PART 7 – WATER POLLUTION, RESTRICTION AND WASTEFUL USE OF WATER

Owner to prevent pollution of water

56. An owner shall provide and maintain measures, approved by the authority, to prevent the entry of a substance, which may be a danger to health or adversely affect the potability of water or affect its fitness for use, into -
- (a) the water supply scheme; and
 - (b) any part of the water installation on his or her premises.

Water restrictions

57. (1) The Authority or the authorised provider, may by public notice to prevent the wasteful use of water in terms of section (58) or in the event of a water shortage, drought, flood -
- (a) prohibit or restrict the consumption of water in the whole or part of its area of jurisdiction in general or for –
 - (i) specified purposes;
 - (ii) during specified hours of the day or on specified days; and
 - (iii) in a specified manner; and
 - (b) determine and impose –
 - (i) limits on the quantity of water that may be consumed over a specified period;
 - (ii) charges additional to those prescribed in respect of the supply of water in excess of a limit contemplated in subsection (1)(b)(i); and
 - (iii) a general surcharge on the prescribed charges in respect of the supply of water;And
 - (c) impose restrictions or prohibitions on the use or manner of use or disposition of an appliance by means of which water is used or consumed, or on the connection of such appliances to the water installation.
- (2) The authority or the authorised provider, may limit the application of the provisions of a notice contemplated by subsection (1) to specified areas and categories of consumers, premises and activities, and may permit deviations and exemptions from, and the relaxation of, any of the provisions on reasonable grounds
- (3) The authority or the authorised provider, may -
- (a) take, or by written notice require a consumer at his or her own expense to take, such measures, including the installation of measurement devices and devices for restricting the flow of water, as may in its opinion be necessary to ensure compliance with a notice published in terms of subsection (1); or
 - (b) discontinue or, for such period as it may deem fit, limit the supply of water to any premises in the event of a contravention on such premises or failure to comply with the terms of a notice published in terms of subsection (1), subject to notice in terms of section 26; and
 - (c) where the supply has been discontinued, it shall only be restored when the prescribed charge for discontinuation and reconnecting the supply has been paid.
- (4) The provisions of this section shall also apply in respect of water supplied directly by the authority or the authorised provider, to consumers outside its area of jurisdiction, notwithstanding anything to the contrary in the conditions governing such supply, unless otherwise specified in the notice published in terms of subsection (1).

Waste of water unlawful

58. (1) No consumer shall permit –
- (a) the purposeless or wasteful discharge of water from terminal water fittings;
 - (b) pipes, cisterns or water fittings to leak;
 - (c) the use of maladjusted or defective water fittings;
 - (d) an overflow of water to persist;
 - (e) any part of any water installation, including any cistern, to rust, rot or otherwise deteriorate, or
 - (f) an inefficient use of water to persist.
- (2) An owner shall repair or replace any part of his or her water installation which is in such a state of disrepair that it is either causing or is likely to cause an occurrence listed in subsection (1).
- (3) If an owner fails to take measures as contemplated in subsection (2), the authority or the authorised provider, shall, by written notice in terms of section 26, require the owner to comply with the provisions of subsection (1).
- (4) A consumer shall ensure that any equipment or plant connected to his or her water installation uses water in an efficient manner.
- (a) The authority or the authorised provider, may, by written notice, prohibit the use by a consumer of any equipment in a water installation if, in its opinion, its use of water is inefficient. Such equipment shall not be returned to use until its efficiency has been restored and a written application to do so has been approved by the authority or the authorised provider;
 - (b) In cases where wastage of water is taking place on any premises, the authority or the authorised provider, shall have the right to enter upon such premises immediately and to take such steps as may reasonably be necessary to remove or renew the defective fitting or other wise to stop such waste, and it may recover the costs thereof from the owner or consumer.
 - (c) Where water has run to waste due to a defect in any water installation and the authority or the authorised provider is satisfied that such defect could not, with the exercise of reasonable care and diligence, be detected by the owner or consumer, the quantity of water to be paid for by the owner or consumer, during the period when such defect occurred, shall be calculated on a basis determined by the authority or the authorised provider, as the case may be.

PART 8 – WATER AUDIT**Water Audit**

59. (1) Water users using more than 3 650 kl per annum, excluding those comprising multiple dwelling units, must within one month after the end of each financial year of the authority or the authorised provider, undertake an annual water audit at their own cost.
- (2) A copy of the audit must be available for inspection by officials from the Department of Water Affairs and Forestry, the water board, if applicable, and the authority or the authorised provider,.
- (3) The audit must contain details in respect of –
- (a) the amount of water used during the financial year;
 - (b) the amount paid for water for the financial year;
 - (c) the number of people living on the stand or premises;
 - (d) the number of people permanently working on the stand or premises;
 - (e) the seasonal variation in demand through monthly consumption figures;
 - (f) the water pollution monitoring methods;
 - (g) the plans to manage their demand for water;
 - (h) estimates of consumption by various components of use; and comparison of the above factors with those reported in each of the previous three years, where available.

PART 9 – GENERAL PROVISIONS

Notification of boreholes

60. (1) The Authority or the authorised provider, may, by public notice, require-
- (a) the owner of any premises within the area of jurisdiction of the authority or the authorised provider, upon which a borehole exists or, if the owner is not in occupation of such premises, the occupier thereof, to notify it on the prescribed form of the existence of a borehole on such premises, and provide it with such information in respect thereof as it may require; and
 - (b) the owner or occupier of any premises who intends to sink a borehole on such premises to notify it on the prescribed form of such intention before work in connection therewith is commenced.
- (2) The authority or the authorised provider, may require the owner or occupier of any premises who intends to sink a borehole to undertake an environmental impact assessment for such intended borehole, to the satisfaction of the Authority or the authorised provider,, before sinking the borehole.
- (3) Boreholes are subject to any requirements of the National Water Act, Act No 136 of 1998.
- (4) The authority or the authorised provider, may by notice to a owner or occupier or by public notice require owners and occupiers who have existing boreholes used for water and sanitation services to –
- (a) obtain approval from it for the use of the borehole for water and sanitation services in accordance with sections 6, 7 or 22 of the Act;
 - (b) impose conditions in respect of the use of the borehole for water and sanitation services; and
 - (c) may impose a fixed charge in respect of the use of such borehole.
- 60A The authority may by regulation further regulate the operation of boreholes, including the monitoring of boreholes.

(section 60A inserted by section of the Ugu District Municipality Water and sanitation services Amendment By-Law, 2004)

Sampling of water

61. (1) The authority or the authorised provider, may take samples of water obtained from a source, authorised in terms of sections 6 or 7 of the Act, other than the water supply scheme for domestic purposes and cause the samples to be tested for compliance with any national standards prescribed in terms of section 9 of the Act.
- (2) The prescribed charge for the taking and testing of the samples referred to in subsection (1) shall be paid by the person to whom approval to use the water for potable water was granted in terms of section 6(1) or 7(1) of the Act.

Supply of non-potable water by authority or authorised provider,

62. (1) The authority or the authorised provider, may, on application in terms of section (4), agree to supply non-potable water to a consumer, subject to such terms and conditions as the Authority or the authorised provider, may impose.
- (2) Any supply of water agreed to in terms of subsection (1) shall not be used for domestic or any other purposes, which, in the opinion of the authority or the authorised provider,, may give rise to a health risk.
- (3) No warranty, expressed or implied, shall apply to the purity of any non-potable water supplied by the authority or the authorised provider, or its suitability for the purpose for which the supply was granted.
- (4) The supply of non-potable water shall, both as to condition and use, be entirely at the risk of the consumer, who shall be liable for any consequential damage or loss arising to himself, herself or others arising directly or indirectly therefrom, including the consequences of any bona fide fault of the authority or the authorised provider, or the malfunction of a treatment plant.

Testing of pressure in water supply schemes

63. The authority or the authorised provider, may, on application by an owner and on payment of the prescribed charge, determine and furnish the owner with the value of the pressure in the water supply scheme relating to his or her premises over such period as the owner may request.

Pipes in streets or public places

64. No person shall for the purpose of conveying water derived from whatever source, lay or construct a pipe or associated component on, in or under a street, public place or other land owned by, vested in, or under the control of any authority or the authorised provider, except with the prior written permission of that authority or the authorised provider, and subject to such conditions as it may impose.

CHAPTER 4 – SANITATION SERVICES

PART 1 – STANDARDS AND GENERAL PROVISIONS

Standards for sanitation services

65. Sanitation services provided by the authority or the authorised provider, will comply with the minimum standards set for the provision of sanitation services in terms of the section 9 of the Act

Objectionable discharge to sanitation scheme

66. (1) No person shall discharge, or permit the discharge or entry into the sanitation scheme of any sewage or other substance -
- (a) which does not comply with the standards and criteria prescribed in sections 81, 82, 84 below;
 - (b) which contains any substance in such concentration as will produce or be likely to produce in the effluent for discharge at any sewage treatment plant or sea outfall discharge point or in any public water any offensive, or otherwise undesirable taste, colour, odour, temperature or any foam;
 - (c) which may prejudice the re-use of treated sewage or adversely affect any of the processes whereby sewage is purified for re-use, or treated to produce sludge for disposal;
 - (d) which contains any substance or thing of whatsoever nature which is not amenable to treatment to a satisfactory degree at a sewage treatment plant or which causes or is likely to cause a breakdown or inhibition of the processes in use at such plant;
 - (e) which contains any substance or thing of whatsoever nature which is of such strength, or which is amenable to treatment only to a degree as will result in effluent from the sewage treatment plant or discharge from any sea outfalls not complying with standards prescribed under the National Water Act, Act No. 36 of 1998;
 - (f) which may cause danger to the health or safety of any person or may be injurious to the structure or materials of the sanitation scheme or may prejudice the use of any ground used by the authority or the authorised provider, for the sanitation scheme, other than in compliance with the permissions issued in terms of these by-laws; and
 - (g) which may inhibit the unrestricted conveyance of sewage through the sanitation scheme.
- (2) No person shall cause or permit any stormwater to enter the sanitation scheme.
- (2)(1) Any conservancy tank which has reached a capacity of 4500 litres shall be liable to be emptied by the authorised provider, and at the sole cost of the consumer.
- (3) The authority may, by written notice, order the owner or occupier to conduct, at his or her cost, periodic expert inspections of the premises in order to identify precautionary measures which would ensure compliance with these by-laws and to report such findings to an authorised provider.
- (4) If any person contravenes any provision of subsection (1) or subsection (2) he or she shall within twelve hours, or earlier if possible, advise the authority or the authorised provider, of the details of the contravention and the reasons for it.
- (5) Conservancy tanks, septic tanks and french drains:
- (i) any conservancy tank shall, subject to the clearance services provided by the authorised provider in question:
 - a) have a capacity as prescribed by the authorised provider;
 - b) be constructed with means for access for cleaning;
 - c) be provided with a means for clearing as prescribed by the authorised provider.
 - (ii) any conservancy tank shall be emptied from time to time, at the sole cost of the consumer, and at the sole discretion of the authorised provider, whose discretion in this regard shall be final.
 - (iii) any conservancy tank or septic tank to be used on a site for the reception of sewage shall:
 - i. be designed and constructed that it will be impervious to liquid;
 - ii. be so sited;

