Cape Agulhas, South Africa

Water By-law, 2005

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Cape Agulhas
South Africa

Water By-law, 2005

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Part 1 – Definitions and Application

1. Definitions

In these By-laws unless the context otherwise indicates—

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

"**commercial purpose**" in relation to the supply of water, means water supplied to premises to be used in the carrying on of a trade or business;

"**communication pipe**" means a pipe, the ownership of which is vested in the municipality and installed by it for the purpose of conveying water from a main to a water installation;

"**consumer**" means the occupier of any premises with whom the municipality has contracted to supply water or the owner thereof, or any person who has entered into a contract with the municipality for the supply of water to such person, or any person who in any other way is lawfully obtaining water from the municipality;

"**Council**" means the council of the municipality;

"**domestic purposes**" in relation to the supply of water means the general use of water supplied for personal and residential uses including health and hygiene, drinking, ablution, culinary, household and garden maintenance;

"**emergency**" means any situation that poses a risk or potential risk to life, health, the environment or property, or declared to be an emergency under any law;

"**fire installation**" means a water installation that conveys water for fire-fighting purposes only;

"**engineer**" means an employee of the municipality who is head of the department responsible for water services;

"**industrial purposes**" in relation to the supply of water means water supplied to any premises which constitutes a factory; or the use of water for purposes of mining, manufacturing, generating electricity, land-based transport, construction or any related purpose.

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

"**main**" means a pipe, other than a communication pipe, vesting in the municipality and used by it for the purpose of conveying water to any number of consumers;

"**municipality**" means the Municipality of Cape Agulhas;

"**municipal manager**" means the person appointed by the Council as the Municipal Manager in terms of the Local Government: Municipal Systems Act, 1998;

"**meter**" means a device which measures the quantity of water passing through it;

"**NBR**" means the National Building Regulations made in terms of the National Building Regulations and Building Standards Act, 1997. (Act 103 of 1977);

"**occupier**" means a person who occupies any premises or part thereof;

"**organ of state**" means an organ of state as defined in section 239 of the Constitution, Act 107 of 1996;

"**owner**" means an owner of premises;

"**person**" means any natural or juristic person, an unincorporated body, and includes a voluntary association or trust;

"**premises**" means any piece of land, with or without improvements;

"**Tariff Policy By-law**", means the Tariff Policy By-law adopted by the council and published in Provincial Gazette;

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

"**water installation**" means the pipes and water fittings which are situated on any premises and vested in the owner thereof and used or intended to be used in connection with the use of water on such premises, and includes a pipe and water fitting situated outside the boundary of the premises, which either connects to the communication pipe relating to such premises or is otherwise laid with the permission of the Council;

"**water supply system**" means the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto which are vested in the municipality and are used or intended to be used in connection with the supply of water.

2. Application of this by-law

(1) This by-law binds an organ of state.

(2) This by-law is only applicable in those areas where the municipality provides a water supply service.

(3) Water is supplied in terms of the provisions of this by-law, but where in the opinion of the Council it is not reasonably possible or cost effective to supply water in the manner contemplated by this by-law to each consumer within a particular area, the Council may, in consultation with the official in charge of health services, determine an alternative manner of water supply.

(4) Where the Council has determined an alternative manner of water supply in terms of subsection (3), this by-law will, to the extent necessary, apply to the supply of water to such area, subject however to such conditions as the Council may determine.

(5) If the municipality decides to provide a water service by means of a service delivery agreement with an external service provider as contemplated in Chapter 8 of the Systems Act, the power and duties of the municipality, the council, the municipal manager and engineer as defined in this by-law, must be construed as a reference to such external service provider; provided that the ownership of the water supply system will remain with the council; and provided further that the external service provider will have no power to impose water restriction.

Part 2 – General Conditions of Supply

3. Application for supply

(1) No water from the water supply system will be supplied to any premises unless the owner or occupier has applied to the municipal manager for a supply and such application has been agreed to.

