

**LEKWA-TEEMANE
LOCAL MUNICIPALITY
“NW 396”**



**CREDIT CONTROL &
DEBT COLLECTION POLICY**

**ADOPTED BY COUNCIL
31 MAY 2013
RESOLUTION NUMBER: 130/2013**

1. DEFINITIONS

In this policy any word or expression to which a meaning has been assigned in the Act bears the same meaning, unless the context is otherwise indicated –

“account”

means a notification by means of a statement of account to a person liable to pay the Council in respect of the following:

- Electricity consumption or availability fees based on a meter reading or estimated consumption;
- Water consumption or availability fees based on a meter reading or estimated consumption;
- Refuse removal and disposal;
- Sewage services and sewer availability fees;
- Rates;
- Interest; and
- Miscellaneous and sundry fees and collection charges;

“Act”

means the Local Government: Municipal System Act, 2000 (Act No. 32 of 2000);

“authorised official”

means any official or agent of the Council who has been authorised by it to administer, implement and enforce the provisions of these policies;

“availability fee”

means a fee as contemplated in sections 81 (1), 83(1) and 141(b) of the Local Government Ordinance, 1939 (Ordinance No. 17 of 1939), or any other law;

“by-law”

means a by-law adopted and promulgated by the Council;

“Municipal Manager”

means-

The person appointed by the Council as the Municipal Manager in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and include any person acting in that position;

“collection charges”

means charges which may be recovered by the Council in terms of section 75A of the Act, and includes the cost –

- of reminding customers of arrears;

- for the termination, restriction and reinstatement of municipal services;
- of any notice rendered, sent or delivered in terms of this Policy; and
- all legal costs, including attorney and client costs, incurred in the recovery of arrear amount;

“Council”

means –

- the local Council of the Lekwa-Teemane Local Municipality established by Provincial Notice No. 6766 of 2000, as amended, exercising its legislative and executive authority through its municipal council; or
- its successor in title; or
- a structure or person exercising a delegated power or carrying out an instruction, where any power in this Policy has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Act; or
- a service provider fulfilling a responsibility under this Policy, assigned to it in terms of section 81(2) of the Act, or any other law, as the case may be;

“customer”

means any occupier of premises to which the Council has agreed to provide or is actually providing any municipal services, or if there is no occupier, the owner of the premises concerned;

“fee”

means a fee prescribed for or in respect of any municipal service;

“municipal service”

means any or all of the services specified in the subparagraphs above and any other service provided by the Municipality.

“occupier”

means any person who occupies any premises or part thereof, without regard to the title under which he or she so occupies;

“owner”-

- in relation to a property referred to in paragraph of the definition of “property”, means a person in whose name ownership of the property is registered;
- in relation to a right referred to in paragraph of the definition of “property”, means a person in favour of whom the right is registered;
- in relation to a right referred to in paragraph of the definition of “property”, means a person in favour of whom the right is registered or to whom it was granted in terms of any law; and
- in relation to public service infrastructure referred to in paragraph of the definition of “property”, means the organ of state which owns or controls that public service infrastructure,

and includes a person who the Council may for the purpose of these policies regard as the owner of a property in the following cases:

- A trustee, in the case of a property in a trust excluding state trust land;
- an executor or administrator, in the case of a property in a deceased estate;
- a trustee or liquidator, in the case of a property in an insolvent estate or the owner of which is in liquidation;
- a judicial manager, in the case of a property in the estate of a person under judicial management;
- a curator, in the case of a property in the estate of a person under curatorship;
- a person in whose favour a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- a lessee, in the case of a property that is registered in the name of the Council and is let by it; or
- a buyer, in the case of a property that was sold by the Council and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

“Policy”

means the Credit Control and Debt Collection Policy adopted by the Council;

“prescribed”

means prescribed by the Council from time to time, by resolution;

“premises”

means any piece of land, with or without any building or structure thereon, the external surface boundaries of which are delineated on –

