

**FINAL GENERIC BYE-LAW**

**FOR THE**

**ESTABLISHMENT AND OPERATIONS OF**

**WATER AND SANITATION DEVELOPMENT BOARD (WSDBs)**

**PREPARED FOR**

**DISTRICT ASSEMBLY AND ADOPTION**

**BY**

**DISCAP**

September 2004

**SUGGESTED DISTRICT ASSEMBLY RESOLUTIONS**

Whereas the District Assembly is a body corporate created under the local government Act 1993, Act 462 and is the highest political and administrative authority in the district with power to acquire, hold and dispose of movable and immovable properties for the discharge of its functions which include the provision of water and sanitation services

AND

Whereas as part of the decentralisation policy of the government and in accordance to legislative instrument number 1589 Town and Area councils are mandated to operate, maintain and manage social services including water and sensitisation service.

AND

Whereas in accordance with section 15 of Act 462, the District Assembly has the power to delegate its functions other than its legislative functions to its sub-structures, individual or group.

Now therefore the District Assembly designate and delegate the responsibility for the overall policy making on Water and Sanitation Management to [Name] town/Area council under the jurisdiction of the [Name] District assembly.

The day-to day responsibility of operation, maintenance and management of the water supply systems in [Name] under the jurisdiction of the [Name] Town/Area council to the community Water and Sanitation Development Board to hold in trust and manage in prudence by the same board under the authority of the bye-laws herein contained.

Pursuant to the power vested in the [Name] District Assembly under Act 462 these bye-laws are hereby made this .....day of .....20.....

## **ARTICLE 1. NAME**

There is hereby established for each small town or a group of communities listed in the schedule to these bye-laws a body which shall be called the WATER AND SANITATION DEVELOPMENT BOARD hereinafter referred to as WATER BOARD whose functions shall be applicable in those areas or communities and such others as may from time to time be added through amendment to these bye-laws.

## **ARTICLE 2. COMPOSITION**

The Water Board shall be a multi-stakeholder coordinating body comprising of not less than 5 and not more than 15 members of whom at least 40% shall be women.

### **2.1 BOARD MEMBERSHIP**

Membership of the water board shall be elected from

- a) Watsans committees established in designated neighbourhoods of the town or communities as may be duly understood to be representative of the town or communities.
- b) The assembly member or members of the town or the communities that are within the catchments area shall elect a member to represent them on the water board.
- c) Women representative groups, representing women organisations and water user groups.
- d) Recognised community organisations who carry out activities directly related to water sanitation and community development
- e) Representative of leaders of the community that have the authority to represent their areas in community affairs inclusive traditional, religious, unit committees and women.

### **2.2 TENURE OF MEMBERSHIP**

- a) Each person elected to the Water Board shall serve a three-year term and shall not be eligible for re-election.
- b) Persons elected to the Water Board shall have their names published on a public notice board for a maximum of twenty-one days for public reaction
- c) Any person against whom adverse finding have been reasonably established within the said twenty-one days shall be replaced.
- d) The Water Board shall be duly sworn-in jointly by the District Assembly and Town/Area council in a general assembly of the town or communities.

### **2.3 RE-ELECTION OR REPLACEMENT OF WATER BOARD MEMBERS**

Member of the water Board shall face re-election at the end of their first term and in any subsequent term one-half of their number or if their number is not an even number, the number nearest to one-half face re-election the members of the water Board to face re-election shall be those who have been longest in office since the last election, but as between persons who become members on the same period to face re-election shall unless they otherwise agree among themselves be determine by lot, the re-election process shall be general meetings of their groups called specifically for that purpose and for which notice of not less than two weeks has been given to the group.

### **2.4. CESSATION OF MEMBERSHIP**

2.4.1 A member of the Water Board shall cease to be a member in the event of the following

- a) Resignation by a letter to the chairperson and the identifiable electing body the person represents

- b) Embezzlement of funds
- c) Vote of the water board to revoke mandate for being absent from three consecutive meetings without sufficient cause or reason or unpleasant behaviour and must be with the approval of the electing body the person represents
- d) Death
- e) Transfer or moved from the town
- f) The executive of the water board may at anytime resign by notice in writing to the water board and copied to the Town/Area council with one-month prior notice.