(2) An application for the supply of water approved by the municipal manager constitutes an agreement between the municipality and the owner or occupier and takes effect on the date referred to in the application.

(3) The owner or occupier is liable for all the fees in respect of the supply of water, determined in terms of the Tariff Policy By-law, until the agreement has been terminated in accordance with this By-law, and is deemed to be the consumer for all purposes during the currency of the agreement.

(4) The municipal manager may require any other person to bind himself or herself jointly and severally with the consumer, for the payment of any fees payable under this By-law.

(5) An application must contain at least the following information:

(a) a declaration that the applicant is aware of and understands the contents of the agreement;

(b) acceptance by the applicant of the provisions of this By-law and acceptance of liability for the cost of the supply of water until the agreement is terminated;

(c) the name of the proposed consumer and his or her identity number;

(d) the address or erf number of the premises to or on which water is to be supplied;

(e) the address where accounts must be sent;

(f) the purpose for which the water is to be used;

(g) the agreed date on which the supply of water will commence.

(6) Water is supplied to a consumer subject to the provisions of this By-law and the conditions imposed by the municipal manager.

4. Fees

All fees payable for the supply of water by the municipality, must be in accordance with the Tariff Policy By-law.

5. Deposit

Every consumer must on application for the supply of water and before water will be supplied by the municipality, deposit with the municipality a sum of money determined in terms of the Tariff Policy By-law.

6. Termination of agreements

(1) A consumer may terminate an agreement for the provision of water services by giving the municipality not less than thirty days' notice in writing of his or her intention to do so.

(2) The municipal manager may, by notice in writing of not less than fourteen days, advise a consumer of the termination of his or her agreement for the supply of water if—

(a) he or she has not used water during the preceding six months and has not made arrangements to the satisfaction of the municipal manager for the continuation of the agreement; or

(b) he or she has failed to comply with the provisions of this By-law and has failed to rectify such failure to comply following the issue of a notice; or

(c) he or she has failed to pay any fees due and payable in terms of the Tariff Policy By-law.

(3) The municipal manager may terminate an agreement for the supply of water if a consumer has vacated the premises to which such agreement relates.

7. Discontinuation of supply

(1) The municipal manager may limit or discontinue the supply of water to any premises—

(a) on failure of the consumer to pay the fees due on the date specified, in terms of the Tariff Policy By-law; or

(b) at the written request of a consumer; or

(c) if the agreement for the supply of water has been terminated in terms of section 6 and it has not received an application for a subsequent supply of water to the premises within a period of ninety days of such termination;

(d) if the improvements on premises to which water was supplied have been demolished;

(e) if the consumer has wilfully or negligently damaged, or caused or permitted to be damaged any main, communicating pipe, meter or other equipment belonging to the Council and used or intended to be used in connection with the supply of water;

(f) if the consumer tampered with, or caused or permitted any tampering or interference with any equipment under the municipality's control and used or intended to be used by it in connection with the supply of water;

(g) if the consumer has unlawfully interfered with the supply of water in any way;

(h) if there has been abuse of the supply of water by the consumer;

Provided that in all cases referred to in paragraphs (c), (e), (f), (g) and (h) not less than seven days notice must be given to the consumer that the supply of water is to be terminated.

(2) The municipality is not liable for any damages or claims that may arise from the discontinuation of the supply of water in terms of subsection (1).

8. Restoration of supply

The municipal manager will, where a supply of water has been discontinued, only restore it when the fee for the discontinuation and reconnection of the water has been paid.

9. Purpose of supply

If the purpose or extent for which the supply of water is used, is changed, the consumer must inform the municipal manager and must enter into a new agreement with the municipality, effective from the date on which such change of use took or will take effect.

10. Interference with water supply system

(1) No person may—

(a) operate or maintain any part of the water supply system; or

(b) effect a connection to the water supply system;

unless in any such case he or she has been authorised by the engineer in writing.

(2) No person may interfere with, or willfully or negligently damage, or permit damage to or interference with any part of the water supply system.

