

# **LEKWA-TEEMANE LOCAL MUNICIPALITY**



## **CREDIT CONTROL AND DEBT COLLECTION BY LAW 2023/2023**

# THE LEKWA-TEEMANE LOCAL MUNICIPALITY: CREDIT CONTROL AND DEBT COLLECTION BY LAW

## BY LAW

To give effect to the implementation of the LEKWA-TEEMANE local Municipality's Credit Control and Debt Collection Policy and to provide for matters incidental thereto.

## PREAMBLE

Under section 156 of the [Constitution of the Republic of South Africa, 1996](#) ("the [Constitution](#)"), Lekwa-Teemane Local Municipality enacts as follows —WHEREAS section 98 of the Local Government: Municipal Systems [Act 32 of 2000](#) ("the Act") requires a municipality to:

(1)

A municipal council must adopt by-laws to give effect to the municipality's credit control and debt collection policy, its implementation and enforcement.

(2)

By-laws in term of subsection (1) may differentiate between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters as long as the differentiation does not amount to unfair differentiation.

**LEKWA-TEEMANELOCAL MUNICIPALITY:**  
**CREDIT CONTROL AND DEBT COLLECTION BY LAW**

**TABLE OF CONTENTS**

1	DEFINITIONS.....	5
2	PURPOSE .....	7
3	CUSTOMER CARE AND MANAGEMENT.....	8
4	MUNICIPAL SERVICES.....	9
4.1	RATES .....	9
4.2	SERVICES.....	10 -15
4.3	OTHER DEBT .....	15
5	SERVICE AGREEMENT.....	16-17
6	DISTRIBUTION OF ACCOUNTS.....	17
7	PAYMENT OF MUNICIPAL ACCOUNTS.....	18-19
8	INTEREST .....	19
9	DISHONOURED PAYMENTS.....	19-20
10	STAFF, COUNCILLORS AND WARD COMMITTEE MEMBERS IN ARREARS....	20-21
11	SETTLEMENT OF ACCOUNT.....	21
12	COLLECTION COSTS.....	21
13	REMINDER NOTICE.....	21-22
14	LETTER OF DEMAND.....	22
15	DEBT COLLECTORS.....	22
16	ATTORNEYS .....	22
17	RIGHT OF ACCESS TO PROPERTY.....	22-23
18	DISCONNECTION AND RECONNECTION OF SERVICES.....	23
19	CLEARANCE CERTIFICATES .....	24-25
20	PROVISION FOR BAD DEBTS AND IRRECO'V'ERABLE DEBTS.....	25
21	DISPUTES.....	25-26

28	ILLEGAL CONNECTIONS, UNAUTHORISED RECONNECTION AND VANDALISM. 26	
29	INDIGENT HOUSEHOLDS .....	27
30	PENALTIES.....	27
32	DEBT REDUCTION.....	27

**Chapter 1**  
**BACKGROUND AND INTERPRETATION**

## 1. DEFINITION

In this by-law, any word or expression to which a meaning has been assigned in the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), has that meaning, unless the context, indicates otherwise:

**"Acknowledgement of Debt"** means an unequivocal admission of liability to the municipality by the client. The client acknowledges that he or she owes a particular sum of money to the municipality and undertakes to repay what is owed on terms agreed with the municipality. For ease of administrative processes, a standard form must be completed;

**"Annually"** means once every financial year;

**"Application for Extension of Time for Arrear Payment"** is a discretionary extension of time for the payment of arrears for which a client may apply once an acknowledgement of debt form has been completed. For ease of administrative processes, a standard form must be completed;

**"Application for services"** means the process opening an account for municipal services. A prescribed form must be completed.

**"Arrangement"** means a written agreement entered into between the Municipality and the customer where specific repayment parameters are agreed to. Such arrangement does not constitute a credit facility envisaged in terms of section 8(3) of the National Credit Act but is deemed to be Incidental Credit as envisaged in terms of section 4(6)(b) read with section 5(2) and (3) of the National Credit Act;

**"Arrears"** means those rates and service charges that have not been paid by the due date and for which no arrangement has been made;

**"Authorized Representative"** means a person or instance legally appointed by the Municipality to act or to fulfil a duty on its behalf;

**"Basic Municipal Services"** shall mean a municipal service necessary to ensure an acceptable and reasonable quality of life, which service — if not provided — would endanger public health or safety or the environment;

**"Billing Date"** means the date upon which the monthly statement is generated and debited to the customer's account;

**"Business and Commercial Property"** means -

property used for the activity of buying, selling or trading in commodities or services and includes any office or other accommodation on the same property, the use of which is incidental to such activity; or property on which the administration of the business of private or public entities take place.

**"By-law"** shall mean legislation passed by the council of the Municipality, and which shall be binding

**on the Municipality and on the persons and institutions to which it applies;**

**"Chief Financial Officer"** means such municipal official appointed in terms of section 57 of the Municipal Systems Act, 2000 and administratively in charge of the budget and treasury office, or his or her nominee;

**"Client", "Customer" or "Consumer"** means the owner or occupier of property or premises who is liable to the Municipality for payment of a municipal account or part thereof;

**"Consumer Deposit" or "Deposit"** is an amount paid by customer, to be held by the municipality as security for the consumption of services. This consumer deposit will remain in place from the opening of an account until closure or termination of the account. It will either be refunded to the previous owner on termination provided that the customer does not owe the municipality any debt on the said account or other accounts or be transferred to the new owner account as advised by the letter from the attorneys.

