

LEKWA LOCAL MUNICIPALITY



DRAFT CREDIT CONTROL & DEBT COLLECTION BY-LAW

PREAMBLE

- (1) In order to comply with and execute the provisions of sections 95, 96 and 97 of the Local Government: Municipal Systems Act, Act 32 of 2000 (hereinafter referred to as “the Systems Act”), the LEKWA Local Municipality (hereinafter referred to as “the Municipality”) has adopted a Credit Control & Debt Collection Policy (also hereafter referred to as “the Policy”).

- (2) In terms of section 62(1)(f)(iii) of the Local Government: Municipal Finance Management Act, Act 56 of 2003, the Municipal Manager of the Municipality, appointed in terms of section 54A of Systems Act must, in his capacity as the accounting officer of the Municipality, ensure that the Municipality has and implements a credit control and debt collection policy and further gives effect to such policy by adopting a by-law in terms of the provisions of section 98(1) of the Systems Act.

- (3) In terms of the provisions of section 98(1) of the Systems Act the Municipality must adopt a by-law in order to give effect to the implementation and enforcement of the policy.

- (4) Therefore this by-law is adopted in order to give effect to the implementation and enforcement of the policy and to provide for ancillary matters and procedures related to credit control and debt collection.

THE LEKWA

LOCAL MUNICIPALITY:

CREDIT CONTROL & DEBT COLLECTION

BY-LAW

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1. DEFINITIONS

The words and expressions used in this by-law shall have the respective meanings assigned to them in the Credit Control & Debt Collection Policy of the Municipality, and words or expressions to which a meaning has been assigned in terms of the provisions of section 1 of the Systems Act will have the meaning assigned thereto by the said act. All headings are included for convenience only and shall not be used in the interpretation of any of the provisions of this by-law.

2. THE CREDIT CONTROL & DEBT COLLECTION POLICY ADOPTED BY THE MUNICIPALITY

This Municipality has prepared and adopted a policy, known as the Credit Control & Debt Collection Policy of the Municipality (also referred to as “the policy”), as contemplated in terms of the provisions of section 96(b) of the Systems Act. The policy comprehensively and in detail to deal with and regulates the matters as prescribed in terms of the provisions of sections 97 and 98(2) of the Systems Act and therefore will not be repeated to this by-law or to be estate as it would be the repeat of same information.

Therefore and without repeating the contents of the policy, the contents of the policy are hereby incorporated into this by-law by reference and *mutatis mutandis* assigned the status of a by-law in as far as it is required for its implementation, enforcement and to be given effect to, as referred to in terms of the provisions of section 98(1) of the Systems Act.

The policy will be reviewed annually and approval is delegated to Council of Lekwa Local Municipality as Legislative Authority. Council with annual budget approve the reviewed budget policies in terms of section 21(1)(b)(ii)(bb) of Municipal Finance Management Act.

3. OBJECTIVE OF THE BY-LAW

The objective of this by-law is to give effect to the implementation and enforcement of the policy of the Municipality as required in terms of the provisions of section 98(1) of the Systems Act.

4. TITLE AND APPLICATION OF THE BY-LAW

- (1) This by-law is known as the Credit Control & Debt Collection By-Law of the Municipality.
- (2) This by-law revokes all previous by-laws, decisions and/or *ad hoc* clauses within any other by-law, regarding the subject matter of this by-law.

5. RESPONSIBLE AUTHORITY

The responsible authority for the adoption, publication and implementation of this by-law is the Municipality and where applicable the Municipal Council of the Municipality.

6. COMMENCEMENT AND VALIDITY

This by-law shall come into full force and effect upon publication hereof in accordance with the provisions of section 13 of the Systems Act.

7. ENFORCEMENT AND COMPLIANCE WITH THIS BY-LAW

The Municipality shall enforce compliance with this by-law.

8. POWERS OF THE MUNICIPALITY IN TERMS OF THE SYSTEMS ACT OR THIS BY-LAW

- (1) Where the Municipality executes any actions or conducts functions in terms of this by-law the Municipality may in addition to any rights and powers given to the Municipality in terms of the Systems Act or this by-law:
- (a) access any premises and/or execute work on and/or inspect any premises;
 - (b) question a person present on any premises in respect of any matter which may be relevant to the work or inspection;
 - (c) question a person whom the Municipality believes may have information relevant to the work or inspection;
 - (d) inspect any document that a person is required to maintain in terms of any law or may be relevant to any work or inspection;
 - (e) copy any document referred to in sub-section (d) above, or if necessary remove the document in order to copy it;
 - (f) take samples of any substance that is relevant to the work or inspection;
 - (g) monitor and take readings or make measurements;
 - (h) take photos or make audio-visual recordings of anything or any person, process, action or condition on or regarding any premises;
 - (i) do whatsoever is necessary for the execution of work or the conducting of an inspection including removing any object or item from the premises, such as to enable the Municipality to do what is required to give effect to and/or enforce the provisions of this by-law;

- (j) remove or rectify any unlawful connection, works, material, acts or behaviour.
- (2) Where the Municipality removes anything other than a substance referred to in sub-section (1)(f) above, from premises being worked upon or inspected must:
- (a) issue a receipt for anything removed from the premises to the owner or any person in control of the premises;
 - (b) return the object removed as soon as practically possible after achieving the purpose for which it was removed.