11. Access to water supply system

No person may prevent or restrict physical access to the water supply system by any employee of the municipality.

12. Testing of pressure in water supply systems

The engineer may, on application by an owner and on payment of the required fee, determine and furnish the owner with the value of the pressure in the water supply system relating to his or her premises over such period as the owner may request.

13. No undertaking or warranty by council

The municipality does not undertake to maintain at any time or any point in its water supply system—

(a) an uninterrupted supply;

(b) a specific pressure or rate of flow in such supply; or

(c) a specific standard of quality of water,

provided that, if the water supply is interrupted for more than 24 hours, then the engineer must provide an alternative supply of water to meet basic needs.

14. Interruption in an emergency

The engineer may, in an emergency, interrupt the supply of water to any premises without prior notice.

15. Restrictions on consumer for benefit of others

If, in the opinion of the Council, the consumption of water by a consumer adversely affects the supply of water to any other 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 or consumers concerned and must inform that the first mentioned consumer of such restrictions.

16. Cistern for continuous supply

Every steam boiler and any premises which require, for the purpose of the work undertaken on the premises, a continuous supply of water must have a cistern fitted and in working order and holding not less than half a day's supply calculated according to the average daily consumption of that boiler.

17. Resale of water

No consumer may resell water supplied to him by the municipality except with the written permission of the Council, which may stipulate the maximum price at which the water may be resold, and may impose such other conditions as the Council may deem fit.

Part 3 – Connection to Water Supply System

18. Provision of communication pipe

(1) If an agreement for water supply has been concluded and no communication pipe exists in respect of the premises, the consumer must make application and pay the fee for the installation of such a pipe, as determined in terms of the Tariff Policy By-law.

(2) Upon payment of the fee for the installation of a communication pipe the engineer must lay down and maintain a communication pipe to serve the premises.

(3) If it is necessary to extend, modify or upgrade the water supply system in order to supply water to the premises, the engineer may undertake such extension, modification or upgrade if the owner agrees to pay for the cost thereof, as determined in terms of theTariff Policy By-law.

19. Location of communication pipes

(1) A communication pipe must—

(a) be located in a position determined by the engineer after consultation with the consumer and be of a suitable size as determined by the engineer;

(b) terminate at—

(i) the boundary between the land owned by or vested in the municipality, or over which municipality has a servitude or other right, and the adjoining land in private ownership which is not burdened by any such servitude or other right; or

(ii) at the outlet of the water meter connected to the water installation to be connected to the water main if the water meter is situated on the premises.

(2) The engineer may agree, subject to such conditions as it 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 consumer is responsible for any extension of the water installation to the connecting point designated and agreed to by the engineer and for obtaining at his or her cost, such servitudes over other property as may be necessary.

20. Single Water Connection for Supply to Several Consumers on Same Premises

(1) Only one communication pipe may be provided to any premises, irrespective of the number of accommodation units, business units or consumers located on such premises.

(2) Where the consumer, or the person having the charge or management of any premises on which several accommodation units, and/or business units or consumers are situated, requires the supply of water to such premises for the purpose of separate supply to the different units or consumers, the engineer may, in his or her discretion, provide and install either—

(a) a single meter in respect of the premises as a whole or any number of such units or consumers; or

(b) a separate meter for each such unit or consumer or any number thereof.

(3) Where the engineer has installed a single meter as contemplated in subsection (2)(a), the consumer or the person having the charge or management of the premises, as the case may be—

(a) must, if the engineer so requires, install and maintain on each branch pipe extending from the communication pipe to the different units or consumers

(i) a separate meter; and

(ii) an isolating valve; and

(b) will be liable to the municipality for the fees for water, determined in terms of the Tariff Policy By-law and supplied to the premises through such a single meter, irrespective of the different quantities consumed by the different consumers served by such meter.

(4) Despite subsection (1), the Council may permit more than one communication pipe to be provided on the water supply system for the supply of water to any premises comprising sectional title units or if, in the opinion of the Council, undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one communication pipe.