1. that there will be a ready means of access for the clearing of such tank; and
 2. as not to endanger the structure of any building or the services on the site; and
 3. be so designed and sited that it is not likely to become a source of nuisance or a danger to health.
- (iv) any septic tank shall, subject to the requirements contained in subrule 10(7) discharge into a french drain;
- (v) any septic tank shall:
- a) where it is to serve a dwelling house or dwelling unit, be of a designed capacity of not less than 1.7m³ and be capable of receiving 1 day's sewerage flow as given in the SABS guidelines;
 - b) where it is to serve any building not being a dwelling house or unit, be of a designed capacity of not less than 3 times the daily flow of such building, using the per capita sewerage flow given in the SABS guidelines, or such other flow as may be determined by the Local Authority were not so given, but with specific reference to the provisions of the Guidelines for the Human Settlement Planning and Design pertaining to sanitation.
 - c) to be constructed that:
 1. it is provided with a means of access for the purpose of emptying and cleaning;
 2. the depth of such tank below the outlet invert is not less than 1,0 metres and there is an airspace of less than 200mm between the tank and the liquid contained therein and the underside of the top cover of such tank.
- (vi) the authorised provider, namely UGU, may at it's sole discretion and after investigation of any septic tank, decide that the owner of the unit or property on which the septic tank is situate, shall on a date to be determined by the authorised provider, cease to use such septic tank for any purposes whatsoever; and at the sole cost of the owner, establish a conservancy tank on the property, which shall forthwith be used by the owner of the unit or property as an alternative to the septic tank, and which shall from the date determined by the authorised provider no longer be permitted for use by the owner as aforesaid by the authorised provider.
- (vii) no industrial effluent shall be allowed to flow into any septic tank;
- (viii) any french drain which is to receive any industrial effluent or any evapotranspirative bed shall:
- a) be so constructed and located as not to cause the pollution of any spring, stream or well or any other source of water, which is used or like to be used for drinking, domestic or kitchen purposes; and
 - b) have a capacity, and be so constructed and contain suitable material so as to adequately receive and dispose of any effluent flowing into it; and
 - c) be not less than 3 (three) meters from any boundary or building on the site on which it is situated.
- (ix) the ground on which it is proposed to construct a french drain shall be tested for percolation in accordance with the method contained in these by-laws.
- (x) sewerage flows from dwelling houses or dwelling units or any sewerage from any building/s not being dwelling houses and dwelling unit or in respect of rates of percolation and effluent application shall be governed by and read further the SABS Guidelines for Human Settlement Planning and Design pertaining to Table C1 and read further with the regulations set out in Government Gazette No. 9225 of 18 May 1994 being Regulation 991 set out in Schedule C herewith, which set out more fully the requirements for the purification of waste water and effluent and which are attached to these bylaws, as interpreted by the authorised provider, whose decision in this regard shall be final.
- (xi) the National Building Regulations Act and in particular Part Q and Part R of such Act relating to sewerage disposal and storm water disposal shall *mutatis mutandis* have application.

PART 2 – ON-SITE SANITATION SERVICES, PACKAGE PLANTS AND ASSOCIATED SERVICES

Application for infrastructure and for package plants

67. (1) If an agreement for on site sanitation and associated services in accordance with section 4 exists and no infrastructure in connection therewith exists on the premises, the owner must immediately make application on a form approved by the authority and –
- (a) pay the prescribed charge for the installation of necessary infrastructure; or
 - (b) with the approval by the authority or the authorised provider, install the connecting sewer or on site sanitation services in accordance with the specifications of the authority or the authorised provider,.
- (2) An authority or the authorised provider, may specify the type of on site sanitation services to be installed, namely package plants or on-site treatment plants.
- (i) a developer or consumer shall prior to any construction apply to the authority of authorised provider and shall obtain prior permission to install a package plant where no mainline sewer is available for the authorised provider;
 - (ii) no package plant shall be constructed, nor shall any construction of whatsoever nature commence without prior approval being obtained from the authorised provider or local authority;
 - (iii) the requirement for the installation of an on-site package treatment plant shall consist of:
 - a) a comprehensive report from a professional (SAICE) registered engineer for the most appropriate package plant in the circumstances, to treat sewerage in respect of the application, taking into account the relevant demographics, spatial and environmental circumstances; and
 - b) upon acceptance of the engineer's proposal by the authority or authorised provider, the developer or land owner or consumer shall formalize such proposal by a service level agreement with the authority or authorised provider, in terms of which the following shall be contemplated and agreed to:
 - 1. the operation and maintenance of such plant;
 - 2. an approved site plan indicating the exact location of the proposed package plant, with adequate access and capability, to maneuver a heavy duty motor vehicle to access the site desludging purposes;
 - c) an acceptable contingency plan during prolonged periods of power outages; with particular reference to final effluent management;
 - d) proof of acceptance of such final effluent into a natural water source or storm water drain, by the local authority and by the Department of Water Affairs and Forestry.
 - e) availability and possibility of foreseen delays in replacing damaged components and moving parts of the package plants;
 - f) the permanent allocation of a trained operator of such plant;
 - g) a signed agreement with a registered professional consulting chemist and the authorised service provider (UGU) for the purposes of analytical monitoring of the treatment process and final effluent quality and steps to be taken in terms of and in the event of non-compliance;
 - h) odour and noise control, acceptable to the authorised provider (UGU);
 - i) the reasonable concealment of all unsightliness of such package plant from neighbouring developments, or units
 - (iv) the authority or authorised provider shall from time to time be entitled to test the final effluent to ensure compliance and shall be entitled to take whatever reasonable steps may be required to ensure compliance and continued compliance at the cost of the owner.
 - (v) it is recorded that the owner and developer and successors-in-title to the owner and developer shall maintain liability and responsibility for the maintenance and sustenance of such package plant and UGU is absolved in any sense from any obligations to maintain same and any costs arising from such package plant.

Services associated with on-site sanitation services

68. (1) The removal or collection of conservancy tank contents, night soil or the emptying of pits will be undertaken by the authority or the authorised provider, in accordance with a removal and collection schedule determined by the authority or the authorised provider,
- (2) Copies of the collection and removal schedule will be available on request.

Charges in respect of services associated with on-site sanitation services

69. (1) Charges in respect of the removal or collection of conservancy tank contents, night soil or the emptying of pits will be based on a fixed charge and tariff to be determined by UGU from time to time.
- (2) If the volume of conservancy tank contents, night soil or the emptying of pits removed or collected cannot be quantified the authority or the authorised provider, may charge a fixed charge as prescribed.

PART 3 – SEWAGE DISPOSAL

Provision of a connecting sewer

70. (1) If an agreement for the use of the sanitation scheme in accordance with section 2 exists and no connecting sewer exists in respect of the premises, the owner must immediately make application on a form approved by the authority and –
- (a) pay the prescribed charge for the installation of such a connecting sewer; or
- (b) with the approval by the authority or the authorised provider, install the connecting sewer in accordance with any specifications of the authority or the authorised provider,.
- (2) If an application is made for use of the sanitation scheme to a premises which is so situated that it is necessary to extend the sewer in order to connect the sanitation scheme to the premises, the authority or the authorised provider, may agree to the extension subject to such conditions as it may impose.

Location of connecting sewer

71. (1) A connecting sewer provided and installed by the authority or the authorised provider, or owner in terms of section (70) shall -
- (a) be located in a position agreed to between the owner and the authority or the authorised provider, and be of a size determined by an authorised officer;
- (b) terminate at a connection point approximately 1 meter inside the premises from the boundary of the land owned by or vested in the Authority or the authorised provider, or over which it has a servitude or other right or when subsection (3) applies at the connecting point designated in terms of that subsection;
- (2) In reaching agreement with an owner concerning the location of a connecting sewer, the authority or the authorised provider, shall ensure that the owner is aware of -
- (a) practical restrictions that may exist regarding the location of a connecting sewer pipe;
- (b) the cost implications of the various possible locations of the connecting sewer;
- (c) whether or not the authority or the authorised provider, requires the owner to fix the location of the connecting sewer by providing a portion of his or her water installation at or outside the boundary of his or her premises, or such agreed position inside or outside his or her premises where the connection is required, for the authority or the authorised provider, to connect to such installation.
- (3) An authority or the authorised provider, may at the request of any person agree, subject to such conditions as he or she may impose, to a connection to a sewer other than that which is most readily available for the drainage of the premises; provided that the applicant shall be responsible for any extension of the drainage installation to the connecting point designated by an authorised officer and for obtaining at his or her cost, such servitudes over other premises as may be necessary.
- (4) An owner must pay the prescribed connection charge.

- (5) Where an owner is required to provide a sewage lift as provided for in terms of the Building Regulations the rate and time of discharge into the sewer shall be subject to the approval of the authority or the authorised provider..