**"Council"** means the Municipal Council of Lekwa-Teemane Local Municipality in terms of section 18 of the Municipal Structures Act, 1998 as amended and or section 157(1) of the Constitution;

**"Councilor"** shall mean a member of the Council of the Lekwa-Teemane Local Municipality;

**"Credit Control"** means all the functions relating to the collection of monies owed by ratepayers and the users of municipal services;

**"Credit Control and Debt Collection Policy"** means the Credit Control and Debt Collection Policy of the municipality as adopted by Council in terms of section 96(b) of the Municipal Systems Act, 2000 as amended;

**"Debt Collectors"** means an external person or entity appointed by the Municipality to collect monies due and payable to the Municipality, subject to the conditions contained in this by-law;

**"Defaulter"** means any client who owes arrears to the Municipality;

**"Delegations"** means delegations in terms of section 59 of the Municipal Systems Act, 2000 as amended;

**"Delivery Date"** shall mean the date on which the account is delivered to the customer or 3 days after the date the account was posted, whichever is the first;

**" Domestic Customer or User"** of municipal services shall mean the person or household to which municipal services are rendered in respect of "residential property" as defined below;

**"Due Date"** in relation to rates and services -rates due in respect of any immovable property, means the date for payment indicated on the account, in the case where rates and services are levied on a monthly basis, the due date shall be the 7<sup>th</sup> of each month;

**"Dwelling"** means a building, structure or place of shelter to live in or conduct business from;

**"Electricity Charges"** means service charges in respect of the provision of electricity;

**"Financial Year"** means the municipality's financial year starting on the 1<sup>st</sup> July and ending at 30 June of the following year;

**"Lekwa-Teemane Local Municipality"** means such municipality established in terms of section 12 of the Local Government Municipal Structures Act, 1998 (Act 117 of 1998);

**"Illegal Connection"** means any connection or reconnection of a property or premises to the water and/or electricity reticulation network of the municipality, in contravention of this by-law and related By-law, any other By-law of the municipality, Policy, act or regulation;

**"Indigent"** means a household who cannot afford to make a full monetary contribution towards rates and service charges as determined by Council;

**"Interest"** means the charge levied on arrears, calculated as the prime rate plus one percent, charged by the bank which holds the Municipality's primary bank account, as determined annually by Council and included annual budget and tariffs of the Municipality;

**"Municipal Account"** means an account in terms of this by-law;

**"Municipal Systems Act"** means the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) as amended;

**"Municipal Tariff"** shall mean a tariff for services which the Municipality may set for the provision of a service to the local community, and may include a surcharge on such service. Tariffs for major services shall mean tariffs set for the supply and consumption or usage of electricity, water, sewerage and refuse removal, and minor tariffs shall mean all other tariffs, charges, fees, rentals or fines levied or imposed by the Municipality in respect of other services supplied including services incidental to the provision of the major services;

**"Municipality"** means the Lekwa-Teemane Local Municipality;

**"National Credit Act"** refers to the National Credit Act, No 34 of 2005;

**"Notice of Termination of Services"** means a form to be completed by a client when closing his/her municipal account;

**"Occupier"** means a person who occupies a property, dwelling or premises or any part thereof, whether such occupation is lawful or otherwise;

**"Owner"** means a person, being the registered owner of a property in terms of the Deeds Registries Act; 1937 (Act 47 of 1937) and in relation to immovable property means the person in whom is vested the legal title thereto provided that: -

the lessee of immovable property which is leased for a period of not less than thirty years, whether the lease is registered or not, shall be deemed to be the owner thereof;

the occupier of immovable property occupied under a service servitude or right analogous thereto, shall be deemed to be the owner thereof;

**"Person"** includes a natural person and a **juristic person**;

**"Premises"** means a portion of a property, for which a separate municipal account is rendered;

**"Property"** means a property registered under separate title in terms of the Deeds Registries Act, 1937 (Act 47 of 1937);

**"Service delivery Agreement"** means an agreement between the Municipality or an institution or persons mentioned in section 76(b) of the Local Government: Municipal Systems Act 32 of 2000 and a customer.

**"Water Charges"** means service charges in respect of the provision of water;

## **2. PURPOSE**

(1) To give effect to the municipality's credit control and debt collection by-law, its implementation and enforcement as outlined in section 98 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

### 3. CUSTOMER CARE AND MANAGEMENT

The municipality shall conduct itself towards its customers in a manner that it is stipulated in section 95 of the Municipal Systems Act, 2000 which requires the municipality to, levy rates and other taxes by the municipality and the charging of fees for municipal services, a municipality must within its financial and administrative capacity:

- a) establish a sound customer management system that aims to create positive and reciprocal relationship between persons liable for these payments for the municipality, and where applicable, a service provider;
- b) establish mechanisms for users of services and ratepayers to give feedback to the municipality or other service provider regarding the quality of the services and the performance of the service provider where possible,
- c) take reasonable steps to ensure that users of services are informed of the costs involved in service provision. The reasons for the payment of service fees and the manner in which monies raised from the service are utilised;
- d) where the consumption of services has to be measured, take reasonable steps to ensure that the consumption by individual users of services is measured through accurate and verifiable metering systems;
- e) ensure that persons liable for payments, receive regular and accurate accounts that indicate the basis for calculating the amounts due;
- f) provide accessible mechanisms for those persons to query or verify accounts and metered consumption, and appeal procedures which allow such persons to receive prompt redress for inaccurate accounts;
- g) provide accessible mechanisms for dealing with complaints from such persons, together with prompt replies and corrective action by the municipality;
- h) provide mechanisms to monitor the response time and efficiency in complying with paragraph (g) and
- i) provide accessible pay points and other mechanisms for settling accounts or for making pre-payments for services.