2.4.2 b) The assembly member or members of the town or communities that are within the catchments are member to represent them on the water Board

2.4.3 a) Each person elected to the water Board shall serve a two –three year term and shall not be eligible for re-lection

2.5. Where a person is elected to fill a vacancy the person shall hold office for the remainder of the term of the previous member and shall subject to section 3.2 above to be eligible for re-election.

### **3.0 LEGAL AUTHORITY OF THE BOARD**

3.1 Subject to the provisions of these bye-laws the Water Board shall not be subjected to the direction or control of any person or authority in the performance of its functions.

3.2 The Town/Area council, District Assembly shall not have the power to dissolve the Water Board except with approval by the community.

3.3 The Water Board shall enter into contracts, which are within its power for the purpose of operating, maintaining, repairing and managing of all water and sanitation systems under its jurisdiction

3.4 The Water Board may for and in connection with the discharge of its functions purchase, hold, manage or dispose of any property either movable or immovable as are not inconsistent with existing local government laws and may sue and be sued in its own name.

### **4.0 EXECUTIVE COMMITTEE**

4.1 The Water Board shall elect an executive committee of at least five members comprising a chairperson, secretary, treasurer, technical and hygiene and sanitation officers

4.2 The executive committee shall serve a two-year term and shall be subject to the same system of re-elections as all Water Board members.

4.3 The executive committee shall have at least two members as women.

### **4.4 DUTIES OF THE EXECUTIVE COMMITTEE**

4.5 The executive committee shall be responsible for the day-to day management of the operation and maintenance of the water system within its area of jurisdiction including:

- a) Appointment of operating staff or contracting the private sector for the provision of services.
- b) Recommending appropriate and equitable tariff system for provision of water
- c) Recommending extension and rehabilitation or replacement of existing system components as well as the system as a whole
- d) Discipline amongst both the water board and its operating staff
- e) Ensure the operation of sub-committees established by the Water Board
- f) Reporting to the Water Board every three months of all the activities performed in the name of the Water Board.

## **5.0 DELEGATION OF RESPONSIBILITIES**

The Water Board shall delegate responsibilities for its various management functions among its members by appointing

- ♣ 2-3 members responsible for administration
- ♣ 2-3 members responsible for financial management
- ♣ 2-3 members responsible for technical management
- ♣ 2-3 members responsible for hygiene and sanitation promotion, water utilization, public education and community mobilization.

The Water Board may co-opt any other person who possesses the relevant skills to serve on a sub-committee

The delegated members shall report directly to the executive committee

## **6.0 MANDATE OF THE WATER BOARD**

6.1 The Water Board shall be responsible for the overall management of operation and maintenance of all water and sanitation systems in the town or communities within the jurisdiction of [Name] Town/area council.

6.2 Without prejudice to subsection 6.1, the Water Board shall

- (a) Prepare plans for the establishment, rehabilitation, expansion, and replacement of existing as well as new systems in its area of jurisdiction
- (b) Determine the appropriate financial contributions where necessary by members of the community towards capital cost of developing the community water supply system to carry out operation and maintenance, and repair services as well as financial management of the water supply system where the available skills are lacking
- (c) Contract a private operator where appropriate
- (d) Recruit and supervise qualified persons to work as operators and managers of the water supply and sanitation systems
- (e) Contract a private operator where appropriate to carry out operation, maintenance, and repair services as well as financial management of the water supply system where the available skills are lacking
- (f) Propose an appropriate and equitable tariff to cover the full cost of operation, maintenance, repair, replacement, and other costs, such tariff shall be subject to the approval by the community at first instance, then the Town/Area Council and District Assembly
- (g) When a private operator is responsible for operation and maintenance, the proposed tariff shall be with prior consultation with the community and the private operator
- (h) Recommend appropriate and relevant bye-laws for enactment by the District Assembly to regulate water use, enforce tariff and other financial obligations and promote appropriate sanitation and good hygiene practices within the town or communities