- a general plan or diagram registered in terms of the Land Survey Act, 1927 (Act No. 9 of 1927), or in terms of the Deeds Registry Act, 1937 (Act No.47 of 1937);
- or
- a section plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986),

Which is situated within the area of jurisdiction of the Council;

“property”

means –

- immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;
- a right registered against immovable property in favour of a person, excluding a mortgage bond registered against the property;
- a land tenure right registered in favour of a person or granted to a person in terms of any law; or
- public service infrastructure;

“rates”

means a municipal rate on property levied in terms of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), or any prior law;

“billing”

refers to the process of charging for services provided by issuing accounts.

“debt collection”

refers to the debt recovery process and includes sanctions (warning, disconnection, adverse credit rating, legal process and/or eviction, etc) to be applied in the event of non-payment of accounts.

“disconnection”

means interrupting the supply of water or electricity to a debtor as a consequence of ignoring a Final Demand for payment.

“due date”

refers to the final date of payment as shown on the account.

“effective disconnection”

means the physical removal of pipes and/or equipment as a consequence of unauthorized reconnection (tampering) of the disconnected service.

“holistic”

refers to the combining of all debt in order to establish the total obligation the debtor has to Council.

“indigents”

are as defined in the Free Basic Services and Indigent Support Policy.

“indigent amount”

refers to the applicable value of the indigent subsidy as determined by the Council from time to time.

“interest on overdue accounts”

is based on a full month and part of a month shall be deemed to be a full month.

“parked arrears”

refers to those monies that were ‘frozen’ by some of the former Councils.

“payment”

refers to any form of redemption towards the balance on an account whether by cash, cheque or electronic means.

“residential debtors”

are classified as those debtors who qualify for and receive free electricity and/or water.

“non-residential debtor”

are classified as those debtors who do not qualify or receive free electricity and/or water.

“sundry debt”

refers to any debt other than for rates, housing, metered services, sewerage and refuse removal.

“supply”

means any metered supply of water or electricity.

1. PREFACE: CONSTITUTIONAL OBLIGATIONS

The Council of the Local Municipality, in adopting this policy on credit control and debt collection, recognises its constitutional obligations to develop the local economy and to provide acceptable services to its residents. It simultaneously acknowledges that it cannot fulfil these constitutional obligations unless it exacts payment for the services which it provides and for the taxes which it legitimately levies – in full from those residents who can afford to pay, and in accordance with its indigency relief measures for those who have registered as indigents in terms of the Council’s approved Free Basic & Indigent Support Policy.

2. NOTICE OF DEFAULT AND INTENDED TERMINATION OR RESTRICTION OF SERVICES

Accountholders that are in arrears with the monthly account will be notified by letter of the default and the intended termination or restriction of services. The electricity or water supply or both such supplies to the property to which the account in arrears relates shall be terminated or restricted after 24 (twenty four) hours from delivery of the said notice unless the accountholder has paid the monthly account in full or has made an acceptable arrangement with the municipal manager for partial or late payment thereof.

3. RECONNECTION OR REINSTATEMENT OF TERMINATED OR RESTRICTED SERVICES

Terminated or restricted services to defaulting accountholders in terms of paragraph 2 above shall be reconnected or reinstated by the municipal manager only when all the following conditions have been met:

- the arrear account has been paid in full, including the interest raised on such account; or an acceptable arrangement has been made with the municipal manager for the payment of the arrear account, including the interest raised on such account;
- the charge(s) for the notice sent in terms of paragraph 2 and for the reconnection or reinstatement of the terminated or restricted service(s), as determined by the Council from time to time, have been paid in full;
- a service contract has been entered into with the municipality, as contemplated in paragraph 9 below; and
- a cash deposit has been lodged with the municipal manager in compliance with paragraph 10, such deposit to be newly determined on the basis of currently prevailing consumption of services in respect of the property concerned or, if insufficient data is available in regard to such consumption, of the currently prevailing consumption of services in respect of a comparable property.