## Chapter 2

### MUNICIPAL SERVICES

#### 4. MUNICIPAL SERVICES

- a) The municipality shall produce monthly consolidated municipal accounts for the applicable charges of clients. These accounts will be distributed to clients in the manner provided for in section 8 of this by-law.
- b) The municipal account shall reflect amounts due for the following:
  - a) The rates and services charge for a specific period;
  - b) The interest charges for any overdue amount;
  - c) Any other service charges, levies and taxes due to the municipality; and
  - d) The number of units consumed in relation to electricity and/or water consumed for a specific period.
  - e) The consumer deposit paid by the client and held by the Municipality as security for the consumption of services.

#### 4.1 RATES

4.1.1 The following provisions apply to rates and any levies:

- (a) Interest shall be charged on all overdue accounts;
- (b) If the account is not paid by the due date as displayed on the account the Chief Financial Officer may issue any notice in terms of this by-law showing the total amount owed to the Municipality;
- (c) If the account is not settled or there is no response from the debtor to make acceptable arrangements to repay the debt -
  - i. The supply of any service to the property may be restricted, disconnected or discontinued in terms of section 18 of this by-law; and
  - ii. Irrespective of the exercise of powers by the Chief Financial Officer in terms of the Credit Control and Debt Collection By-law summons may be issued and the legal process followed;
- d) In instances where the rates debt is in respect of municipal property sold by suspensive sale agreement, the collection thereof will be dealt with in terms of the relevant deed of sale, and if applicable, this by-law, or any subsequent applicable written agreement between the Municipality and the debtor;
- e) At any stage while the debt is outstanding, all reasonable steps shall be taken to ensure that the ultimate sanction of a sale-in-execution is avoided or taken only as a last resort. The Municipality, however, has total commitment to a sale-in-execution should the debtor fail to make use of the alternatives provided for by the Municipality from time to time, This is also applicable to all debt, and includes all the debt which is a charge against a property, as referred to in this chapter;

- f) The municipal manager may proceed to sale-in-execution of any immovable property classified as a problem building in terms of the municipality 's Problem Building By-law, for any debt owing to the municipality and may attach any condition to such property as determined in terms of the aforesaid By-law when proceeding as aforesaid.

## 4.2 SERVICES

4.2.1 The following provisions apply to the payment for services:

- (a) Accounts must be paid by the due date as shown on the account;
- (b) Interest will be charged on all overdue accounts;
- (c) The debtor must be warned on the monthly account of a possible disconnection and other credit control actions if payment is not received by the due date;
- (d) If payment is not received or suitable payment arrangements are not made by the due date, a notice may be served in terms of Section 115 of the Municipal Systems Act, warning of an imminent restriction, disconnection or discontinuation of a service after 14 (fourteen) days from the date as stated in the notice;
- (e) If payment is not received or suitable payment arrangements are not made by the due date as shown on the notice, the supply or supplies may be restricted, disconnected or discontinued for any service in respect of any arrear debt; and notwithstanding any of the mentioned actions, the services may be limited, if necessary, by the Chief Financial Officer;
- (f) A notice shall be left at the property advising that the supply has been restricted, disconnected or discontinued and warn that all electric points should be considered live and that all water outlets should be closed.
  - i. The notice will also advise that the supply will only be reconnected after the amounts specified on the notice and any other debt including the reconnection fee, have been paid or an arrangement acceptable to the Municipality has been made;
  - ii. The notice will also warn of the consequences of illegal reconnection.
- g) All residential consumers, whose water supply has been restricted, may have access to basic water supply as

determined by the Council from time to time by means of a restricted water flow to their property or where the water supply has been disconnected or discontinued as a result of, but not limited to, unauthorized or illegal reconnections and tampering, a water management device or prepayment water meter may be installed, or a communal water supply point, within a radius of approximately 200 (two hundred) meters from their property, may be provided; and

- i. The Chief Financial Officer has the sole discretion to insist on a water management device or a prepayment water meter being installed to a property where the water supply is regularly restricted due to non- payment; or
  - ii. The Chief Financial Officer considers the debtor to be a credit risk to the municipality; and
  - iii. a water management device, a prepayment water meter or any service may be restricted, disconnected or discontinued for any arrears owed to the municipality;
- h) Subject to the provisions contained in sub-item (f), debtors may be required to pay all penalties and arrears in full before the supply is restored;
- i) Subject to the municipality's capacity at the time to restore such service which has been, restricted, disconnected or discontinued, such service will be restored within reasonable period of time after the relevant conditions contained in this by-law have been met;
- j) The onus shall always be on the debtor to request reconnection and to prove that the full amount for which the service was restricted, disconnected or discontinued, as shown in the notice referred to in section 4.2 (1) (d) of this by- law has been paid and that an arrangement was entered into in terms of sub- item(f);
- k) Despite the provisions of sub-item (a) to (j), should the amount outstanding for the supply of services remain unpaid, full recovery procedures, including appropriate legal actions may be undertaken in order to collect these monies;
- l) In the event of an insolvency, and notwithstanding any provisions provided for in this by-law, the Chief Financial Officer, shall serve notice in terms of sub-item (d) at the property and shall notify the trustee by giving 14 (fourteen) days' notice of the intention to restrict, disconnect or discontinue the services to the property; and