(5) Where the provision of more than one communication pipe is authorised by the Council under subsection (4), the fees for the provision of a communication pipe, determined in terms of the Tariff Policy By-law, are payable in respect of each water connection so provided.

(6) Where premises are supplied with water by a number of communication pipes, the Council may require the consumer to reduce the number of connection points and alter his or her water installation accordingly at the consumer's expense.

21. Interconnection between premises or water installations

A consumer must ensure that no interconnection exists between—

(a) the water installation on his or her premises and the water installation on any other premises; or

(b) where several dwelling or business units are situated on the same premises, the water installations of such units;

unless he or she has obtained the prior written consent of the engineer and complies with any conditions that may have been imposed.

22. Disconnection of water installation from communication pipe

The engineer may disconnect a water installation from the communication pipe and remove the communication pipe if—

(a) the agreement for supply has been terminated in terms of section 6 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

(b) the building on the premises concerned has been or is in the process of being demolished pursuant to the grant of a permit for such demolition in terms of law.

23. Connection of water installation to main

No person other than the engineer may connect any water installation to a main; provided that a consumer may connect a water installation to a communication pipe or, in the case of a meter installed on any premises, to the outlet pipe from such meter.

24. Height of supply

The engineer may specify the maximum height above ground level or mean sea level to which water will be supplied from the water supply system.

25. Pipes in streets or public places

No person may, 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 the municipality, except with the prior written permission of the engineer and subject to such conditions as the engineer may impose.

Part 4 – Temporary Supply

26. Water supplied from a hydrant

(1) The engineer may authorise a temporary supply of water to be taken from one or more fire hydrants specified by him or her, subject to such conditions and for such period as may be generally prescribed or specifically imposed by him or her in respect of such supply.

(2) Except in an emergency, a person who requires a temporary supply of water referred to in subsection (1) must apply therefor.

(3) The engineer must, for the purpose of supplying water from a hydrant, provide a portable water meter to be returned to the engineer on termination of the temporary supply, which portable meter and all other fittings and apparatus used for the connection of the portable water meter to a hydrant, remains the property of the municipality.

Part 5 – Measurement of Water Supply

27. Provision of meters

(1) The municipality supplies all meters required for measuring the quantity of water that it supplies.

(2) The engineer determines the size of a meter to be installed on any premises.

(3) If the engineer considers that the size of the meter is unsuitable by reason of the quantity of water supplied to premises, the engineer may install a meter of such size as he or she may deem necessary, and may recover from the owner of the premises concerned the fee for the installation of the replacement meter.

(4) The engineer may at any time and at the expense of the municipality disconnect and remove any meter and install in his or her discretion any other meter in substitution thereof.

28. Fixing and position of meters

(1) The engineer must fix a meter in each communication pipe.

(2) The engineer may require that a consumer provide within the premises a suitable and safe place to fix a meter and may position such meter in such place.

(3) Any maintenance necessary in that portion of a communication pipe which extends from the street boundary of the premises of the consumer to a meter within such premises must be carried out by the engineer at such consumers expense.

29. Provision and position of stop cocks

(1) The engineer must for the exclusive use of the municipality, install a stop cock between every meter and the main.

(2) The consumer must, at his or her expense, and for his or her exclusive use, provide and install a stop cock on the communication pipe—

(a) in the case of a meter installed on the premises, at a suitable point on his or her side of the meter;

(b) in the case of a meter installed outside the premises, at a suitable point immediately inside the boundary of his or her premises:

Provided that the engineer may in his or her discretion and at the consumers expense provide and so install such stop cock for the exclusive use of such consumer.

30. Cost of installation of meters

A consumer must pay all fees in connection with the installation of any meter on his water installation as determined in terms of the Tariff By-law and Policy.

31. Ownership of meters

Any meter provided and installed the engineer in terms of this By-law together with the fittings thereof is and remain the property of the municipality.