4. PERIODS FOR RECONNECTIONS OR REINSTATEMENTS

The municipal manager shall reconnect or reinstate terminated or restricted services within 3 (three) working days after the date on which the conditions set out in paragraph 3 have been met, unless the municipal manager is unable to do so because of circumstances beyond the control of the municipality. In the latter event the municipal manager shall promptly inform the mayor of such circumstances and of any actions required to overcome the circumstances concerned.

5. ILLEGAL RECONNECTIONS

The municipal manager shall, as soon as it comes to the notice of the municipal manager that any terminated or restricted service has been irregularly reconnected or reinstated, report such action to the South African Police Service, disconnect or restrict such service(s), and not terminate or reinstate such service(s) until the arrear account, including the interest raised on such account, the charges for the notice sent in terms of paragraph 2 and the charges for both the original and subsequent reconnection or reinstatement of the service(s) and the revised deposit have been paid in full, together with such penalty as may be determined by the Council from time to time.

6. RESTRICTION OF SERVICES

6.1 Unrestricted household supply

Unrestricted household supply is only suitable for consumers who are fully paid up.

Consumers in arrears (those with arrangement) and the indigent should preferably not be accommodated. The fact that they got into arrears in the first place means that they could not afford a high consumption and their consumption should therefore be restricted.

6.2 Restricted household supply

Restricted supply is ideally suited to consumers in arrears who have a payment arrangement because they should be assisted to limit their consumption. It will protect them from high consumption which they could not afford in the first place. It will also motivate consumers to pay off arrears so that they can get an unrestricted supply.

Restricted supply to consumers who cannot afford payment has the following problems:

- a) Because household connections cannot be effectively restricted, they use more than the basic minimum. This consumption is at the Municipality's expense as there is little possibility of ever recovering costs.
- b) The convenience of having a household connection undermines the municipality's ability to coerce consumers to pay for arrears.

The municipal manager may appropriately restrict rather than terminate the services in question provided that such restricted services shall not be less than 6kl for normal residents and 6kl for registered indigent in case of water and 50kwh in the case of electricity.

7. SERVICES NOT RECONNECTED OR REINSTATED AFTER FOUR WEEKS

If services have been terminated or restricted in the case of a property in respect of which the account is in arrear, and the account holder has not paid such arrears, including the interest raised on such account, or made an acceptable arrangement with the municipal manager for the payment of the arrear account, including the interest raised on such account, within a period of 28 (twenty eight) calendar days after the date of termination or restriction of the service(s) concerned, the municipal manager shall forthwith hand such account over for collection and such further action as is deemed necessary by them to the municipality's attorneys or any debt collecting agency appointed by the Council.

8. ARRANGEMENTS FOR PAYMENT OF ARREAR ACCOUNTS

Allowing defaulting accountholders to make arrangements for the payment of arrear accounts shall be at the discretion of the municipal manager. Each defaulting accountholder shall be allowed a maximum period of 36 (thirty six) months within which to pay an arrear account, together with the interest raised on such account, and it shall be a condition for the conclusion of any arrangement that the accountholder is bound to pay every current municipal account in full and on time during the period over which such arrangement extends. If an accountholder breaches any material term of an arrangement, the balance of the arrear account, together with the balance of interest raised on such account, shall immediately become due and payable to the municipality, and if the accountholder defaults on such payment, the municipal manager shall terminate or restrict services to the property in question and shall forthwith hand such account over for collection as envisaged in paragraph 7. An accountholder who has breached an arrangement as set out above shall not be allowed to make any further arrangements for the payment of arrear accounts, but shall be proceeded against, after the dispatch of the initial notice of default as envisaged in paragraph 2 and failure by the accountholder to pay the arrear account, together with interest raised on such arrears as required in terms of such notice, as though such accountholder had breached a material term of an arrangement.