- i. Notwithstanding sub-item (l) the period referred to therein may be waived at the request of the trustee.
- m) Where a water management device has been installed the Chief Financial Officer; may:
  - i. Authorise that the adjustment of the water flow be limited to the affordability of the residential debtor based on the total household income; and in addition
  - ii. Where the residential debtor who is registered as an indigent and who now has the ability to pay based on the total household income and requires that the supply be increased; and
  - iii. Where all the arrears were written off or reversed and are paid in full or a suitable arrangement is made to settle the said arrears, may have the supply increased in accordance with sub-item (m) (i); and
- n) No arrangement will be entered into for arrears once the additional daily water allowance has been granted; and
  - i. If the daily allocation is not paid in full, the water management device will be reset to enable the consumer only to have access to the free basic water supply;
- o) Water and electricity meter must be read with regularity and accuracy so that the correct consumption information is recorded on the billing system; and
  - i. Consecutive estimations of metered consumption should be minimized to the extent that such is practically possible and with due cognizance of the right municipality to generate estimations as contained in the relevant by-laws and tariff policy or any other applicable legislation.

4.2.2 The following provisions apply in the event of illegal reconnection of or tampering with, water or electricity supply:

- (a) Where this has occurred the water or electricity supply may be effectively disconnected;
- (b) The full amount of arrears plus any illegal consumption, and any applicable tariffs, may be required to be paid prior to reconnection. Should exceptional circumstances exist,

adequate payment arrangements may be permitted at the sole discretion of the Chief Financial Officer; and

- (c) The illegal reconnection of, or tampering with, a service supply is considered a criminal offence which may result in legal action being taken.

4.2.3 The installation of a prepayment meter, with the written permission of the owner is encouraged, however:

- (a) The Chief Financial Officer has the sole discretion to insist on a prepayment meter being installed on a property, at a cost to the debtor, where the electricity supply has been disconnected for non-payment; or
- (b) The Chief Financial Officer deems the debtor to be a credit risk to the municipality; and
- (c) A prepayment meter may be disconnected or may be subject to the terms contained in sub-item (4); and
- (d) Such meter shall be subject to any other action permitted in terms of any other relevant legislation including this by-law.

4.2.4 When purchasing units, the Chief Financial Officer may deduct a percentage of the monetary value towards setting off any amount referred to in sub-item (4) (b). This action will be by prior notification to such debtor and shall remain unchanged unless by default; and

- (a) The deduction applied may be based on the following:
  - i. For a property valued up to and including R500 000, the minimum deduction may be 30% and the maximum deduction will be 50%;
  - ii. For a property valued up to and including R500 001 to R1 000 000, the minimum deduction may be 50% and the maximum deduction will be 70%;
  - iii. For a property valued greater than R1 000 000, the minimum deduction may be 70% and the maximum deduction will be 90%;
  - iv. For single residential properties, who are charged at the domestic full tariff, in terms of the Tariff Policy, and who consume in excess, of any volume of water per month, as determined by Council from time to time, for water restriction purposes, may have such costs recovered in line with sub-items (4)(a)(i) to (iii) respectively; and
  - v. For any commercial or industrial customers, as determined in the Tariff Policy, such deduction will be 90%.

- (b) The deduction referred to in sub-item (a) may be offset against any debt as follows:
- i. Electricity arrears
  - ii. Any other arrears;
  - iii. Any fines; and
  - iv. Any penalties.
- (c) An authorised representative of, or service provider to the Municipality, shall be given access to any property in accordance with the provisions of section 101 of the Municipal Systems Act.
- (d) The Chief Financial Officer shall have the right to restrict, disconnect or discontinue any service to a property, regardless of who has occupation, upon the written request of the registered owner and provided the service account is in arrears; and
- i. A notice may first be served in terms of section 115 of the Municipal Systems Act, giving 14(fourteen) days' notice of the intention to restrict, disconnect or discontinue such service.
- (e) Where a service account, which is not in the name of the registered owner, has been restricted, disconnected or discontinued, the Chief Financial Officer may insist that the service be transferred into the name of such registered property owner;
- (f) Notwithstanding anything to the contrary, the provisions of this item shall apply to any debt and the supply of any service to the property may be restricted, discontinued or disconnected or discontinued in terms of the relevant sections in the Credit Control and Debt Collection By-law.
- (g) Where a close corporation or company has been deregistered in terms of Section 26 of the Close Corporation Act, 69 of 1984 or section 83 of the Companies Act, Act 71 of 2008, as amended;
- i. Any services may be restricted or disconnected; and
  - ii. Any services which have been restricted or disconnected may remain in this state, until the company or close corporation has been re-registered in terms of applicable legislation or court order and meets the criteria in terms of this by-law to be reconnected.