32. Safe-keeping of meters

(1) A consumer must see to the safe keeping and condition of any meter installed upon his or her premises.

(2) The consumer is liable to the municipality for any damage to a meter installed upon his or her premises.

33. Interference with or damage to meters

(1) No person other than the engineer may disconnect or interfere with, or cause or permit any other person to disconnect or interfere with, any meter or any fittings thereof.

(2) No person may wilfully damage any meter or any fittings thereof.

(3) No person may use or permit to be used on any water installation any fitting, machine or appliance which causes damage to any meter or, in the opinion of the engineer, is likely to cause damage thereto.

34. Repairs to meters

If repairs to any meter is found to be necessary the engineer must effect such repairs to such meter as soon as possible.

35. Cost of maintenance of and repair of meters

(1) The engineer must to the extent of ordinary wear and tear and at the expense of the municipality maintain and repair any meter.

(2) If any repairs to a meter are in the opinion of the engineer not the result of ordinary wear and tear the consumer is liable for the cost of such repairs, including the removal and reinstallation, and if necessary substitution.

36. Quantity of water supplied to consumer

(1) For purposes of assessing the quantity of water supplied to a consumer during any period and measured by a meter over a specific period, it will be deemed, that—

(a) the quantity is represented by the difference between measurements taken at the beginning and end of such period;

(b) the meter was accurate during such period; and

(c) the entries in the records of the municipality were correctly made;

provided that if water is supplied to, or taken by, a consumer without its passing through a meter, the estimate by the engineer of the quantity of such water will be deemed to be correct.

(2) Where water supplied to any premises is in any way taken by the consumer without such water passing through any meter, the municipal manager may for the purpose of rendering an account, make an estimate, in accordance with subsection (3), of the quantity of water supplied to the consumer during the period that water is so taken by the consumer.

(3) For the purposes of subsection (2), an estimate of the quantity of water supplied to a consumer must be based on the average monthly consumption of water on the premises registered over—

(a) three succeeding measuring periods after the date on which the irregularity referred to in subsection (2) was discovered and rectified, and/or

(b) the period preceding the date referred to in paragraph (a) but not exceeding 12 months.

(4) Nothing in this By-law may be construed as imposing on the municipality an obligation to cause any meter installed on any premises to be measured at the end of every month or any other fixed period, and the municipal manager may estimate the quantity of water supplied over any period during the interval between successive measurements of the meter and render an account to a consumer for the quantity of water so estimated.

(5) The engineer must, on receipt from the consumer of written notice of not less than seven days and subject to payment of the fees, determined in terms of the Tariff Policy By-law, 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.

(6) If a contravention of section 33 occurs, the consumer must pay to the municipality the cost of such quantity of water as in the opinion of the engineer was supplied to the consumer.

(7) Until such time as a meter has been installed in respect of water supplied to a consumer the estimated consumption of that consumer must be based on the average consumption of water supplied to the specific area within which the consumer's premises is situated, during a specific period.

37. Alternative measurement

(1) Where in the opinion of the Council it is not reasonably possible or cost effective to measure water supplied to each consumer within a particular area, the Council may determine a basic tariff or charge in terms of the Tariff Policy By-law, to be paid by each consumer within that area irrespective of actual consumption.

(2) A tariff or charge determined in terms of subsection (1) will be based on the estimated average consumption of water supplied to that area.

38. Defective measurement

(1) If a consumer has reason to believe that a meter is defective, he or she may apply in writing for the meter to be tested and must at the same time deposit with the municipality the amount determined in terms of the Tariff Policy By-law.

(2) The engineer must upon lodging of the prescribed deposit arrange for the testing of the meter by a SABS approved testing method.

(3) If the outcome of any test shows that a meter is—

(a) not defective, the municipality will retain the deposit and the consumer will be liable for any other amounts outstanding;

(b) defective, the municipality will refund the deposit and the charge for the water consumed during the three months preceding the disputed reading must be adjusted in proportion to the degree of error found: provided that where the meter has been installed for a period of less than six months, such adjustment must be over half such lesser period.