NB: An appropriate arrangement amount of the arrear amount is payable on conclusion of the arrangement and is-based on the following:

Net salary range earned by the consumer:

- | | |
|----------------------|-----------------------------|
| ○ R 1 000- R 2 999 | 10% of the outstanding debt |
| ○ R 3 000- R 5 999 | 15% |
| ○ R 6 000- R 8 999 | 20% |
| ○ R 9 000- R 12 999 | 30% |
| ○ R 13 000- R 15999 | 35% |
| ○ R 16 000- R 20 000 | 40% |
| ○ R 21 000- R 25 999 | 45% |

- R 26 000 and above 50%

(Or a minimum of 8% of monthly salary payable towards outstanding account.)

9. SERVICE CONTRACT

A service contract shall be entered into with the municipality for each property to which the municipality is expected to provide all or any of the following services:

- electricity
- water
- refuse collection
- sewerage.
- irrigation water

Such contract shall set out the conditions on which services are provided and shall require the signatory to note the contents of the municipality's credit control and debt collection policy, a copy of which shall be provided to such signatory, as well as the provision of the Municipal Systems Act no. 32 of 2000 in regard to the municipality's right of access to property.

10. PAYMENT OF DEPOSITS

Whenever a service contract is entered into in terms of paragraph 9, the signatory shall lodge a deposit with the municipality, such deposit to be determined as follows:

- in the case of the signatory's being the registered owner or spouse of the registered owner of the property concerned, an amount equal to one quarter of the aggregate monetary value of the relevant service(s) provided to the property over the immediately preceding 12 (twelve) month period, or – where no such information is available – one quarter of the aggregate monetary value of the relevant service(s) provided to a comparable property over the immediately preceding 12 (twelve) month period;

- in the case of the signatory's not being the registered owner or spouse of the registered owner of the property concerned, an amount equal to one third of the aggregate monetary value of the relevant service(s) as determined above.

11. ALLOCATION OF PART-PAYMENTS AND APPROPRIATION OF DEPOSITS

If an accountholder pays only part of any municipal account due, the municipal manager shall allocate such payment as follows:

- firstly, to any unpaid costs incurred by the municipality in respect of notices, legal expenses and reconnections or reinstatements of services in respect of the account or property concerned;
- secondly, to any unpaid interest raised on the account;
- thirdly, to any unpaid property rates;
- fourthly, to any unpaid sewerage charges;
- fifthly, to any unpaid refuse collection charges;
- sixthly, to any unpaid water charges; and
- lastly, to any unpaid both prepaid and metered electricity rates.

This sequence of allocation shall be followed notwithstanding any instructions to the contrary given by the accountholder.

In the event of an accountholder's defaulting on the payment of an arrear account, as contemplated in paragraphs 5, 7 and 8, the municipal manager shall forthwith appropriate as much of such deposit as is necessary to defray any costs incurred by the municipality and the arrear amount owing to the municipality in the same sequence that is applicable to the allocation of part payments, as contemplated above.

12. QUERIES BY ACCOUNTHOLDERS

In the event of an accountholder reasonably querying any item or items on the monthly municipal account, no action shall be taken against the accountholder as contemplated in paragraph 2 provided the accountholder has paid by due date an amount equal to the monthly average monetary value of the three most recent un-queried accounts, and provided further such query is made in writing by the accountholder or is recorded in writing by the municipal manager on behalf of the accountholder on or before the due date for the payment of the relevant account. Any query raised by an accountholder in the circumstances contemplated in paragraph 13 below shall not constitute a reasonable query for the purposes of the present paragraph.

13. INABILITY TO READ METERS

If the municipality is unable to read any meter on any property because the meter has been rendered inaccessible through any act or omission of the accountholder or owner of the property concerned, the municipal manager shall estimate the consumption of the service concerned by determining the monthly average of the metered consumption recorded on the three most recent accounts in respect of which meter readings were obtained, and thereafter bill the accountholder for the monetary value of such estimated consumption plus a provisional surcharge of 10% of such value for the first month in which the metered reading could not be obtained, escalating to 20% in the second month, 30% in the third month, and so on by 10 percentage points for each subsequent month, until the meter is again rendered accessible. The accountholder shall be liable for the initial payment of such surcharge(s) as though the surcharge were part of the service charge concerned, but the municipal manager shall reverse such surcharge(s) against the first account for which a meter reading is again obtained.