- (i) Set procedures and charges for service connection, disconnection and re-connections, penalties for default and damages to the water and sanitation system subject to prior agreement of the community and the Town/Area Council and approved by the District Assembly
- (j) Undertake community education and training on tariff obligations and sound sanitation and hygienic behaviour within town or communities
- (k) Manage an efficient and accessible customer relations system
- (l) Manage funds of the water system prudently, transparently, and accountably on behalf of the town or communities
- (m) Develop and implement policies and guidelines for the water system management

### **6.3 OBLIGATIONS OF THE WATER BOARD**

The Water Board has an obligation to establish a mechanism for consultation with the community in arriving at decisions on all matters affecting the system, including

- (a) Planned shutdowns
- (b) Major expenditure on the water system
- (c) Water system operation hours
- (d) Water quality improvement matters and monitoring
- (e) Water losses management
- (f) Relevant bye-laws governing customer relations, penalties for default, tampering with water supply facilities, illegal connections, resale of water from house connections, etc.
- (g) Plans for water system rehabilitation, expansion, and replacement
- (h) General meetings for reporting or on education
- (i) Tariff for all categories of consumers within the town or communities

### **7.0 FINANCES OF THE WATER BOARD**

7.1 The Water Board shall be guided by the following guiding principles in the performance of its functions:

- (a) Financial viability of the water system to ensure sustainable operation and maintenance and shall reflect inflation and depreciation of the local currency
- (b) Tariff collection shall be in such a manner as to provide ease of collection from water users while incurring minimum costs
- (c) Penalties for default, illegal connections, wastage of water, system abuse shall be to deter others and to promote good practices
- (d) All service connections shall be based on a full cost recovery basis reflecting the changing cost of materials and labour

### **7.2 Tariff Setting Procedures**

- (a) In setting tariffs the Water Board shall be guided by the full cost of water production and the tariff setting guidelines issued by Community Water and Sanitation Agency
  - a. The Town/Area Council shall be responsible for reviewing tariff, service fees, and penalties proposed by the Water Board. The Town/Area Council shall recommend all rates and fees to the District Assembly for considerations and approval
  - b. Where the District Assembly for any reason recommends rates and fees lower than the appropriate rates, the District Assembly shall subsidize the said rates and fees to ensure sustainable operation and maintenance and financial viability of the water systems

### **7.3 The funds of the Water Board should include**

- (a) Revenues raised directly from water sales
- (b) Moves accrued from fees and penalties
- (c) Subvention from the District Assembly and Town/Area Council to support water supply development
- (d) Receipts from private operators responsible for operation and maintenance where applicable
- (e) Gifts and donations
- (f) Investments
- (g) Community contributions

#### **7.3.1 REPLACEMENT FUND**

- (a) The Water Board shall establish an account to be known as the Water System Replacement Account into which shall be deposited 10 % of monthly proceeds designed for long term replacement of the water system
- (b) The Replacement Fund shall not be used to support routine maintenance of the water system
- (c) The District Assembly shall from time to time allocate funds through its regular budgetary allocation to support the Replacement Fund

#### **7.3.2 FINANCIAL MANAGEMENT**

- (a) For the purpose of managing its finances, the Water Board shall establish its own bank account or accounts
- (b) The chairperson, the secretary, and the treasurer of the Water Board shall be signatories to the accounts provided that the signature of the chairperson and any of the remaining two signatories shall be sufficient to validate any cheque.
- (c) The Water Board shall establish a bookkeeping system and proper records in relation to the bookkeeping system for the management of funds relating to the nature of its business
- (d) The books and accounts of the Water Board shall be audited annually by auditors approved by the District Assembly within three months of the end of the immediately preceding financial year
- (e) The financial year of the Water Board shall be the same as the financial year of the District Assembly
- (f) The Water Board shall provide monthly and annual financial statements and reports to the community, Town/Area Council, and District Assembly
- (g) The audited report approved by the District Assembly and the annual financial statements shall be posted on the Community Notice Board two weeks before the annual general meeting