Provision of one connecting sewer for several consumers on same premises

72. (1) The authorised provider shall within its sole discretion, be entitled to decide and elect as to whether more than one connecting sewer to the sanitation scheme may be provided for the disposal of sewage from any premises, irrespective of the number of consumer units or units located on such premises.
- (2) Where the owner, or the person having the charge or management of any premises on which several units or consumer units are situated, requires the disposal of sewage from such premises for the purpose of disposal from the different consumer units, the authority or the authorised provider, may, in its discretion, provide and install either –
- (a) a single measuring device in respect of the premises as a whole or any number of such consumer units; or
 - (b) a separate measuring device for each consumer unit or any number thereof.
- (3) Where the authority or the authorised provider, has installed a single measuring device as contemplated in subsection (2)(a), the owner or the person having the charge or management of the premises, –
- (a) must if the authority or the authorised provider, so requires, install and maintain on each branch pipe extending from the connecting sewer to the different consumer units –
 - (i) a separate measuring device; and
 - (ii) an isolating valve; and
 - (b) will be liable to the authority or the authorised provider, for the tariffs and charges for all sewage disposed from the premises through such a single measuring device, irrespective of the different quantities disposed by the different consumers served by such measuring device.
- (4) Notwithstanding subsection (1), the authority or the authorised provider, may authorise that more than one connecting sewer be provided on the sanitation scheme for the disposal of sewage from any premises comprising sectional title units or if, in the opinion of the authority or the authorised provider, undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connecting sewer.
- (5) Where the provision of more than one connecting sewer is authorised by the authority or the authorised provider, under subsection (4), the tariffs and charges for the provision of a connecting sewer is payable in respect of each sewage connection so provided.

Interconnection between premises

73. An owner of premises shall ensure that no interconnection exists between the drainage installation on his or her premises and the drainage installation on other premises, nor shall any other interconnection of whatsoever nature be permitted between any sewerage outlet, conservancy tank or septic tanks or water supply or drainage or any combination of such drainage, supply tanks or outlets.

Disconnection of draining installation from connecting sewer

74. (1) The authority or the authorised provider, may disconnect a drainage installation from the connecting sewer and remove the connecting sewer if –
- (a) the agreement for provision has been terminated in terms of section (14) and it has not received an application for subsequent provision to the premises served by the sewer within a period of 90 days of such termination; or
 - (b) the building on the premises concerned has been demolished.
- (2) No septic tank or pit shall be constructed on any property nor any municipal land without the authorised provider's approval, which shall be in writing conform with these regulations.
- (3) Any plan submitted to UGU shall pertain percolation tests performed by a duly registered geotechnical engineer whose qualifications shall be recognized by UGU whose determination in this regard shall be final and with further reference to the Guidelines for Human Settlement, Planning and Design issued by the CSIR.

PART 4 – SEWAGE DELIVERED BY ROAD HAULAGE

Acceptance of sewage and industrial effluent delivered by road haulage

75. (1) A authority or the authorised provider, may, at its discretion, and subject to such conditions as it may specify, accept sewage for disposal delivered to the municipalities sewage treatment plants by road haulage, save that the application shall be obliged to provide audited accounts and log sheets if called upon by the service provider to do so in respect of all trips and deliveries which have been undertaken.

Written permission for delivery of sewage and industrial effluent by road haulage

76. (1) No person shall discharge sewage or industrial effluent into the municipalities sewage treatment plants by road haulage except with the written permission of the authority or the authorised provider, and subject to such period and any conditions that may be imposed terms of the written permission, which written permission shall set out the location of any site or place or destination that the person making such application wishes to discharge the sewerage or industrial effluent into, onto or proximate to.
- (2) The charges for any sewage or industrial effluent delivered for disposal to the authorised provider's sewage treatment plants shall be assessed by the authority or the authorised provider, in accordance with the prescribed tariffs of charges.

Conditions for delivery of sewage and industrial effluent by road haulage

77. (1) When sewage or industrial effluent is delivered by road haulage-
- (a) the time of delivery shall be arranged with the authority or the authorised provider,; and
 - (b) the nature and composition of the sewage and industrial effluent shall be established to the satisfaction of the authority or the authorised provider, prior to the discharge thereof and no person shall deliver sewage or industrial effluent that does not comply with the standards laid down in terms of these by-laws.

Withdrawal of permission for delivery of sewage by road haulage

78. (1) The authority or the authorised provider, may withdraw any permission, after giving at least fourteen days written notice of its intention to a person permitted to discharge sewage by road haul if the person –
- (a) fails to ensure that the sewage so delivered conforms to the standards prescribed in Schedule "A" or "B", as attached herewith, or in the written permission; or
 - (b) fails or refuses to comply with any notice lawfully served on him or her in terms of these by-laws or contravenes any provisions of these by-laws or any condition imposed on him in terms of any permission granted to him or her; and
 - (c) fails to pay the assessed charges in respect of any sewage delivered.

PART 5 – DISPOSAL OF INDUSTRIAL EFFLUENT AND TRADE PREMISES

Application for disposal of industrial effluent

79. (1) A person must apply for permission to discharge industrial effluent into the sanitation scheme of the authority or the authorised provider, in terms of section 4.
- (2) The authority or the authorised provider, may, if, in its opinion, the capacity of a sanitation scheme is sufficient to permit the conveyance and effective treatment and lawful disposal of the industrial effluent it will, for such period and subject to such conditions it may impose, grant written permission to discharge industrial effluent.
- (3) The provisions of Chapter 2 will *mutatis mutandis* apply to any permission to discharge industrial effluent.
- (4) Any person who wishes to construct or cause to be constructed, a building which shall be used as a trade premises, shall at the time of lodging a building plan in terms of section (4) of the National Building Regulations and Building Standards Act also lodge applications for the provision of sanitation services and for permission to discharge industrial effluent in terms of subsection (2).

Unauthorised discharge of industrial effluent

80. (1) No person shall discharge or cause or permit to be discharged into the sanitation scheme any industrial effluent except with and in terms of the written permission of the authority or the authorised provider, and in accordance the provisions of this part.
- (2) A person to whom such permission is granted shall pay to the authority or the authorised provider, any prescribed charges.

Quality standards for disposal of industrial effluent

81. (1) A person to whom permission has been granted in terms of section 79 must ensure that no industrial effluent is discharged into the sanitation scheme of the authority or the authorised provider, unless it complies with the standards and criteria set out in Schedules A and B hereto.
- (2) The authority or the authorised provider, may by writing in the permission concerned, relax or vary the standards in Schedules A or B, provided that the authority or the authorised provider, is satisfied that any such relaxation represents the best practicable environmental option.
- (3) In determining whether relaxing or varying the standards in Schedules A or B represents the best practicable environmental option a authority or the authorised provider, will consider -
- (a) whether the applicant's undertaking is operated and maintained at optimal levels;
 - (b) whether technology used by the applicant represents the best available option to the applicant's industry and, if not, whether the installation of such technology would entail unreasonable cost to the applicant;
 - (c) whether the applicant is implementing a program of waste minimisation which complies with national and local waste minimisation standards to the satisfaction of the authority or the authorised provider,;
 - (d) the cost to the authority or the authorised provider, of granting the relaxation or variation; and
 - (e) the environmental impact or potential impact of such a relaxation or variation.
- (4) Test samples may be taken at any time by a duly qualified sampler to ascertain whether the industrial effluent complies with Schedule A and B or any other standard laid down in a written permission, which costs shall be for the consumer, being the person to whom permission has been granted.

Conditions for disposal of industrial effluent

82. (1) The authority or the authorised provider, may in the written permission or at any time, by written notice, require a person to -
- (a) subject the industrial effluent to such preliminary treatment as in the opinion of the authority or the authorised provider, will ensure that the industrial effluent conforms to the standards

- prescribed in Schedules A and B before being discharged into the sanitation scheme;
 - (b) install such equalising tanks, valves, pumps, appliances, meters and other equipment as in the opinion of the authority or the authorised provider, will be necessary to control the rate and time of discharge into the sanitation scheme in accordance with the conditions imposed by it;
 - (c) install for the conveyance of his or her industrial effluent into the sanitation scheme at a given point, a drainage installation separate from the drainage installation for waste water and standard domestic effluent and may prohibit such person from disposing of his or her industrial effluent at any other point and from disposing of his or her waste water and standard domestic effluent by means other than into a sanitation scheme;
 - (d) construct on any pipe conveying his or her industrial effluent to any sewer, a manhole or stop-valve in such position and of such dimensions and materials as the authority or the authorised provider, may prescribe;
 - (e) provide all such information as may be required by the authority or the authorised provider, to enable it to assess the tariffs or charges due to the authority or the authorised provider;;
 - (f) provide adequate facilities such as level or overflow detection devices, standby equipment, overflow catch-pits, or other appropriate means to prevent a discharge into the sanitation scheme which is in contravention of these by-laws;
 - (g) cause any meter, gauge or other device installed in terms of this section to be calibrated by an independent authority at the cost of that person at such intervals as required by the authority or the authorised provider, and copies of the calibration to be forwarded to it; and
 - (h) cause his or her industrial effluent to be analyzed as often and in such manner as may be prescribed by the authority or the authorised provider, and provide it with the results of these tests when completed.
- (2) The cost of any treatment, plant, works or analysis which the permit holder may be required to carry out, construct or install in terms of subsection (1) shall be borne by the permit holder concerned.
- (3) The written permission of the authority or the authorised provider, must be obtained for any proposed changes to the composition of industrial effluent discharged into the sanitation scheme.
- (4) Any person who seeks or who requests or who requires such permission from the authorised provider shall be obliged to attend to all of the following:
- (i) the person shall submit a report to the service provider from an accredited scientific laboratory or authority;
 - (ii) such report shall be submitted contemporaneously with such application;
 - (iii) such report shall include an analysis of the effluent process as well as recommendations to maintain and if possible improve quality of such industrial effluent;
 - (iv) such report shall also contain an undertaking that the maintenance or improvement of such quality shall be implemented within 30 days of the authorised provider granting such permission.
 - (v) A sampling device which shall sample at intervals of 24 hours and which shall be approved by the authorised provider, shall be installed.
 - (vi) a flow meter to be approved by the authorised provider shall also be installed. The 24 hour sampler and the flow meter shall be calibrated annually by the Council for Scientific and Industrial Research or an authorised agent or an organ of the CSRI.
 - (vii) the water sampling and flow meters are to be electronically linked to a system installed on the site, which in turn shall be electronically linked to a system as approved by the authorised provider.
 - (viii) When the person seeking permission is called upon to do so by the authorised provider, printouts and copies shall be provided to the authorised provider, UGU, within 24 hours of the applicant receiving a written instruction to do so. All costs in respect of the permission and the obligations set out herein shall be borne by the applicant seeking permission.