14. DISHONoured CHEQUES

If an accountholder tenders a cheque which is subsequently dishonored by the accountholder's bankers, the municipal manager shall – in addition to taking the steps contemplated in this policy against defaulting accountholders – charge such accountholder the penalty charge for dishonored cheques, as determined by the Council from time to time, and such charge shall rank equally with the costs and expenses incurred by the municipality for purposes of determining the sequence of allocations and appropriations contemplated in paragraph 11.

15. ISSUES OF MUNICIPAL CLEARANCE CERTIFICATES

When an owner of a property wants to sell such property a municipal clearance certificate is obtained from Council by the conveyancing attorney

Section 118(1) of the Municipal Systems Act ,No. 32 of 2000 determines that registrar of deeds or other registration officer of immovable property may not register the transfer of property except on production to that registration officer of a prescribed certificate issued by the municipality in which that property is situated ; and which certifies that all amounts due in connection with that property for municipal services fees, surcharge on fees, property rates and other municipal taxes , levies and duties during the two years preceding the date of application for the have been fully paid.

In addition property rates, refuse collection, sewerage, irrigation water and basic charges for electricity and water and estimates for electricity and water consumption, must be paid four (4) months) in advance from date of issuing tax clearance certificate.

All clearance certificates must be signed by the Chief Financial Officer, or his delegate.

16. DELEGATION OF RESPONSIBILITIES BY MUNICIPAL MANAGER

The municipal manager, including any person acting in such capacity, shall be responsible to the Council for the implementation of this policy and its attendant by-laws but – without in so doing being divested of such responsibility – may delegate in writing all or any of the duties and responsibilities referred to in this policy to any other official or officials of the municipality, and may from time to time in writing amend or withdraw such delegation(s).

17. BY-LAWS TO BE ADOPTED

By-laws must be adopted to give effect to the Council’s credit control and debt collection policy.

18. MUNICIPAL SYSTEMS ACT 2000

It is essential for the protection of the municipality’s interests that the provisions of particularly the Municipal Systems Act 2000, in so far as they provide additional debt collection mechanisms for municipalities, should be scrupulously enforced. At the same time, both the Council and the administration must note the obligations which the municipality has towards the community in respect of customer care and relations.

For ease of reference the relevant extracts from the Systems Act are therefore appended to this policy: specifically Sections 95 to 103 and Section 118.

19. ROLE OF MUNICIPAL MANAGER

Section 100 of the Municipal Systems Act 2000 (see the attached extracts) clearly assigns the legal responsibility for implementing the credit control and debt collection policies and by-laws to the municipal manager.

In practice, however, the municipal manager will inevitably delegate some or many of the responsibilities specifically assigned to this office in this policy, as it will be administratively impossible for the municipal manager to perform the numerous other functions of this office as well as attend to frequently recurring administrative responsibilities. However, such delegation does not absolve the municipal manager from final accountability in this regard, and the municipal manager will therefore have to ensure that a proper internal reporting structure is established and consistently implemented so that the day-to-day actions of and results from the credit control and debt collection programme are properly monitored and supervised.

It is also an integral feature of the present policy that the municipal manager should report monthly to the mayor, executive committee and Council on the actions taken in terms of the policy and by-laws and on the payment levels for the month concerned. Such reports must, as soon as practicably possible, provide the required information both in aggregate and by municipal ward.

In addition, such monthly report must indicate any administrative shortcomings, the measures taken or recommended to address such shortcomings, and any actions by councillors that could reasonably be interpreted as constituting interference in the application of this policy.