### **4.3 OTHER DEBT**

4.3.1 All debt under this item will be subject to:

- (a) Interest being charged on all overdue accounts;
- (b) The supply of service to the property may be restricted, discontinued or disconnected or discontinued for outstanding sundry debt; and
- (c) The municipality 's right to utilize any legal action at its disposal as well as making use of third-party debt collectors for the recovery of sundry debt.

## Chapter 3

### SERVICES ACCOUNT

#### 5. SERVICE AGREEMENT

- 5.1 No municipal Service shall be provided to any property unless a written agreement governing the supply of services and the cost thereof has been entered into between owner or occupant and the municipality. Such an agreement will be subject to the municipality's administrative, logistical and financial capability to render such services.
- 5.2 The supply of water, sanitation, electricity and refuse removal services will be automatically available to new owners where transfer of property took place and the services were previously available at the property concerned. Electricity supply to the property will only be reconnected, once a written agreement governing the supply and cost thereof of all municipal services has been entered into between the new owner and the municipality. Rates, water, sanitation and refuse removal services will be charged automatically to the new owner from date of registration of the property. The onus is on the new owner to discontinue any and all services if he or she is not in need of it. In the event of new water and or electricity meters being installed on a new property or property in the event of new improvements on such property, the owner will be charged for consumption on a basis that the opening reading on the respective meter was zero. New applications for services agreements for rental properties or premises occupied by a person other than the owner shall be entered only into by both the owner and occupier, where applicable. The owner shall bind himself/herself as surety and co-principal debtor in favour of the municipality for the fulfilment of the obligations of the occupier towards the municipality; the application will be subject to prescribed credit information and outstanding amounts related to the specific debtor may be transferred to the new account.
- 5.3 The owner and occupier shall be jointly and severally liable for payment of all services charges. It is the duty of the owners to ensure at all times that the occupiers of their premises are not in arrears with payments, but the Municipality shall within its financial and human resource constraints, endeavor to inform the owner of the performance by the occupier in terms of the agreement, where possible. The Municipality will make available payment information regarding the payment status of the occupier to the owner upon request.
- 5.4 In case of a service agreement between the municipality and a legal person such as business entities, including but not limited to trusts, companies, close corporations, partnerships, sole proprietors and voluntary associations, the municipality may require the agreement to be accompanied by any one or more or all of the following:
- a) A resolution whereby authority to enter into the agreement is delegated to the signatory.



- b) The business entity's registration number or ID number, if applicable;
- c) The names, addresses and all relevant contract particulars of all the businesses' directors or members or trustees or proprietors or partners or executive members;
- d) That any one or more or all partners/members/directors/trustees must sign as surety and co-principal debtor for the due fulfilment of all the obligations of the business entity;
- e) That the signatory to the agreement warrants that he/she is duly authorised to do so, that all information supplied is true and correct and shall further warrant that the business is not trading in insolvent circumstances;
- f) Copy of company registration documents, copies of IDs of directors or members or trustees or proprietors or partners or executive members.

5.5 The owner or the occupant must inform the municipality of the vacating of the property or premises by an occupier on or before the date of vacation or as soon thereafter as the owner may become aware of such vacation, by submitting to the Municipality a notice of Termination of Services.

5.6 Should the owner or occupier be represented by an agent or other representative; such agent or representative must submit a power of attorney authorizing such agency or representation in a form and contents to the satisfaction of the Chief Financial Officer.

## **6. DISTRIBUTION OF ACCOUNTS**

6.1 Every document that is required to be delivered to a client may be delivered through one or more of the following mechanisms:

- (a) in person at the residential or business premises of the client, or at any other location designated by the client but at the expense of the client;
- (b) by mail;
- (c) by cellular phone short message service (SMS), MMS or WhatsApp;
- (d) Collection at the enquiry desk

6.2 Delivery of document shall be in a manner chosen by the client from the options made available in section 6.1 of this by-law.

6.3 The municipality shall deliver a municipal account / document to all clients once a month.

6.4 The onus is on the client to obtain an account from the municipality in the event of not receiving an account by means of the methods available in section 6.1 of this by-law. The client will have no remedy against credit control or debt collection action based on the excuse that he did not receive a municipal account or received it late.

## CHAPTER 4

### CREDIT CONTROL and DEBT COLLECTION

#### 7. PAYMENT OF MUNICIPAL ACCOUNTS

- 7.1 The account holder shall be responsible for payment of municipal services when the municipal account becomes due.
- 7.2 In terms of sec 102(a) of the Municipal 'Systems Act the Municipality deems all separate accounts of a client liable for payment to the Municipality, to be consolidated regardless the fact that separate accounts for such debtor may be rendered and includes all pre-paid services for which an account is rendered.
- 7.3 The owner, who fails to enter into a service agreement, will despite such failure be liable for the payment of the municipal account.
- 7.4 Nothing contained in this by-law will prohibit the municipality to collect payment of any amount from the owner or any other person in terms of applicable legislation.
- 7.5 Partial payment will be allocated to oldest debt firstly then to the youngest debt until all debt is paid.
- 7.6 The municipality may attach rental or any other payments due to debtors who are in arrears with their Municipal accounts:
  - 7.6.1 If any debt levied in respect of a property is unpaid by the owner of the property, the Chief Financial Officer may recover the amount in whole or in part from a tenant or occupier of the property, despite any contractual obligation to the contrary on the tenant or occupier;
  - 7.6.2 The Chief Financial Officer may recover an amount only after a written notice was served on the tenant or occupier as provided for in Section 115 of the Municipal Systems Act; and
  - 7.6.3 Any amount the Chief Financial Officer recover from the tenant or occupier of a property must be set off by the tenant or occupier of a property to the owner of the property; and
  - 7.6.4 The tenant or occupier of a property must, on request by the Chief Financial Officer, furnish the Chief Financial Officer with a written statement specifying all payments to be made by the tenant or occupier of a property to the owner of the property for rent or other money payable on the property during a period determined by the Chief Financial Officer;