Withdrawal of written permission for disposal of industrial effluent

83. (1) The authority or the authorised provider, may withdraw any permission, after giving at least fourteen days written notice of its intention to a person permitted to discharge industrial effluent into the sanitation scheme if the person –
- (a) fails to ensure that the industrial effluent discharged conforms to the industrial effluent standards prescribed in Schedules A and B of these by-laws or the written permission;
 - (b) fails or refuses to comply with any notice lawfully served on him or her in terms of these by-laws or contravenes any provisions of these by-laws or any condition imposed in terms of any permission granted to him or her; or

- (c) to pay the assessed charges in respect of any industrial effluent discharged.
- (2) The authority or the authorised provider, may on withdrawal of any written permission -
 - (a) in addition to any steps prescribed in these by-laws, and on fourteen days' written notice authorise the closing or sealing of the connecting sewer of the said premises to any sewer for such charge as may be prescribed in the Authority or the authorised provider, 's tariff of charges; and
 - (b) refuse to accept any industrial effluent until it is satisfied that adequate steps are or have been to ensure that the industrial effluent to be discharged conforms with the standards prescribed in these by-laws.

Notification of non-compliance with standards of industrial

84. In the event that industrial effluent that does not comply with the standards in Schedules A or B or the written permission issued in respect of that process or premises, is discharged into the sanitation scheme, the authority or the authorised provider, must be informed of the incident and the reasons therefore within twelve hours of such discharge.

PART 6 – MEASUREMENT OF QUANTITY OF EFFLUENT DISCHARGED TO SANITATION SCHEME

Measurement of quantity of standard domestic effluent discharged

85. (1) The quantity of standard domestic effluent discharged shall be determined by a percentage of water supplied by the authority or the authorised provider,; provided that where the authority or the authorised provider, is of the opinion that such a percentage in respect of specific premises is excessive, having regard to the purposes for which water is consumed on those premises, the authority or the authorised provider, may reduce the percentage applicable to those premises to a figure which, in its opinion and in the light of the available information, reflects the proportion between the likely quantity of sewage discharged from the premises and the quantity of water supplied thereto.
- (2) Where a premises is supplied with water from a source other than or in addition to the authority or the authorised provider's water supply scheme, including abstraction from a river or borehole, the quantity will be a percentage of the total water used on that premises as may be reasonably estimated by the authority or the authorised provider,.

Measurement of quantity of industrial effluent discharged

86. (1) The quantity of industrial effluent discharged into the sanitation scheme shall be determined -
- (a) where a measuring device is installed by the quantity of industrial effluent discharged from a premises as measured through that measuring device;
 - (b) until such time as a measuring device is installed by a percentage of the water supplied by the authority or the authorised provider, to that premises.
- (2) Where a premises is supplied with water from a source other than or in addition to the authority or the authorised provider's water supply scheme, including abstraction from a river or borehole, the quantity will be a percentage of the total water used on that premises as may be reasonably estimated by the authority or the authorised provider,.
- (3) Where a portion of the water supplied to the premises forms part of the end product of any manufacturing process or is lost by reaction or evaporation during the manufacturing process or for any other reason, the authority or the authorised provider, may on application reduce the assessed quantity of industrial effluent.

Reduction in the quantity determined in terms of Sections 85 and 86 (1)(a)

87. (1) A person shall be entitled to a reduction in the quantity determined in terms of Sections 85 and 86 (1)(a) in the event that the quantity of water on which the percentage is calculated was measured during a period where water was wasted or a leakage was undetected if the consumer demonstrates to the satisfaction of the authority or the authorised provider, that the said water was not discharged into the sanitation scheme.
- (2) The reduction in the quantity shall be based on the quantity of water loss through leakage or wastage

during the leak period.

- (3) The leak period shall be either the measuring period immediately prior to the date of repair of the leak or the measurement period during which the leak is repaired, whichever results in the greater reduction in the quantity.
- (4) The quantity of water loss shall be calculated as the consumption for the leak period less an average consumption, based on the preceding three months, for the same length of time. In the event of no previous consumption history being available the average water consumption will be determined by the authority or the authorised provider,, after due consideration of all relevant information.
- (5) There shall be no reduction in the quantity if the loss of water directly or indirectly resulted from the consumer's failure to comply with or contravention of these by-laws.

PART 7 – DRAINAGE INSTALLATIONS

Construction or installation of drainage installations

88. (1) Any drainage installation constructed or installed must comply with any applicable specifications in terms of the National Building Regulations Act 103 of 1977 and any standards prescribed in terms of such Act, which shall be read in conjunction with the prescripts and requirements as set out in the Guidelines for Human Settlement, Planning and Design pertaining to Sanitation Systems and which shall *ipso facto* form part of these regulations.
- (2) the authority or the authorised provider, may levy a charge that covers all the operating and maintenance costs in the removal of the pit contents, transportation to a disposal site, the treatment of the contents to achieve a sanitary condition and the final disposal of any solid residues. The charge may be in the form of a monthly contribution or it may be levied as a single payment when the service is rendered.

Drains in Streets or Public Places

89. No person shall for the purpose of conveying sewage derived from whatever source, lay or construct a drain on, in or under a street, public place or other land owned by, vested in, or under the control of the authority or the authorised provider, except with the prior written permission of the authority or the authorised provider, and subject to such conditions as it may impose.

Construction by authority or the authorised provider,

90. The authority or the authorised provider, may agree with the owner of any premises that any drainage work which such owner desires, or is required to construct in terms of these by-laws or the Building Regulations, will be constructed by the authority or the authorised provider, against payment, in advance or on demand, of all costs associated with such construction.

Maintenance of drainage installation

91. (1) The owner or occupier of any premises must maintain any drainage installation and any sewer connection on such premises.
- (2) Any person who requests the authority or the authorised provider, to clear a drainage installation will be liable to pay the prescribed tariff.
- (3) A authority or the authorised provider, may, on the written application of the owner or occupier of any premises, inspect and test the drainage installation of such premises or any section thereof and recover from the owner or occupier the cost of such inspection and test, calculated at the rate specified in the prescribed tariff of charges.

Installation of pre-treatment facility

92. A authority or the authorised provider, may require that any new premises must be provided with a minimum pre-treatment facility of a type specified by it prior to that premises being connected to the sanitation scheme.

Protection from ingress of floodwaters

93. Where a premises is situated in the 1 in 100 years flood plain the top level of manholes, inspection chambers and gullies is to be above the 1 in 100 years flood level, except, in the case of manholes and inspection chambers, where the cover is secured in place by means approved by the authority.

PART 8 – PROTECTION OF INFRASTRUCTURE**Power of Entry and Inspection**

94. (1) An officer of the authority may for any purpose connected with the implementation or enforcement of these By-laws, at all reasonable times or in an emergency at any time, enter premises, request information, take samples, make such inspection, examination and enquiry and carry out work as he or she may deem necessary, and for those purposes operate any component of the drainage installation.
- (2) If the authorised officer considers it necessary that work be performed to enable an authorised officer properly and effectively to implement a function referred to in subsection (1), he may -
- (a) by written notice require the owner or occupier of the premises at his own cost to do specified work within a specified period; or
 - (b) if in his opinion the situation is a matter of urgency, without prior notice do such work or cause it to be done, at the cost of the owner.
- (3) If the work referred to in subsection (2) is carried out for the sole purpose of establishing whether a contravention of these by-laws has been committed and no such contravention is established, the authority shall bear the expense connected therewith together with that of restoring the premises to its former condition but it shall no otherwise bear such expense.

Trespassing on the Sanitation scheme

95. (1) No person shall without the prior written permission of the authorised officer enter –
- (a) upon an area used for the purpose of the sanitation scheme which is enclosed by a fence or where entry is prohibited by notice boards; or
 - (b) a structure used by the authority in connection with its sanitation scheme.

Interference with the Sanitation scheme

96. (1) Except with the prior authority of an authorised officer –
- (a) no person shall interfere or tamper with the sanitation scheme,
 - (b) no person shall make a connection to the sanitation scheme save as contemplated in section 67.
 - (c) no person shall construct a building or raise or lower the ground level within an area that is subject to a sewer servitude.

Damage to Sanitation scheme

97. (1) No person shall damage or endanger the sanitation scheme, or cause or permit it to be damaged or endangered.
- (2) Any person who intends performing work which may cause damage to the sanitation scheme on land owned by or vested in the water and sanitation services authority or over which it has a servitude or other right, shall prior to commencement of such work, ascertain from an authorised officer if any part of the sanitation scheme is situated on the land.
- (3) If work which in the opinion of an authorised officer could damage or endanger the sanitation scheme is to be performed or is being performed on land referred to in subsection (2), or on land adjacent thereto, he may by notice in writing require the person concerned not to commence, or to cease performing, the work until such time as he has complied with the conditions specified in the notice.

Consequential Maintenance of Sewers

98. (1) Whenever a sewer is damaged or becomes obstructed or in need of repair as a result of the act or omission of any person, whether by reason of the failure of such person to comply with the requirements of these by-laws or otherwise, the authority shall be entitled to carry out such work of maintenance or repair as an authorised officer considers necessary or to remove the obstruction at the expense of such person and to recover from him the full cost of doing so.