Notwithstanding all the foregoing references to the accountability of the municipal manager in regard to this policy, it is incumbent on all the officials of the municipality, certainly all those who are at management level, as well as more junior officials who are directly or indirectly involved with the community and the municipality's general customer relations, to promote and support both this credit control and debt collection policy and the application of the attendant by-laws. The responsibilities of all officials

will include reporting to the municipal manager any evident breaches of this policy, whether by members of the community, other officials or councillors of the municipality.

20. ROLE OF COUNCILLORS

Section 99 of the Systems Act 2000 places the important legal responsibility on the mayor and executive committee of monitoring and supervising the application of the present policy and the attendant by-laws, and of reporting to the Council on the extent and success of credit control actions.

The present policy further recommends that the municipality's ward committees be actively involved in implementing the credit control and debt collection programme, and should therefore receive monthly reports on the status of the municipal manager's credit control actions. The ward committees should also actively promote the present policy, and ensure at the same time that the municipality's customer relations are of a standard acceptable to the community.

In order to maintain the credibility of the municipality in the implementation of the present policy and the attendant by-laws, it is essential that councillors should lead by example. Councillors must therefore pledge, not only their unqualified support for this policy, but their commitment to ensuring that their own accounts will at no stage fall into arrears.

21. INDIGENCY MANAGEMENT

In regard to the payments expected from registered indigents, and the credit control and debt collection actions contemplated in respect of such residents, this policy must be read in conjunction with the municipality's approved Free Basic Services and Indigent Support Policy

22. UNCOLLECTABLE ARREARS

The effective implementation of the present policy also implies a realistic review of the municipality's debtors book at the conclusion of each financial year. The municipal manager must as soon as possible after 30 June each year present to the Council a report indicating the amount of the arrears which it is believed is uncollectable, together with the reasons for this conclusion.

The Council shall then approve the write off of such arrears.

23. UNALLOCATED CONSUMPTION

When electricity and water consumption is recorded on a property during a period for which there is no registered customer against whom an account can be raised.

Every effort must be made to determine the details of the relevant customer and to make the necessary arrangements to raise an appropriate account.

Where such attempts prove to be fruitless, the relevant charges must be raised against the registered owner of the property.

When a customer terminates a consumption account and no new customer registers, a property is deemed to be vacant:

- ❖ For business premises- instructions to disconnect the electricity and water supplies to the property must be issued immediately and actioned forthwith.
- ❖ For residential premises- a courtesy letter is forwarded to the new occupier within 7 days advising of need to register as customer and indicating the registration procedures that need to be followed. Failure to respond to that letter within a 7 day period will result in the issue of supply disconnection instructions.

24. TERMINATION OF ACCOUNTS

When a customer gives notice of termination of a billing account, departments who are providing a service to that customer must, within a period of 21 working days wherever practically possible, take final meter readings, process account adjustments etc. to allow a final account to be produced without unreasonable delay.

- ❖ Once a final account has been calculated, duly authorized and a credit balance results, efforts must be made to refund the credit due to the customer within a 21 day period – providing the Council is satisfied that all payments made by the customer have been duly honoured.
- ❖ Likewise, should a debit balance occur as result of the final account calculation, the account must be forwarded immediately to the Accounts Management Process.

25. AGREEMENTS WITH EMPLOYERS

- a) Section 103 of the Municipality Systems Act of 2000 reads as follows:- “A municipality may:
- b) With the consent of a person liable to the municipality for the payment of rates or other taxes or fees for municipal services, enter into an agreement with that person’s employer to deduct from the salary or wages of the person.
 - ❖ Any outstanding amounts due by that person to the municipality; or
 - ❖ Such regular monthly amounts as may be agreed; and
- c) provide special incentives for:
 - ❖ employers to enter into such agreements; and employers to consent to such agreements”

- d) This Council may advertise this regulation in its own and other trade publications in an effort to encourage local employers to come forward with an acceptable arrangement.