(4) In addition, if the meter is found to be defective, the engineer must repair the meter or install another meter 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 33(1).

(5) A consumer is entitled, on giving the engineer reasonable notice of his or her intention, to be present at the testing of any meter in which he is interested.

(6) Any meter removed for testing by the engineer must be retained intact and be available for inspection for a period of 3 months after testing.

39. Failure of meters to register

(1) If a meter is found to have ceased to register or to register correctly, the engineer must repair or replace the meter and estimate the quantity of water for which a consumer must pay—

(a) on the basis of the average monthly consumption of water, in respect of the premises served by such meter, during the three months prior to the last reading; or

if this is not possible—

(b) on the basis of consumption of water in respect of such premises in the corresponding month of the previous year; or

if this also is not possible—

(c) on the basis of the average monthly consumption of water, in respect of such premises over a period of three months after the date of the said repair or replacement.

(2) The period for which the consumer must pay the quantity of water estimated in terms of subsection (1) extends from the date of the last reading of the meter prior to it having ceased to register, or to register correctly, up to the date of it having been repaired or replaced.

40. No reduction of amount payable for water wasted

A consumer is not entitled to a reduction of the amount payable in respect of water wasted or water losses in a water installation.

Part 6 – Water Installations

41. Provision and maintenance of water installations

(1) An consumer must provide and maintain his or her water installation at his or her own cost and except where permitted in terms of this By-law, 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 must obtain the written consent of the engineer or the owner of the land on which such portion is situated, as the case may be.

42. Application for approval of installation work

(1) If a consumer wishes to have installation work done, the consumer must first obtain the written approval of the engineer; provided that approval is not required in the case of water installations in dwelling units or installations where no fire installation is required in terms of any law, 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) An application for the approval referred to in subsection (1) must be accompanied by

(a) the fee, if applicable; and

(b) copies of the drawings as prescribed by the engineer;

(c) a certificate from a registered engineer or registered plumber certifying that the installation has been designed in accordance with the appropriate SABS Code or, where compliance with that standard is impractical or impossible to achieve, has been designed on another basis acceptable to the engineer.

(3) The provisions of subsections (1) and (2) do not apply to a qualified plumber who replaces a fixed water heater or its associated protective devices.

(4) Any authority given in terms of subsection (1) lapses 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) Where approval is required in terms of subsection (1), a complete set of approved drawings of installation work must be available at the site of the work at all times until such work has been completed.

(6) If installation work has been done in contravention of subsections (1) and (2), the engineer may order the owner—

(a) to comply with either or both subsections, as the case may be, within a specified period;

(b) if the work is still in progress, to cease the work; and

(c) to remove all such work as does not comply with this by-law.

(7) An installation work approved in terms of subsection (1), must inspected and a certificate of approval issued by the engineer, before it can be put into service.

43. Persons permitted to do installation and other work

No person who is not a qualified plumber, in terms of regulation A18 of the NBR may perform any work on a water installation.

44. Technical requirements for a water installation

(1) Notwithstanding the requirement that a certificate be issued in terms of section 42(2)(c), all water installations and all fixed electrical storage water heaters must comply with the appropriate SABS Codes.

(2) No person may, without the prior written authority of the engineer install or use a pipe or water fitting in a water installation unless—

(a) it bears the appropriate mark of the South African Bureau of Standards; or

(b) it bears a certification mark issued by the SABS to certify that the type of 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 regarded as valid if issued more than two years previously.

(3) All water installation pipes laid in the ground shall have a minimum cover of 400 mm, except where otherwise determined by the engineer.

Part 7 – Water Pollution, Restriction and Wasteful Use of Water

45. Consumer to prevent pollution of water

A consumer must provide and maintain effective measures to prevent the entry of any substance or matter, which may be a danger to health or may adversely affect the potability of water or affect its fitness for use, or which will have a significant detrimental effect on the general quality of water supplied to the consumer or others, into—

(a) the water supply system or works; or

(b) any part of the water installation on his or her premises; or

(c) any water resource or aquifer.