Obstruction of Access to Sanitation scheme

99. (1) No person shall prevent or restrict access to the sanitation scheme
- (2) If a person contravenes subsection (1), the authorised officer may:
- (a) by written notice require the person to restore access at his or her own cost within a specified period; or
 - (b) if he or she is of opinion that the situation is a matter of urgency, without prior notice restore access and recover the full cost of doing so from such person.

Work By Private Persons

- 100 (1) The authority or the authorised provider shall lay all sewers and connecting sewers unless it elects not to do so in which case the work shall be executed in accordance with the authority's Conditions of Contract applicable to the work and the following provisions:
- (a) any persons carrying out such work in terms of this section shall prior to commencement of such work lodge with an authorised officer a written indemnity to his satisfaction indemnifying the authority against all liability in respect of any accident or injury to persons or loss or damage to property which may occur as the direct result of the execution of such works;
 - (b) where a connection is to be made with any sewer it shall be made at a point indicated by the authorised officer;
 - (c) whenever the surface of any street or road has been disturbed in the course of such work, the restoration of such surface shall be undertaken by solely by the authority at the expense of the person carrying out such work.
- (2) Prior to the disturbance of the surface of such street or road a deposit shall be made by such person with the authority which in the opinion of the authorised officers is sufficient to cover the estimated cost of such restoration.
- (3) When the actual cost is greater or less than the amount deposited an excess shall be recoverable from such person and any balance shall be refunded to him.
- (4) All work shall be carried out in accordance with the requirements and to the satisfaction of an authorised officer.

CHAPTER 5 – APPROVALS OF WATER SERVICE PROVIDERS, SUPPLIERS OF WATER FOR INDUSTRIAL USE AND REGISTRATION OF WATER AND SANITATION AND SEWER SERVICES INTERMEDIARIES

PART 1 – WATER AND SANITATION AND SEWER SERVICES PROVIDER – APPROVAL

Request for Applications for Approval

- 101 (1) The authority may, in respect of any water scheme established or to be established in its area of jurisdiction, at any time if it decides not to be the water and sanitation services provider in respect of such water scheme as contemplated in section 19(1)(a) of the Act, by public notice, call for proposals from suitable persons or institutions to seek the approval of the authority to be the water and sanitation and sewer services provider in respect of such water scheme as contemplated in section 22(1), read with section 19(1)(b), of the Act.
- (2) The public notice referred to in section 101(1) shall be delivered to every public sector water services provider known to the authority and shall also be published in a newspaper or newspapers circulating in the area where the water scheme is situated which notice shall be published in the predominate language of such newspaper and of the majority of people to be served by such water scheme.
- (3) The authority shall give prior consideration to any proposals submitted by any public sector water services provider as contemplated in section 19(2) of the Act before considering any proposals submitted by any private sector water and sanitation and sewer services providers.
- (4) The authority shall, in respect of every water scheme for which it intends to approve a water services provider
- (a) prepare a full and detailed description of the water scheme or schemes which will be operated by the water and sanitation services provider and which shall provide that the authority complies with the criteria set in section 11 of the Act, these by-laws and the water development plan adopted by the authority in terms of section 15 of the Act, which description shall include, but not be limited to:
 - (i) the name or names of the water scheme or schemes,
 - (ii) an indication of the nature of the water and sanitation services to be provided by the water services provider;
 - (iii) detailed plans or drawings, with co-ordinates and scales, and specifications depicting the physical installation associated with the water scheme or schemes, including all the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto used or intended to be used by it in connection with the provision of water and sanitation and sewer services contemplated in the proposal;
 - (iv) a detailed description, including numbers and locality, of the consumers or potential consumers that will be supplied with water by the water and sanitation and sewer services provider;
 - (v) details of the source, the quality and quantity of water that will be supplied to consumers or potential consumers and what arrangements are in place to ensure that such quality and quantity is consistently maintained; and
 - (vi) a certificate indicating who the legal owner or owners of the water scheme or schemes is or are; and
 - (vii) certified copies of all documents and deeds reflecting the legal status of the water scheme or schemes, including deeds of servitude where appropriate.
 - (b) make such information available to all persons or institutions who wish to submit a proposal in response to the public notice published in terms of subsection (4)(a).
- (5) Any proposal submitted in response to the public notice contemplated in section 2(1) shall include the following:
- (a) a certified copy of the identity document of the applicant, or a certified copy of the founding document or constitution of the applicant, if the applicant is a legal person;
 - (b) a certified resolution adopted by the management body of the applicant, if the applicant is a legal person, resolving to apply for approval as a water and sanitation and sewer services

- provider;
- (c) a certified list of the names and addresses of all persons occupying a leadership and decision-making power in the applicant;
- (d) a detailed statement, supported by adequate proof of authenticity, setting out the applicants qualifications, capacity to undertake the work associated with the provision of water and sanitation and sewer services in the circumstances reflected in the application, and the experience, skills and financial resources available to it to undertake the provision of water and sanitation and sewer services to be provided by the applicant;
- (e) a business plan setting out how the water scheme or water schemes will be operated and maintained during the period the water and sanitation services provider will undertake the supply of water and sanitation services as contemplated in the proposal, and what arrangements have been adopted to deal with any emergency, including natural disasters and drought;
- (f) a budget describing the financial administration of the water scheme or water schemes, the source of any capital or revenue requirements, and an indication of the sustainability of the water scheme or water schemes;
- (g) details of tariffs and charges that the applicant will levy on all consumers and potential consumers, the method of calculating such tariffs and charges, the process whereby increases or decreases in such tariffs and charges will be dealt with, and the manner in which such tariffs and charges comply with the national norm set by the Minister of Water Affairs and Forestry in terms of section 10 of the Act; and
- (h) full details of the conditions that will be imposed in terms of section 4 of the Act and full details required in terms of section 19(4) of the Act.

Application for Approval

102. (1) Any person or institution seeking approval from the authority in terms of sections 6(1) or 22(1) of the Act under circumstances other than in response to a notice published in terms of section 101(1), or the renewal of an existing approval, shall do so in accordance with the provisions of these by-laws and at its own expense.
 - (a) No application for approval in terms of section 6(1) of the Act shall be granted in respect of any water scheme where the consumers or potential consumers exceed 50 persons or where the population density exceeds one person per hectare.
 - (b) Any application for an approval in terms of section 30(2)(d) of the Act shall be made under the provisions of section 22(1) of the Act.
- (2) An application for such approval, or the renewal of such approval, shall be made to the authority in writing
- (3) Immediately on receipt of an application made in terms of section 22(1) of the Act, if the applicant is a private sector water and sanitation services provider, the authority shall, in terms of section 19(2) of the Act, notify all public sector water providers known to it and:
 - (a) request such public sector water and sanitation services providers to notify the authority within a period of 30 days from the date of the receipt by the public sector water provider of such notice whether it is willing and able to perform the functions contained in the application, and if it is, to provide the authority with the documents and particulars referred to in subsection (4), and
 - (b) on receipt of such documentation and particulars, the authority shall consider such application and decide whether to approve a public sector water and sanitation services provider or a private sector water and sanitation services provider in respect of the water scheme concerned.
- (4) Any application for approval in terms of section 102(1), or the renewal of any approval granted by the authority, shall be accompanied by, at least, the following documents or particulars, provided that, in the case of a renewal of an approval, the authority may, in its discretion, dispense with some of the documents or particulars to avoid unnecessary duplication:
 - (a) a certified copy of the identity document of the applicant, if a natural person, or a certified copy of the founding document or constitution of the applicant, if the applicant is a legal person;
 - (b) a certified resolution adopted by the management body of the applicant, if the applicant is a legal person, resolving to apply for approval as a water and sanitation services provider;
 - (c) a certified list of the names and addresses of all persons occupying a leadership and decision-making power in the applicant;
 - (d) a detailed statement, supported by adequate proof of authenticity, setting out the

- applicants qualifications, capacity to undertake the work associated with the provision of water and sanitation services in the circumstances reflected in the application, and the experience, skills and financial resources available to it to undertake the provision of water and sanitation services to be provided by the applicant;
- (e) a full and detailed description of the water scheme or schemes which will be operated by the applicant containing sufficient information to enable the authority to determine whether the water scheme or schemes complies with the criteria set in section 11 of the Act, these by-laws and the water development plan adopted by the authority in terms of section 15 of the Act, which description shall include, but not be limited to:
- (i) the name or names of the water scheme or schemes,
 - (ii) an indication of the nature of the water and sanitation services to be provided by the applicant;
 - (iii) detailed plans or drawings, with co-ordinates and scales, and specifications depicting the physical installation associated with the water scheme or schemes, including all the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto used or intended to be used by it in connection with the provision of water and sanitation services contemplated in the application;
 - (iv) a detailed description, including numbers and locality, of the consumers or potential consumers that will be supplied with water by the applicant;
 - (v) details of the source, the quality and quantity of water that will be supplied to consumers or potential consumers and what arrangements are in place to ensure that such quality and quantity is consistently maintained;
 - (iv) a business plan setting out how the water scheme or water schemes will be operated and maintained during the period the applicant undertakes the supply of water and sanitation services as contemplated in the application, and what arrangements have been adopted to deal with any emergency, including natural disasters and drought;
 - (vii) a budget describing the financial administration of the water scheme or water schemes, the source of any capital or revenue requirements, and an indication of the sustainability of the water scheme or water schemes; and
 - (viii) details of tariffs and charges that the applicant will levy on all consumers and potential consumers, the method of calculating such tariffs and charges, the process whereby increases or decreases in such tariffs and charges will be dealt with, and the manner in which such tariffs and charges comply with the national norm set by the Minister of Water Affairs and Forestry in terms of section 10 of the Act.
 - (i) a certificate indicating who the legal owner or owners of the water scheme or schemes is or are;
 - (ii) certified copies of all documents and deeds reflecting the legal status of the water scheme or schemes, including deeds of servitude where appropriate; and
 - (iii) full details of the conditions that will be imposed in terms of section 4 of the Act and full details required in terms of section 19(4) of the Act.