- 7.6.5 The Chief Financial Officer may recover the amount due for debt on a property in whole or in part from the agent of the registered owner, if this is more convenient for the Chief Financial Officer;
- 7.6.6 The Chief Financial Officer may recover the amount due for debt from the agent of the registered owner only after a written notice was served on the tenant or occupier as provided for in Section 115 of the Municipal Systems Act;
- 7.6.7 The amount that the Chief Financial Officer may recover from the agent is limited to the amount of the rent or other money received by the agent on behalf of the registered owner, less any commission due to the agent; and
- 7.6.8 The agent must, on request by the Chief Financial Officer, furnish the Chief Financial Officer with a written statement specifying all payments for rent on the property and any other money received by the agent on behalf of the owner of the property during a period determined by the Chief Financial Officer; and
- 7.6.9 The Chief Financial Officer may take action as provided for in this by-law or any other relevant legislation, against a tenant, occupier or agent for not more than the amount outstanding as determined by this sub-item; and
- 7.6.10 Where such tenant, occupier or agent fails to respond to the notice as referred to in this section; or
- 7.6.11 Fails to comply with any notice or fails to adhere to any terms, conditions or undertakings in terms of this sub-item; or fails to make any agreed or required payments.

## **8. INTEREST**

- 8.1 The municipality shall charge interest on any amount due for services and related costs in arrears, in terms of section 75A (1) (b) of the Municipal Systems Act. The interest rate shall be according to the rate as set out in the approved annual budget.
- 8.2 The interest charged on a default amount shall not in aggregate, exceed the unpaid balance of the principal debt as at the time that the default occurs in terms of Section 103(5) of the National Credit Act, 2005,

## **9. DISHONOURED PAYMENTS**

- 9.1 Should any payment made to the municipality by debit order, credit or debit card, EFT or other negotiable instrument, be dishonored by the financial institution on

which it is drawn, the municipality may levy such collection charge against the municipal account (one account if an allocation to multiple accounts was done) to which the payment relates, as determined by the Council in terms of section 75A (2) of the Municipal Systems Act.

## **10 STAFF, COUNCILLORS AND WARD COMMITTEE MEMBERS IN ARREARS**

### **10.1 Staff members in arrears**

- a) Item 10 of Schedule 2 to the Municipal Systems Act (Code of Conduct for Municipal Staff Members) states that –
  - i. a staff member of the Municipality may not be in arrears to the Municipality for rates and service charges for a period longer than three (3) months; and
  - ii. a Municipality may deduct any outstanding amounts from a staff member's salary after this period.
- b) The Municipality shall liaise with the relevant staff on repayment of their arrears and will deduct any outstanding amount from the salary of a staff member who may be in arrears for a period of 3(three) months or longer
- c) The staff member must sign an acknowledgement of debt and direct debit deduction form in accordance with this By-law.
- d) No special treatment shall be afforded to staff members whose accounts are arrears.
- e) Any staff member who has breached the code will be dealt with in accordance with the disciplinary procedures adopted by the Municipality or as prescribed by Law or determined by a Collective Agreement.

### **10.2 Councilors in arrears**

- a) Item 12A of Schedule 1 to the Systems Act states that a Councilor may not be in arrears to the Municipality for a period longer than three months.
- b) The Municipal Manager shall liaise with the Speaker and issue the necessary salary deduction instruction where appropriate.

10.3 Where the Municipality is satisfied with the reasons supplied by the staff member or Councilor or Ward Committee Member stating why the account is in arrears, the staff member or Councilor or Ward Committee Member must pay such arrears within a period of 3 months with interest.

10.4 On appointment to a higher post, employees who have signed a Credit Authority shall increase their installments on the Credit Authority in accordance with their new salary increase.

- 10.5 The Council reserves the right to deduct any arrears from the stipend or any other amount payable to ward committee members.

## **11 SETTLEMENTS OF ACCOUNT**

- 11.1 An amount tendered as payment against a municipal account will, if not representative of the full balance of such account on date of payment, will not be accepted as full and final payment of the amount due and payable on that date or any future date, unless so authorized by the Chief Financial Officer in writing. The Settlement amount may include interest reversal of interest charged over the last two years to the account.
- 11.2 The Municipality shall give a customer willing to settle account Fifty Percent discount on the debt that is older than 90 Days.

## **12 COLLECTION COSTS**

All collection and legal cost incurred by the municipality for the recovery of arrear amounts, due and payable in terms of the municipal account, will be debited against the municipal account, including any tracing cost and attorney's fees at the attorney-and-own-client scale, subject to the discretion of the court regarding the awarding of cost.