### **8.0 MEETINGS**

- (a) The Water Board shall ordinarily meet for the dispatch of business at its office or such place and such time as the chairperson may determine but shall meet once every three months
- (b) The chairperson of the Water Board shall convene all Water Board meetings and in his absence the secretary shall do so
- (c) Water Board meeting shall be called by a notice in writing signed by the chairperson and in his absence the secretary
- (d) The chairperson may, at the request either in writing or oral of not less than one-third of the members of the Water Board convene a special meeting of the Water Board
- (e) At every meeting of the Water Board the chairperson shall preside and in the absence of the chairperson, a member elected by the members present shall preside
- (f) The quorum at a meeting of the Water Board shall be one-third of the members of the Water Board

- (g) Questions proposed at the meetings of the Water Board shall be determined by a simple majority of the votes of the members present and voting and where the votes are equal the chairperson or member presiding shall have a casting vote
- (h) The secretary of the Water Board shall keep a correct record of decisions made at each meeting. The record of decisions shall be posted at the Community Notice Board and other areas for public view at all times
- (i) Without prejudice to the generality of the provisions of this Article, the Water Board shall convene an emergency meeting as and when it is necessary to do so
- (j) Meetings of the sub-committees of the Water Board shall be at such places and at such times as shall be determined by the chairperson of the sub-committee
- (k) Special meetings may be requested by the Town/Area Council or the District Assembly for specific purposes

## **9.0 REPORTING**

- (a) The Water Board shall establish a Community Notice Board or Notice Boards at locations accessible to all community members at all times to be used to post all records of decisions of Water Board meetings, financial reports, information and announcements about the water system
- (b) The Water Board shall give an opportunity to the community to participate in the review of its work and shall organize a community forum at least twice a year. The community forum shall also be used to educate the community on their obligations to support the management of the water and sanitation system in the community
- (c) The chairperson of the Water Board shall report on the status of the water and sanitation system to the Town/Area Council and the District Assembly at least twice a year and as many times as the District Assembly shall require

## **10.0 AMENDMENTS OF BYE-LAWS**

- (a) These bye-laws may be amended at any time deemed necessary by the District Assembly for the achievement of the objectives of the Water Board provided always that such amendment shall be made through the statutory procedures established for amending District Assembly bye-laws and with the active participation and consent of the Assembly Members of the town or communities
- (b) Amendments intended to ensure interference and/or excessive control are null and void
- (c) Proposals for the amendment of the bye-law may be made by the Water Board and submitted to the Town/Area Council for endorsement and the District Assembly for ratification
- (d) The schedule hereto may be amended as is deemed appropriate for the application of these bye-laws by a resolution of the District Assembly

## **11.0 INCORPORATION OF THE WATER BOARD**

The [NAME] Water and Sanitation Development Board under this schedule may be incorporated formally under the Registrar General's Department as a company limited by guarantee. For the purpose of such incorporations

- (a) The members of the Water Board shall be considered members of the company limited by guarantee
- (b) The town or area council and district assembly shall be guarantors of the company limited by guarantee.



- (c) Notwithstanding such incorporation these bye-laws shall remain in force as a constitution to guide the Water Board and its operations
- (d) The Town/Area Council in consultation with the District Assembly shall approve allowances proposed by the Water Board in respect of attending meetings, transportation expenses incurred as a duty of the water system

**12.0 TRANSITIONAL PROVISIONS**

Notwithstanding any provision to the contrary in these bye-laws the Water Board in existence prior to the promulgation of these bye-laws shall continue to operate and exercise all powers as if established under these bye-laws

**13.0 INTERPRETATION**

In these bye-laws unless the context others require:

“Water Board” means the small town or community Water and Sanitation Development Board set up in pursuance of these bye-laws

“Community” means a group of households or villages that share a common water supply facility

“District Assembly” means an Assembly established in a District under the Local Government Act, Act 462 of 1993 and includes Municipal and Metropolitan Assemblies

“Small Town Water Supply” means a piped borne water supply system for communities outside urban water supplies

“System” means all plant and equipment, land and buildings, transport, furniture and fixtures of a Community Water Supply System

“Tariff” means the price at which water is sold

**SIGNATURE**

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 Name  
 District Chief Executive  
 STAMP

.....  
 Name  
 Presiding Officer  
 STAMP

Date: .....

Date:.....