Additional Information to make Decision

103. (1) The authority may call for any additional information or documents reasonably required to enable it to determine whether the proposer or applicant, including a public sector water provider, or the water scheme or schemes will comply with the Act, these by-laws and the water development plan of the authority, and whether the obligations of the authority, imposed on it by the Act, will be met.
- (2) The authority may, and it shall, if it initially decides to refuse to accept a proposal made as contemplated in section 101(1), or if it, initially decides to refuse an application made in terms of section 102(1), including an application made by a public sector water provider, prior to making a final decision, meet with the proposer or applicant, and any organisation reasonably representative of the consumers or potential consumers of the water scheme or schemes, in order to hear representations made by the applicant and such representative organisations in support of, or against, the applications, and it shall take such representations into account in arriving at its final decision.

Procedure on Approval

104. (1) In the event of the authority granting such approval it shall,
- (a) in the case of an application for approval in terms of section 6(1) of the Act, issue a letter of approval to the applicant containing such conditions as the authority may deem

- appropriate, which conditions shall be binding on the applicant, and which may contain an obligation to comply with any provision of these by-laws as though such person or institution was an approved water and sanitation services provider;
- (b) in the case of an application for approval in terms of section 22(1) of the Act,
- (i) if the applicant is a private sector water and sanitation services provider, cause a notice to be published in a newspaper or newspapers circulating in the area where the water scheme to which the application relates is situated, publicly disclosing its intention to approve such application; and
 - (ii) enter into a contract with the applicant, as contemplated in section 19(1)(b)(i) of the Act, provided that, in the case of a private sector water and sanitation services provider, such contract shall not commence until a period of thirty days has elapsed after the date of the publication of the notice contemplated in subsection (1)(b)(i) and after the authority has taken into account any representations made by any person or institution in response to the said notice; or
 - (v) enter into a joint venture agreement with the water and sanitation services provider as contemplated in section 19(1)(b)(ii) of the Act upon such terms and conditions as may be negotiated by such parties, provided that, in the case of a private sector water and sanitation services provider, such agreement shall not commence until a period of thirty days has elapsed after the date of the publication of the notice contemplated in subsection (1)(b)(i) and after the authority has taken into account any representations made by any person or institution in response to the said notice.
- (2) Any notice contemplated in subsection (1)(b)(i) shall be published in a newspaper or newspapers, and in the predominant language of such newspaper, which is or are most likely to be read by a majority of the consumers or potential consumers of the water scheme and by the public generally in the area of jurisdiction of the authority.

PART 2 – WATER SCHEMES MANAGED AND ADMINISTERED BY AN APPROVED WATER AND SANITATION SERVICES PROVIDER

Water Scheme Categories

105. (1) This section shall apply in all cases where the authority has granted its approval to a person or institution in terms of section 22(1) of the Act read with section 101 and 102 of these by-laws.
- (2) The authority shall designate each water scheme in its area of jurisdiction into one or other category defined in subsection (3).
- (3) The categories of water schemes contemplated in subsection (2) shall be:
- (a) 'Category A' being a range of water schemes from elementary water schemes providing water supply services by drawing water from a hand pump or protected spring, and/or the provision of elementary sanitation services to a rural community to more advanced water schemes providing water supply services by way of an abstraction system which is more sophisticated which has a metered connection to a bulk main and the capacity to supply both communal stand-pipes and private connection provision, and/or sanitation services to a rural or semi-urban community;
 - (b) 'Category B' being a range of water schemes from water schemes where the abstraction and reticulation provides water to laid out or clearly identified sites, and/or sanitation services, to small towns, including unproclaimed towns, to water schemes providing water supply services and/or sanitation services to a township proclaimed or approved under any law relating to the establishment of townships and/or water supply services for industrial use, and/or for the disposal of industrial effluent.
- (4) The authority may from time to time in appropriate circumstances change the category to which any water scheme has been allocated to.
- (5) A authority shall give written notice to the appropriate approved water and sanitation services provider of its intention to change the category to which any water scheme is allocated to such water and sanitation services provider, and the change in allocation shall take effect from the date upon which such notice is delivered to the relevant water and sanitation services provider.
- (6) The decision of the authority to allocate a category to a water scheme shall be final, provided that any person or institution which has an interest in a particular water scheme who is aggrieved by such allocation on the grounds that he or she is materially prejudiced by such allocation, shall be entitled to appeal to the council of the authority against such allocation in accordance with the following provisions:
- (a) an appeal shall be noted in writing delivered to a recognised main office of the authority or by pre-paid post addressed to the recognised postal address of the authority;
 - (b) the document evidencing the appeal shall state the grounds upon which the appellant considers that he or she is prejudiced by the allocation appealed against;
 - (c) the appeal shall be considered and disposed of by the council within 45 days of the receipt by it of the document evidencing the appeal;
 - (d) the decision of the council shall be final.
- (7) The authority may, in its discretion, in respect of any water scheme falling into categories A, suspend any by-law for a defined period of time or indefinitely upon such conditions as it may impose, which conditions may be imposed either at the time that it resolves to suspend any by-law or at any time thereafter, and it may at any time, in its discretion, withdraw such suspension, provided that it shall give not less than 60 days written notice of such withdrawal to all interested and affected parties.
- (8) No by-law shall be suspended if the consequences of such suspension shall constitute a contravention of the Act.

Water and sanitation services Provider Categories

106. (1) Every approved water and sanitation services provider shall be designated as a Category 1 or a Category 2 provider in accordance with the following criteria:
- (a) A Category 1 provider shall be a person or institution which, in the opinion of the authority, has the capacity, without external assistance, to manage and administer the

- water scheme in respect of which approval has been granted in terms of section 22(1) of the Act and to maintain and operate the water scheme efficiently and effectively.
- (b) A Category 2 provider shall be a person or institution which, in the opinion of the authority, does not have the capacity, without external assistance, to manage and administer the water scheme in respect of which approval has been granted in terms of section 22(1) of the Act and to maintain and operate the water scheme efficiently and effectively.
- (2) The decision of the authority to allocate a category to an approved water and sanitation services provider shall be final, provided that any person or institution which has an interest in a particular provider who is aggrieved by such allocation on the grounds that he or she is materially prejudiced by such allocation, shall be entitled to appeal to the council of the authority against such allocation in accordance with the following provisions:
- (a) an appeal shall be noted in writing delivered to a recognised main office of the authority or by pre-paid post addressed to the recognised postal address of the authority;
 - (b) the document evidencing the appeal shall state the grounds upon which the appellant considers that he or she is prejudiced by the allocation appealed against;
 - (c) the appeal shall be considered and disposed of by the council within 45 days of the receipt by it of the document evidencing the appeal;
 - (d) the decision of the council shall be final.
- (3) The authority may, in its discretion, require a Category 2 water and sanitation and sewer services provider, as a condition of approval in terms of section 22(1) of the Act, to enter into a contract with a support services provider who shall in the opinion of the authority, have the capacity to provide resources and assistance to the water and sanitation services provider required to enable the water and sanitation services provider to comply with the provisions of the Act, these by-laws (subject to section 105(6)) and any contract or joint venture agreement contemplated in section 19(1)(b)(i) or (ii) of the Act.
- (a) A certified copy of the agreement referred to in subsection (3) shall be lodged with the authority and such copy shall at all times reflect the true agreement between the parties to it;
 - (b) Any contract entered into in terms of subsection (3) shall be approved by the authority and may not be amended by the water service provider and the support services agent without the prior written consent of the authority.

Monthly Report

107. (1) An approved water and sanitation services provider shall submit a monthly report to the authority providing at least the following information:
- (a) such information as the authority may reasonably require in order to enable it to monitor and evaluate the operation of the water scheme concerned and to satisfy itself that the said scheme is being operated in such a manner so as to fulfil the requirements of Act, the applicable water development plan, these by-laws and the contract or joint venture contemplated in section 19(1)(b)(i) or (ii) of the Act;
 - (b) full details in regard to:
 - (i) the names and addresses of all consumers;
 - (ii) the quantity of water consumed by each consumer;
 - (iii) the record of payments made by each consumer;
 - (iv) arrears owing by consumers to the approved water and sanitation services provider and the steps being taken to recover such arrears;
 - (v) arrears written off as irrecoverable and reasons why they are deemed to be irrecoverable;
 - (vi) circumstances where water and sanitation services are limited or discontinued and the reasons why such services are so limited or discontinued; and
 - (vii) any action taken by such water and sanitation services provider under Parts 1, 2, 5 and 6 of Chapter 2 of these by-laws where empowered to undertake such action, full details of all and any conditions imposed by the authorised provider in terms of section 4(1) of the Act and any amendments made to such conditions from time to time.
- (2) Failure to submit the said report shall constitute grounds upon which the authority shall be entitled to review the approval granted by it in terms of section 22(1) of the Act to the water services provider concerned.

Disputes

108. Any dispute or conflict arising between the authority and an approved water and sanitation and sewer services provider shall be resolved arbitration as provided in section 35.