The municipality may levy and recover such collection charges determined in terms of section 75A (1) (b) of the Municipal Systems Act, not included in section 14(1).

## **13 REMINDER NOTICE**

- 13.1 The municipality may deliver a notice to a client who fails to make timeous payment in terms of a municipal account. This notice will remind such client to make the due payment on or before a date specified in such notice to avoid the implementation of further credit control action.
- 13.2 A notice in terms of section 13 of this by-law may, be served on a client by electronic mail or by cellular phone short message service send to the electronic mail address or cellular phone number, respectively, provided by the client on the service agreement and such service shall have the effect as if served in terms of section 6 of this by-law.
- 13.3 Failure by the municipality to cause the delivery of the notice in section 13.1 of this by-law, or the client not receiving such notice, for whatever reason, will not prevent the municipality from instituting further process for the recovery of any arrear payment or constitute a defense against a claim instituted for the recovery of any arrear payment.

## **14 LETTER DF DEMAND**

- 14.1 The Municipality may cause to be delivered to a client who is in arrears with payment in terms of a municipal account, a letter demanding payment of such arrear amount on or before a date specified in such letter of demand.
- 14.2 Failure by the municipality to cause the delivery of the letter of demand in section 14.1 of this by-law, or the client not receiving such letter of demand, for whatever reason, will not prevent the municipality from instituting further process for the recovery of any arrear debt or constitute a defense against a claim instituted for the recovery of any arrear payment.

## **15 DEBT COLLECTORS**

The municipality may appoint a debt collector agent or agents to collect on its behalf arrear payments from clients, and to take such legal steps necessary to give effect to such debt collection.

## **16 ATTORNEYS**

- 16.1 The municipality may, at any time, appoint attorneys to institute or proceed with legal proceedings or appeal proceedings, against a client, to recover any amount due for payment by such client, including the enforcement of the acknowledgement of debt.
- 16.2 Municipal Manager or a member of staff delegated by him or her, may appoint and give any instruction to an attorney and if prudent, legal counsel, to give effect to section 16.1 of this by-law and further to depose of or require any person to depose of an affidavit, to give evidence and to produce any document, for the purpose of such legal proceedings.

## **17 RIGHTS OF ACCESS TO PROPERTY**

- 17.1 The registered owner or occupier of any premises in the municipality must give an official of the municipality or any representative of a service provider, who is authorised by the Chief Financial Officer, access at all reasonable hours to the premises in order to inspect the premises, read, inspect, install or repair any meter or service connection for reticulation, stop or restrict or discontinue the provision of any service.
- 17.2 Where access has been denied to a property or where it is found that officials are unable to gain access the Chief Financial Officer may, having given fourteen days' due notice, insist on the installation of a water management

device and any prepayment meter may be installed at the property, at the owners cost.

- 17.3 Where access has been denied to a property or where it is found that officials are unable to gain access the Chief Financial Officer may, having given fourteen days' due notice, disconnect, stop, restrict or discontinue the provision of any service, at the cost of the owner.

## **18 DISCONNECTION AND RECONNECTION OF SERVICES**

- 18.1 The Chief Financial Officer may cause the supply of electricity and/or water to be discontinued to a property or premises, if payment is not received or suitable arrangements made by the due date as shown on the notice, subject to the provision of the minimum water supply to a property or premises as the municipality may determine from time to time.
- 18.2 The Municipality shall have the right to disconnect or restrict any service to a property, regardless of who has occupation, upon written request from the registered owner and provided the service account is in arrears.
- 18.3 The Municipality may insist that the services be transferred to the owners' account where tenants default on payment and or insist on changing to pre-paid services at the cost of the owner.
- 18.4 Reconnection of services will only be effected after the arrear amount specified and reconnection fee (rate as set out in the approved annual budget) has been paid or an arrangement acceptable to the Municipality has been made.
- 18.5 Debtors may be required to pay 20 — 50% of outstanding debt and enter into a written arrangement on the balance of debt were agreed upon, before services will be reconnected. The onus is on the debtor to request reconnection and to proof payment and or arrangement.
- 18.6 pre-paid meters may be disconnected or sales prohibited for non-payment of any debt owed to the municipality.
- 18.7 Payments for the reconnection of services must be in cash, debit or credit card or similar pay point services. Proof of payment must be provided for EFT payments.

## CHAPTER 5

### GENERAL PROVISIONS

#### 19 CLEARANCE CERTIFICATES

Upon the sale of any property the Municipality must issue the required clearance certificate as prescribed in this by-law and the policy, subject to settlement of any and all outstanding municipal accounts.