9. OBSERVING FUNDAMENTAL RIGHTS

The Municipality must, when exercising any right in terms of this by-law, do so with strict regard for decency and orderliness and with regard for each person's human rights including the right to dignity, freedom, security and privacy.

10. NON LIABILITY OF THE MUNICIPALITY

Neither the Municipality nor any employee, official, person, body, organisation or corporation acting on behalf of the Municipality shall be liable for any loss or damages of whatsoever nature how so ever arising whether, direct or consequential, suffered or sustained by any person as a result of or arising from the Municipality enforcing, imposing, giving effect to or taking any act or omission in terms of any matter regarding this by-law.

11. CODE OF ETHICS

- (1) All the officials of the Municipality shall embrace the spirit of Batho Pele and treat all rate payers, owners, consumers, customers and debtors with dignity and respect at all times.

- (2) Employees of the Municipality shall execute their duties in terms of this policy in an honest and transparent manner whilst protecting the confidentiality of information of owners, consumers, customers and debtors in accordance with the provisions of the Promotion of Access to Information Act, Act 2 of 2000.

12. AUTHENTICATION OF DOCUMENTS

Any document requiring authentication by the Municipality shall be sufficiently authenticated if signed by the Municipal Manager, or by a person duly authorised to do so, on behalf of the Municipality, by resolution of the Municipality and shall constitute *prime facie* proof of the authenticity, existence and contents of the document.

13. PRIMA FACIE EVIDENCE

In legal proceedings by, or on behalf of the Municipality, a certificate reflecting any information required in terms of this by-law included in such a certificate and which is signed by the Municipal Manager, or by a person dully authorised to do so, on behalf of the Municipality, by resolution of the Council, shall subject to the provisions of section 3 of the Law of Evidence Amendment Act, Act 45 of 1988, upon its mere production constitute *prima facie* evidence of the contents of the certificate.

14. PROVISION OF INFORMATION

An owner, consumer, customer and debtor or person within the municipal area the Municipality must provide the Municipality with accurate information requested by the Municipality that is reasonably required by the Council for the implementation or enforcement of this by-law.

15. FALSE STATEMENTS OR INFORMATION

No person shall make a false statement or furnish false information to the Municipality or falsify a document issued in terms of this by-law.

16. OFFENCES

- (1) It is an offence for any person to:
- (a) unlawfully and intentionally or negligently interfere with any actions taken by the Municipality in terms of this by-law;
 - (b) contravene or fail to comply with any provision of this by-law in as much as this by-law places an obligation or duty on such a person to comply with this by-law;
 - (c) contravene or fail to comply with a condition or prohibition imposed in terms of this by-law;
 - (d) contravene or fail to comply with any conditions imposed upon the granting of any application, consent, approval, concession, exemption, rebate or authority in terms of this by-law;
 - (e) fail to provide information or provide false or misleading information reasonably requested by the Municipality;
 - (f) fail or refuse to give access required by the Municipality in terms of the provision of this by-law;

- (g) fail to comply with the terms of a notice served upon him/her in terms of this by-law;
- (h) fail or refuse to provide the Municipality with a document or information that the Municipality is entitled to in terms of this by-law;
- (i) disclose any information relating to the financial or business affairs of any person which information was acquired in the performance of any function or exercise of any power in terms of this by-law;
- (j) fail to comply with any lawful instruction given in terms of this by-law;
or
- (k) obstruct or hinder the Municipality in the execution of the Municipality's duties under this by-law.

(2) Any alleged offence committed in terms of sub-section (1) above, may be referred to the South African Police Services by the Municipality for investigation with a view to possible prosecution.

17. PENALTY

A person who contravenes or fail to comply with a provision of this by-law, or commit an offence as set out in this by-law shall be liable on conviction to a fine or imprisonment, or in the case of any continued offence to a further fine or imprisonment for every day during the continuance of such offence.

18. AVAILABILITY OF BY-LAW

A copy of this by-law shall be included in the Municipality's Municipal Code as required by the provisions of section 15 of the Systems Act and a copy of this by-law shall be available for inspection at the offices of the Municipality at all reasonable times and shall also be available from the Municipality against payment of an amount as determined by the Council.

19. REGULAR REVIEW PROCESSES

The Credit Control and Debt Collection By Law must be reviewed on an annual basis to ensure that it complies with the Municipality’s strategic objectives as contained in the IDP and with legislation.

20. SHORT TITLE

This By-Law is the Credit Control and Debt Collection By-Law of the Lekwa Municipality.

21. ENFORCEMENT/IMPLEMENTATION

This By-Law has been approved by the Municipality in terms of resolutiondated and comes into effect from 1 July