PART 3 – WATER SUPPLY FOR INDUSTRIAL USE AND ACCEPTANCE OF INDUSTRIAL EFFLUENT

Industrial Use – Application

109. (1) Any person or institution seeking approval, or the renewal of an approval, from the authority in terms of section 7(1) of the Act shall do so in accordance with the provisions of these by-laws and at its own expense.
- (2) If an applicant intends making application simultaneously for approval in terms of section 7(1) and any other provision of the Act, he shall deal with each application, provided that information may be incorporated in one or the other application by reference.
- (3) An application for approval contemplated in subsection (1), or the renewal of such approval, shall be made to the authority in writing.
- (4) Any submission application for any approval in terms of subsection (1), or the renewal of any approval granted by the authority, shall be accompanied by, at least, the following documents or particulars, provided that, in the case of a renewal of an approval, the authority may, in its discretion, dispense with some of the documents or particulars to avoid unnecessary duplication:
- (a) a certified copy of the identity document of the applicant, if a natural person, or a certified copy of the founding document or constitution of the applicant, if the applicant is a legal person;
 - (b) a certified resolution adopted by the management body of the applicant, if the applicant is a legal person, resolving to apply for approval as a water and sanitation services provider;
 - (c) a certified list of the names and addresses of all persons occupying a leadership and decision-making power in the applicant;
 - (d) a detailed statement, supported by adequate proof of authenticity, setting out the applicants qualifications, capacity to undertake the work associated with the provision of water and sanitation services in the circumstances reflected in the application, and the experience, skills and financial resources available to it to undertake the provision of water and sanitation services to be provided by the applicant;
 - (e) a full and detailed description of the water scheme or schemes which will be operated by the applicant containing sufficient information to enable the authority to determine whether the water scheme or schemes complies with the criteria set in section 11 of the Act, these by-laws and the water development plan adopted by the authority in terms of section 15 of the Act, which description shall include, but not be limited to:
 - (i) the name or names of the water scheme or schemes,
 - (ii) an indication of the nature of the water and sanitation services to be provided by the applicant;
 - (iii) detailed plans or drawings, with co-ordinates and scales, and specifications depicting the physical installation associated with the water scheme or schemes, including all the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto used or intended to be used by it in connection with the provision of water and sanitation services contemplated in the application;
 - (iv) a detailed description, including numbers and locality, of the consumers or potential consumers that will be supplied with water by the applicant;
 - (v) details of the source, the quality and quantity of water that will be supplied to consumers or potential consumers and what arrangements are in place to ensure that such quality and quantity is consistently maintained;
 - (vi) a business plan setting out how the water scheme or water schemes will be operated and maintained during the period the applicant undertakes the supply of water and sanitation services as contemplated in the application, and what arrangements have been adopted to deal with any emergency, including natural disasters and drought;
 - (vii) a budget describing the financial administration of the water scheme or water schemes, the source of any capital or revenue requirements, and an indication of

- (viii) the sustainability of the water scheme or water schemes; and details of tariffs and charges that the applicant will levy on all consumers and potential consumers, the method of calculating such tariffs and charges, the process whereby increases or decreases in such tariffs and charges will be dealt with, and the manner in which such tariffs and charges comply with the national norm set by the Minister of Water Affairs and Forestry in terms of section 10 of the Act.
- (a) The applicant shall also provide:
 - (i) a certificate indicating who the legal owner or owners of the water scheme or schemes is or are;
 - (ii) certified copies of all documents and deeds reflecting the legal status of the water scheme or schemes, including deeds of servitude where appropriate; and
 - (iii) full details of the conditions that will be imposed in terms of section 4 of the Act and full details required in terms of section 19(4) of the Act.
- (5) The authority may call for any additional information or documents reasonably required to enable it to determine whether the proposer or applicant, including a public sector water provider, or the water scheme or schemes will comply with the Act, these by-laws and the water development plan of the authority, and whether the obligations of the authority, imposed on it by the Act, will be met.
- (6) The authority may, and it shall, if it initially decides to refuse an application made in terms of subsection (1), including an application made by a public sector water provider, prior to making a final decision, meet with the applicant, and any organisation reasonably representative of the consumers or potential consumers of the water scheme or schemes, in order to hear representations made by the applicant and such representative organisations in support of, or against, the applications, and it shall take such representations into account in arriving at its final decision.

Procedure on Approval

- 110. In the event of the authority granting such approval it shall issue a letter of approval to the applicant containing such conditions as the authority may deem appropriate, which conditions shall be binding on the applicant.

PART 4 – WATER AND SANITATION SERVICES INTERMEDIARY – REGISTRATION

Application for registration

111. (1) Any person or institution seeking registration with the authority as a water and sanitation services intermediary in terms of section 24 of the Act shall do so in accordance with the provisions of these by-laws and at his or its own expense.
- (2) An application for such registration shall be made to the authority in writing.
- (3) An application for such registration shall be accompanied by, at least, the following documents or particulars:
- (a) a certified copy of the identity document of the applicant, if a natural person, or a certified copy of the founding document or constitution of the applicant, if the applicant is a legal person;
 - (b) a certified resolution adopted by the management body of the applicant, if the applicant is a legal person, resolving to apply for registration as a water and sanitation services intermediary;
 - (c) a certified list of the names and addresses of all persons occupying a leadership and decision-making power in the applicant;
 - (d) a detailed statement, supported by adequate proof of authenticity, setting out the applicants qualifications, capacity to undertake the work associated with the provision of water and sanitation services in the circumstances reflected in the application, and the experience, skills and financial resources available to it to undertake the provision of water and sanitation services to be provided by the applicant;
 - (e) the grounds upon which the applicant contends that it is a water and sanitation services intermediary as defined in the Act;
 - (f) a full and detailed description of the water scheme or schemes which will be operated by the applicant containing sufficient information to enable the authority to determine whether the water scheme or schemes complies with the criteria set in section 11 of the Act, these by-laws and the water development plan adopted by the authority in terms of section 15 of the Act, which description shall include, but not be limited to:
 - (i) the name or names of the water scheme or schemes,
 - (ii) an indication of the nature of the water and sanitation services to be provided by the applicant;
 - (iii) detailed plans or drawings, with co-ordinates and scales, and specifications depicting the physical installation associated with the water scheme or schemes, including all the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto used or intended to be used by it in connection with the provision of water and sanitation services contemplated in the application;
 - (iv) a detailed description, including numbers and locality, of the consumers or potential consumers that will be supplied with water by the applicant;
 - (v) details of the source, the quality and quantity of water that will be supplied to consumers or potential consumers and what arrangements are in place to ensure that such quality and quantity is consistently maintained;
 - (vi) a business plan setting out how the water scheme or water schemes will be operated and maintained during the period the applicant undertakes the supply of water and sanitation services as contemplated in the application, and what arrangements have been adopted to deal with any emergency, including natural disasters and drought;
 - (vii) a budget describing the financial administration of the water scheme or water schemes, the source of any capital or revenue requirements, and an indication of the sustainability of the water scheme or water schemes; and
 - (viii) details of tariffs and charges that the applicant will levy on all consumers and potential consumers, the method of calculating such tariffs and charges, the process whereby increases or decreases in such tariffs and charges will be dealt with, and the manner in which such tariffs and charges comply with the national norm set by the Minister of Water Affairs and Forestry in terms of section 10 of the Act.
 - (ix) a certificate indicating who the legal owner or owners of the water scheme or schemes is or are;
 - (x) certified copies of all documents and deeds reflecting the legal status of the water scheme or schemes, including deeds of servitude where appropriate; and
 - (xi) full details of the conditions that will be imposed in terms of section 4 of the Act and full details required in terms of section 19(4) of the Act.

Additional Information to make Decision

112. (1) The authority may call for any additional information or documents reasonably required to enable it to determine whether the applicant, or the water scheme or schemes will comply with the Act, these by-laws and the water development plan of the authority, and whether the obligations of the authority, imposed on it by the Act, will be met.
- (2) The authority may, and it shall, if it initially decides to refuse to refuse an application made in terms of section 111(1), prior to making a final decision, meet with the applicant and any organisation reasonably representative of the consumers or potential consumers of the water scheme or schemes, in order to hear representations made by the applicant and such representative organisations in support of, or against, the applications, and it shall take such representations into account in arriving at its final decision.

Approval of Application

113. The authority may approve or refuse the application, provided that:
- (a) if it approves the application, it may make such registration subject to such reasonable and relevant conditions as it deems necessary;
 - (b) if it refuses the application, it shall advise the applicant of the reasons for such refusal.
114. In the event of the authority granting such registration it shall deliver a written notification thereof to the applicant and in such notice it shall:
- (a) draw attention to the provisions of sections 25, 26 and 27 of the Act;
 - (b) draw attention to the provisions of these by-laws; and
 - (c) set out any conditions referred to in subsection 113(a).

Monthly Report

115. A registered water and sanitation services intermediary shall submit a quarterly report to the authority providing at least such information as the authority may reasonably require in order to enable it to monitor and evaluate the operation of the water scheme concerned and to satisfy itself that the said scheme is being operated in such a manner so as to fulfil the requirements of Act, the applicable water development plan, these by-laws and any conditions imposed as a condition of registration.

SCHEDULES

Quality Standards

(See Section 78(1)(a))

Schedule 'A' – Acceptance of industrial effluent for discharge into the sanitation scheme

No industrial effluent shall be accepted for discharge into the sanitation scheme unless it complies with the following conditions.

The industrial effluent shall not contain concentrations of substances in excess of those stated below:-
Large Works general quality limits are applicable when an industries effluent discharges in a catchment leading to a sewage works of greater than 1 Megalitre per day capacity. Small Works quality limits apply for catchments leading to sewage works with less than 1 Megalitre per day capacity.