46. Water restrictions

(1) The Council may by public notice, whenever there is a scarcity of bulk water available to it for distribution and supply to consumers, or for any other good cause—

(a) prohibit or restrict the consumption of water in the whole or part of the municipal area—

(i) in general or for specified purposes;

(ii) during specified hours of the day or on specified days; and

(iii) in a specified manner; and

(b) despite the provisions of the Tariff Policy By-law, determine and impose—

(i) limits on the quantity of water that may be consumed over a specified period;

(ii) fees additional to those prescribed in respect of the supply of water in excess of a limit contemplated in subparagraph (i); and/or

(iii) a general surcharge on the fees 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 Council may limit the application of the provisions of a notice contemplated in subsection (1) to specified areas and/or categories of consumer, premises and activities, and may permit deviations and exemptions from, and the relaxation of, any of such provisions on reasonable grounds.

(3) The engineer may order a consumer to, at the consumers own expense, take such measures, including the installation of meters and devices for restricting the flow of water, as may in his or her opinion be necessary to ensure compliance with a notice published in terms of subsection (1).

(4) The engineer—

(a) may discontinue or, for such period as he or she may deem fit limit, the supply of water to any premises in the event of a failure to comply with the terms of a notice referred to in subsection (1); and

(b) is required, where the supply has been discontinued in terms of paragraph (a), to restore it only when the fee for discontinuation and reconnecting the supply has been paid.

(5) The provisions of this section shall also apply in respect of water supplied directly by the municipality to consumers outside the municipal area, notwithstanding anything to the contrary in the conditions governing such supply, unless otherwise specified in the notice published in terms of subsection (1).

47. Waste of water

(1) No consumer may on his or her premises permit—

(a) the purposeless or wasteful discharge of water from water fittings;

(b) pipes or water fittings forming part of a water installation to leak;

(c) the use of maladjusted or defective water fittings in a water installation;

(d) an overflow of water from a water installation to persist; or

(e) an inefficient use of water to persist.

(2) An consumer must 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) Every consumer must ensure that any equipment or plant connected to his or her water installation uses water in an efficient manner.

(4) The engineer may, by written notice, prohibit the use by a consumer of any equipment in a water installation if, in his or her 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 engineer.

48. Water demand management

(1) Despite the provisions of section 47(2), no flushing urinal that is not user-activated may be installed or continue to operate as part of any water installation.

(2) All flushing urinals that are not user-activated installed prior to the commencement of this By-law must be converted to useractivated urinals within three years of the commencement of this By-law.

(3) Any commercial vehicle washing facility or commercial laundry facility constructed after the adoption of this By-law must be constructed and operated in such a manner that 50% of the water used by such facility is recycled for re-use in the facility.

(4) No cistern designed to operate with a toilet pan, may be installed if it has a capacity greater than 6 litres and all cisterns must have a dual flush capability.

(5) In any water installation where the plumbing has been designed to balance the water pressures on the hot and cold water supplies to the shower control valve, a shower head with a maximum flow rate of greater than 10 litres per minute at a water pressure of 200 kPa may not be installed.

(6) All taps on wash hand basins intended for public use must be of the metering type with a maximum flow not exceeding 2 litres per operation.

(7) Any irrigation system that uses water supplied from the water supply system with a maximum designed flow rate exceeding 60 litres per minute must be fitted with a suitable water volume measuring device.

49. Water Audit

(1) Any person using more than 3 650 Kl per annum, excluding multiple dwelling units, must by not later than 1 August of each year undertake an annual water audit at his or her own cost.

(2) A copy of the audit must be available for inspection by officials from the municipality.