- 19.1 Upon the sale of any property the Municipality will withhold the clearance certificate required under section 118(1) of the Act until all amounts have been fully paid that became due and payable in connection with that property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the 2 (two) years preceding the date of application for the certificate.
- 19.2 All payments must be allocated to the seller's municipal accounts, and all refunds will be made to the seller.
- 19.3 All debt, inclusive of any advanced collection shall be deemed to be due and payable, for the purpose of issuing any clearance certificate in terms of Section 118 of the Municipal Systems Act, and must be paid in full:
- a) No interest shall be paid in respect of any payment made in terms of this sub- item unless permitted in terms of any other legislation or by-law;
  - b) All payments will be allocated to the registered seller's municipal accounts in terms of this by-law;
  - c) Prior to any refund, this payment will be dealt with as follows:
    - i. The advanced collection shall be used to offset any debt that accumulated against the property as follows:
      - A. any tenant debt; and
      - B. any of the seller's debt;
  - d) Any refund, in respect of any debt remaining after registration of transfer has been registered in the Deeds Office, shall be refunded to the seller subject to the seller not having any other outstanding debt owed to the Municipality;
  - e) No certificate, in terms of section 118 of the Municipal Systems Act, will be issued where the registered owner (and in this instance the seller) has not complied with any relevant legislation, policy or agreement relating to the property in question;
  - f) The amount owing is for the account of the registered owner regardless of who incurred the debt;



- g) The Municipality may obtain a court order to sell any property in execution to recover outstanding debt due and payable as set out in the court order.

## **20 PROVISION FOR BAD DEBTS AND IRRECOVERABLE DEBTS**

- 20.1 The provision for bad debts shall be determined based on factors that affect the trade receivables age analysis of the entity to determine whether the provision for doubtful debts at financial year end is accurately stated for financial reporting purposes.
- 20.2 The municipality, in the case of charges due or where it is the service provider, shall only abandon recovery of a debt owed to it in one or more of the following circumstances:
  - a) Insolvency or passing of the client or debtor as the case may be, if proven that his or her estate has insufficient funds to make payment;
  - b) A balance being too small to recover for economic reasons considering the costs of recovery;
  - c) Where the claim has become prescribed;
  - d) When the client or debtor as the case relocated and tracing agents are unable to trace the current whereabouts of such person;
  - e) All reasonable notifications and cost-effective legal avenues to recover the outstanding amount have been exhausted;
  - f) The amount outstanding is the residue of the payment of a dividend from an insolvent estate or where there is a danger of contribution in proving a claim against the insolvent estate;
  - g) If the debt outstanding cannot be proved;
  - h) The outstanding amount is due to an administrative error by the municipality; and
  - i) By council resolution on good cause shown or as per delegation system of the municipality.
- 20.3 Notwithstanding the above the municipality shall be under no obligation to write-off any particular debt.

## **21 DISPUTES**

- 21.1 A client who disputes a municipal account must submit such dispute in writing to the Chief Financial Officer, stating clearly the reasons for such dispute and any relevant facts, information or representation which the Chief Financial Officer should consider to resolve such dispute.
- 21.2 A dispute submitted in terms of section 21.1 of this by-law, shall not stop or defer the continuation of any legal proceedings already instituted, for the

recovery of arrear payment relating to such dispute, unless the Chief Financial Officer decides otherwise.

- 21.3 The Chief Financial Officer will consider a dispute submitted in terms of section 21.1 of this by-law and will inform the Client of the decision in writing within fourteen (14) days from the date on which such dispute is submitted, together with reasons for such decision.
- 21.4 Should the client wish to appeal against a decision of the Chief Financial Officer, the client may submit an appeal and reasons in writing to the Municipal Manager, within twenty-one (21) days from the date on which the client is informed of the decision of the Chief Financial Officer meant in section 27.3 of this by-law. The Municipal Manager must consider the appeal within fourteen (14) days from the date of the appeal and must notify the client of the decision within a reasonable time thereafter.

## **22 ILLEGAL CONNECTIONS, UNAUTHORISED RECONNECTION AND VANDALISM**

- 22.1 Any person, who undertakes or allow or causes any other person to undertake an illegal connection or unauthorised reconnection, will be guilty of an offence.
- 22.2 Any person who undertakes any act of vandalism to the metering units of the Lekwa-Teemane Local Municipality will be guilty of an offence.
- 22.3 A client who becomes aware of an illegal connection or unauthorised reconnection of the electricity supply or the water supply to a property or premises owned by or occupied by such client, must immediately notify the municipality.
- 22.4 The municipality will immediately disconnect any illegal connection or unauthorised reconnection and remove any wiring, piping or other equipment or installation relating to an illegal connection.
- 22.5 Electricity and water losses due to an illegal connection or unauthorised reconnection will be as practically as possible be apportioned to the client's account.
- 22.6 The municipality shall impose a penalty on the property or premises where the illegal connection, unauthorised reconnection or vandalism to the metering units of the Municipality was discovered. The amount of the penalty for illegal connection, unauthorised reconnection or vandalism is set out in the Tariff Policy of the municipality and is reviewed annually.
- 22.7 An authorised representative of or service provider to the Municipality shall be given access to any premises in accordance with the provisions of Sec 101 of the Municipal Systems Act.

## **23 INDIGENT HOUSEHOLDS**

The indigent households shall be treated in terms of the Indigent Policy of the municipality.

## **24 PENALTIES**

24.1 A person who fails or omits to do anything prescribed by this by-law or do anything prohibited in terms of this by-law will be guilty of an offence.

24.2 A person found guilty of an offence in terms of section 24.1 of this by-law will be liable for a fine or imprisonment or both such fine and imprisonment.

## **25 DEBT REDUCTION**

From time-to-time payments habits of clients may be profiled for the purpose of incentives to keep clients within the payment net. The Municipality may from time to time introduce incentive schemes to improve the debt collection rate.