GENERAL QUALITY LIMITS	LARGE WORKS	SMALL WORKS	UNITS
1. Temperature (C)	< 44 C	< 44 C	Degrees Celcius
2. Ph	6 < pH < 10	6,5 < pH < 10	pH units
3. Oils, greases, waxes of mineral origin	50	50	mg/l
4. Vegetable Oils, greases, waxes	250	250	mg/l
5. Total sugar and starch (as glucose)	1 000	500	mg/l
6. Sulphates in solution (as SO ₄)	250	250	mg/l
7. Sulphides, hydrosulphides(as S ²⁻) and polysulphides	11		mg/l
8. Chlorides (as Cl ⁻)	1000	500	mg/l
9. Flouride (as F ⁻)	5	5	mg/l
10. Phenols (asphenol)	10	5	mg/l
11. Cyanides (asCN ⁻)	20	10	mg/l
12. Settleable Solids	Charge	Charge	m/l
13. Suspended Solids	2000	1000	mg/l
14. Total dissolved solids	1000	500	mg/l
15. Electrical Conductivity	-	400	MS/m
16. Anionic Surfactants	-	500	mg/l
17. C.O.D.	Charge	Charge	mg/l
Heavy Metal Limits			
18. Copper (as Cu)	50	5	mg/l
19. Nickel (Ni)	50	5	mg/l
20. Zinc (Zn)	50	5	mg/l
21. Iron(Fe)	50	5	mg/l
22. Boron (B)	50	5	mg/l
23. Selenium (Se)	50	5	mg/l
24. Manganese (Mn)	50	5	mg/l
25. Lead (Pb)	20	5	mg/l
26. Cadmium (Cd)	20	5	mg/l
27. Mercury (Hg)	1	1	mg/l
28. Total Chrome (Cr)	20	5	mg/l
29. Arsenic (As)	20	5	mg/l
30. Titanium (Ti)	20	5	mg/l
31. Cobalt (Co)	20	5	mg/l
TOTAL METALS	100	20	mg/l

Special Limitations:

- 1 No calcium carbide, radio active waste or isotopes
- 2 No yeast & yeast wastes, molasses spent or unspent
- 3 No cyanides or related compounds capable of liberating HCN gas or cyanogen
- 4 No degreasing solvents, petroleum spirit, volatile flammable solvents or any substance which yields a flammable vapour at 21 C

Schedule 'B' - ACCEPTANCE OF INDUSTRIAL EFFLUENT FOR DISCHARGE INTO SEA OUTFALLS

No industrial effluent shall be accepted for discharge into the sea outfall unless it complies with the following conditions. The industrial effluent shall not contain concentrations of substances in excess of those stated below:-

SEA OUTFALL QUALITY LIMIT		UNIT
1. Temperature	44	C
2. Ph	5,5 < pH < 9.5	
3. Settleable solids	2	m/h
4. Oils, greases and waxes of mineral origin	50	mg/l
5. Arsenic (expressed as As)	5	mg/l
6. Cadmium (expressed as Cd)	1.5	mg/l
7. Total chromium (expressed as Cr)	3	mg/l
8. Copper (expressed as Cu)	3	mg/l
9. Lead (expressed as Pb)	5	mg/l
10. Mercury (expressed as Hg)	0.05	mg/l
11. Cyanides (expressed as CN ⁻)	10	mg/l
12. Nickel (expressed as Ni)	10	mg/l
13. Zinc (expressed as Zn)	20	mg/l
14. Sulphide (expressed as S ²⁻)	1	mg/l
15. Sulphates in solution (expressed as SO ₄ ²⁻)	250	mg/l

Schedule 'C'

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1. SPECIAL STANDARD

Quality standards for waste water in effluent arising in the catchment area draining water to any river specified in Schedule 1 or a tributary thereof at any place between the source thereof and the point mentioned in the Schedule, in so far as such catchment area is situated within the territory of the Republic of South Africa.

1.1 Colour, odour or taste

The waste water or effluent shall not contain any substance in a concentration capable of producing any colour, odour or taste.

1.2 pH

Shall be between 5,5 and 7,5.

1.3 Dissolved oxygen

Shall be at least 75 percent saturation.

1.4 Typical (faecal) coli:

The waste water or effluent shall contain no typical (faecal) coli per 100 millimetres.

1.5 Temperature

Shall be a maximum of 25° C.

1.6 Chemical oxygen demand

Not to exceed 30 milligrams per litre after applying the chloride correction.

1.7 Oxygen absorbed:

The oxygen absorbed from acid N/80 potassium permanganate in 4 hours at 27°C shall not exceed 5 milligrams per litre.

1.8 Conductivity

1.8.1 Not to be increase by more than 15 percent above that of the intake water.

1.8.2 The conductivity of any water, waste water or effluent seeping or draining from any area referred to in section 21(6) of the aforementioned Water Act shall not exceed 250 milli-Siemens per metre (determined at 25°C).

1.9 Suspended solids

Not to exceed 10 milligrams per litre.

1.10 Sodium content

Not to be increased by more than 50 milligrams per litre above that of the intake water.

1.11 Soap, oil and grease

None.

1.12 Other constituents

1.12.1 Constituents

	Maximum concentration In milligrams per litre
Residual chlorine (as CP)	Nil
Free and saline ammonia (as N)	1,0
Nitrates (as N)	1,5
Asenic (as As)	0,1
Boron (as B)	0,5
Total chromium (as Cr)	0,05
Copper (as Cu)	0.02
Phenolic compounds (as phenol)	0,01
Lead (as Pb)	0,1
Soluble ortho-phosphate (as P)	1,0
Iron (as Fe)	0,3
Manganese (as Mn)	0,1
Cyanides (as Cn)	0,5
Sulphides (as S)	0,05
Fluoride (as F)	1,0
Zinc (as Zn)	0,3
Cadmium (as Cd)	0,05
Mercury (as Hg)	0,02
Selenium (as Se)	0,05

1.12.2 The waste water or effluent shall contain no other constituents in concentrations which are poisonous or injurious to trout or other fish forms of aquatic life.

2. SPECIAL STANDARD FOR PHOSPHATE

Waste water or effluent arising in the catchment area within which water is drained to any river specified in Schedule II or a tributary thereof at any place between the source thereof and the point mentioned in the schedule, in so far as such catchment area is situated within the territory of the Republic of South Africa shall not contain soluble ortho-phosphate (as P) in a higher concentration than 1,0 milligram per litre.

3. GENERAL STANDARD

Quality standards for waste water or effluent arising in any area other than an area in which the SPECIAL STANDARD is applicable, as described in paragraph I.

3.1 Colour, odour or taste:

The waste water or effluent shall not contain any substance in a concentration capable of producing any colour, odour or taste.

3.2 pH

Shall be between 5.5 and 9,5.

3.3 Dissolved oxygen

Shall be at least 75 percent saturation.

3.4 Typical (faecal) coli:

The waste water or effluent shall contain no typical (faecal) coli per 100 millimetres.

3.5 Temperature

Shall be a maximum of 35° C.

3.6 Chemical oxygen demand

Not to exceed 75 milligrams per litre after applying the chloride correction.

3.7 Oxygen absorbed:

The oxygen absorbed from acid N/80 potassium permanganate in 4 hours at 27°C shall not exceed 10 milligrams per litre.

3.8 Conductivity

3.8.1 Not to be increase by more than 75 milli-Siemens per metre (determined at 25° C) above that of the intake water.

3.8.2 The conductivity of any water, waste water or effluent seeping or draining from any area referred to in section 21(6) of the aforementioned Water Act shall not exceed 250 milli-Siemens per metre (determined at 25°C).

3.8 Suspended solids

Not to exceed 90 milligrams per litre.

3.9 Sodium content

Not to be increased by more than 90 milligrams per litre above that of the intake water.

3.10 Soap, oil and grease

Not to exceed 2,5 milligrams per litre.

3.12 Other constituents

3.12.1 Constituents

	Maximum concentration In milligrams per litre
Residual chlorine (as CP)	0,1
Free and saline ammonia (as N)	1,0
Asenic (as As)	0,1
Boron (as B)	0,5
Hexavalent chromium (as Cr)	0,05
Total chromium (as Cr)	0,05
Copper (as Cu)	0.02

Phenolic compounds (as phenol)	....	0,01
Lead (as Pb)	....	0,1
Soluble ortho-phosphate (as P)	....	1,0
Iron (as Fe)	....	0,3
Manganese (as Mn)	....	0,1
Cyanides (as Cn)	....	0,5
Sulphides (as S)	....	0,05
Fluoride (as F)	....	1,0
Zinc (as Zn)	....	0,3
Cadmium (as Cd)	....	0,05
Mercury (as Hg)	....	0,02
Selenium (as Se)	....	0,05

3.12.2 The sum of the concentrations of the following metal shall not exceed 1 milligrams per litre: Cadmium (as Cd), chromium (as Cr), copper (as Cu), mercury (as Hg) and lead (as Pb).

3.12.3 The waste water or effluent shall contain no constituents in concentrations which are poisonous or injurious to humans, animals, fish other than trout, or other forms of aquatic life, or which are deleterious to agricultural use.

4. METHODS OF TESTING

All test shall be carried out in accordance with methods prescribed by and obtainable from the South African Bureau of Standards, referred to in the Standards Act, No. 30 of 1982, as listed in Schedule III.

SCHEDULE D: GENERAL STANDARDS FOR WASTE / EFFLUENT WATER DISCHARGE INTO THE ENVIRONMENT

All applications in terms of Section 21(5) and 22(2), for compliance with the requirements of Section 21(1) and 21(2) of the Water Act (Act 54 of 1956) that purified water shall comply with the General Standard as laid out in Government Gazette Regulation R553 of 5 April 1962.

TABLE 5 GENERAL STANDARDS FOR ARTICLE 21 PERMITS (EFFLUENTS)

DETERMINANTS	MAXIMUM ALLOWABLE LEVELS
Arsenic	0,5 mg/l as As
Biological Oxygen Demand (BOD)	no value given
Boron	1,0 mg/l as B
Chemical Oxygen Demand (COD)	75 mg/l as O
Chlorine, residual	0,1 mg/l as Cl ₂
Chromium, hexavalent	50 µg/l as Cr(VI)
Chromium, total	500 µg/l as Cr
Copper	1,0 mg/l as Cu
Cyanide	500 µg/l as CN
Oxygen, Dissolved (DO)	At least 75% saturation**
Detergents, Surfactants, Tensides	0,5 mg/l as MBAS – See also Note 2
Fats, Oils & Grease (FOG)	2,5 mg/l (Igravimetric method)
Fluoride	1,0 mg/l as F
Free & Saline Ammonia	10 mg/l as N
Lead	1,0 mg/l as Pb
Oxygen, Absorbed (OA)	10 mg/l as O*
pH	5,5 – 9,5
Phenolic Compounds	100 µg/l as phenol
Phosphate	1,0 mg/l as P – See also Note 1
Sodium	not more than 90 mg/l Na more than influent
Sulphide	1,0 mg/l as S
Temperature	35°C
Total Dissolved Solids (TDS)	Not more than 500 mg/l more than influent
Total Suspended Solids (TSS)	25 mg/l
Typical faecal Coli	no typical coli should be counted per 100 ml
Zinc	5,0 mg/l as Zn

* Also known as Permanganate Value (or PV).

** In Windhoek the saturation level is at approx. 9mg/l O₂