(3) The audit must contain details in respect of—

(a) the amount of water used during the municipality's financial year;

(b) the number of people living on the premises;

(c) the number of people permanently working on the premises;

(d) the seasonal variation in demand through monthly consumption figures;

(e) the water pollution monitoring methods;

(f) the current initiatives to manage demand for water;

(g) the plans to manage the demand for water;

(h) a comparison of the above factors with those reported in each of the previous three years (where available); and

(i) estimates of consumption by various components of use.

Part 8 – Use of Water from Other Sources

50. Use of water from sources other than the water supply system

(1) Except with the prior consent of the engineer and subject to such conditions as the engineer may impose, no person may for domestic, commercial or industrial purposes use or permit the use of water obtained from a source other than—

(a) the water supply system, or

(b) rain water tanks which are not connected to the water installation.

(2) The provisions of subsection (1) do not exempt a person requesting consent from obtaining the approval of any other authority required by any law.

(3) Any person requiring the consent referred to in subsection (1) must, at his or her own cost, provide the engineer with proof to his or her satisfaction that the water from such other source complies or will comply with the requirements of the relevant SABS Code for drinking water, and any other requirement contained in this By-law or any other law applicable to the consumption of water or that the use of such water does not or will not constitute a danger to health.

(4) The engineer may take samples of water obtained from a source other than the water supply system and cause the samples to be tested for compliance with the requirements referred to in subsection (3).

(5) The fee for the taking and testing of the samples referred to in subsection (4) must be paid by the person to whom approval to use the water from such other source was granted.

(6) The engineer may withdraw any consent given in terms of subsection (1) if, in the opinion of the engineer—

(a) a condition imposed in terms of that subsection is breached; or

(b) the water no longer conforms to the requirements referred to in subsection (2).

51. Boreholes

(1) The engineer may, by public notice, require—

(a) the owner of any premises upon which a borehole exists or, if the owner is not in occupation of such premises, the occupier thereof, to notify the municipality of the existence of a borehole on such premises, and provide it with such information in respect thereof as the engineer may require; and

(b) the owner or occupier of any premises who intends to sink a borehole on such premises to notify the municipality of such intention before work in connection therewith is commenced, and to obtain any other authorisations in terms of the Environmental Impact Assessment Regulations or any other law, if applicable.

(2) The engineer 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 engineer, before being permitted to sink the borehole.

(3) Every owner or occupier intending to sink or to operate a borehole must indemnify the municipality against any damages that may result howsoever arising as a consequence of the sinking or operation of the borehole.

(4) The engineer may by notice to an owner or occupier or by public notice require owners and occupiers who have existing boreholes used for domestic, industrial and commercial purposes to—

(a) obtain approval from the municipality in terms of section 49(1) for the use of a borehole;

(b) comply with any conditions imposed, either generally or specially, in respect of the use of a borehole; and

(c) pay a fee in respect of the use of such a borehole.

(5) The provisions of this section do not exempt any person from complying with the applicable provisions of the National Water Act, 1998 (Act 36 of 1998) or any other relevant national legislation.

Part 9 – Fire Installations

52. Approval of fire installations

Whereas fire installations are regulated by Part W of the NBR, the engineer may after consultation with the officer in charge of fire services, impose any conditions or requirements which may be deemed necessary, in terms of Part W.

Part 10 – Legal Matters

53. Exemption from liability

The Council will not be liable for any damage to property caused by water flowing from fittings left open when the water supply is re-instated, following an interruption in supply for any reason.

54. Recovery of costs and fees

Every person committing a breach of the provisions of this By-law shall be liable to compensate the Municipality for any loss or damage suffered or sustained by it in consequence of such breach.

55. Delegation

The municipal manager and the engineer may in writing delegate any power or duty conferred on the municipal manager or engineer in terms of this By-law, to an official of the municipality.

56. Offences and Penalties

Any person who—

(a) contravenes or fails to comply with any provisions of this By-law;

(b) fails to comply with any notice issued in terms of this By-law; or

(c) fails to comply with any lawful instruction given in terms of this By-law; or

(d) obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under this By-law,

is guilty of an offence and liable on conviction to a fine.