



THABA CHWEU LOCAL MUNICIPALITY

CREDIT CONTROL AND DEBT COLLECTION BY-LAW

1. Preamble

WHEREAS section 229(1) of the Constitution authorises a municipality to impose rates on properties and surcharges on fees for the services provided by or on behalf of the municipality.

AND WHEREAS section 4 (1) (c) of the Municipal Systems Act provides that a municipality has a right to finance its affairs by charging fees for services, imposing surcharges on fees, rates on property and, subject to national legislation, other taxes, levies and duties.

AND WHEREAS section 5 (1) (g) provides that the members of the community have a right to have access to municipal services which the municipality provides; section 5 (2) (b) places a duty on the members of the community to pay promptly for services fees, surcharges on fees and other taxes, levies and duties imposed by the municipality.

AND WHEREAS section 95 of the Municipal Systems Act provides for the municipality to, within its financial and administrative capacity, establish a total responsive Customer Relations Management System to cater for:

- Positive and reciprocal relationship with the Rates Payers and Users of municipal services who are liable for payment thereof.
- Mechanism for Rate Payers and Users of municipal services to give a feedback on the quality services.
- Informing the Users of services of the costs of services, the reasons for payment for services and the utilisation of the money raised from services.
- Measurement and accurate/verifiable quantification of consumption of services.
- Regular and accurate accounts to Rate Payers/Users of services, showing the basis of the calculation of the due to municipality.
- Accessible pay points and other mechanism for settling accounts including pre-payments for services.
- Query and Complaints management and procedure thereof for prompt response and corrective action on one hand and monitoring thereof on the other

AND WHEREAS section 96 of the Municipal Systems Act and section 62 (1) (f) of Municipal finance Management Act read with section 21 (2) of Water Services Act, 1997, place an obligation on the municipality to collect all money due and payable to the municipality; and, for this purpose, must adopt, maintain and implement a credit control and debt collection policy which is consistent with rates and tariff policies and compliant with the Act.

AND WHEREAS section 100 of the Municipal Systems Act places obligation on the Municipal Manager or the Service Provider to implement and enforce the Municipality's Credit Control Policy and the By-law enacted in terms of section 98 of the Municipal Systems Act.

AND WHEREAS section 97 of the Municipal Systems Act requires that the said policy must provide for the:

- Credit control procedure and mechanisms
- Debt collection procedure and mechanisms
- Provision for the indigent debtors which is consistent with the rate and tariff policies and national policy on indigents
- Interest on arrears, where appropriate
- Extension of time for the payment of accounts
- Termination of services or restriction of services when the payments are in arrears
- Illegal consumption of services and damage to municipal infrastructure
- The credit control and debt collection policy may differentiate between different categories of ratepayers, users, debtors, taxes, services, service standards and other matters as long as the differentiation does not amount to unfair discrimination

AND WHEREAS section 102 of the Municipal Systems Act permits the municipality to consolidate the accounts of a debtor liable for payment to the municipality; credit payment from such debtor against any of the debtor's accounts; and implement any of the credit control and debt collection measures provided for in the Act in respect of any of the debtor's accounts which remains in arrears; subject to subsection 2 of the said section.

AND WHEREAS section 62 of the Municipal Systems Act, makes provisions for consumers or debtors to appeal decisions or actions of municipal officials in instances of disagreement with such decisions or actions.

AND WHEREAS section 98 of the Municipal Systems Act requires the municipality to adopt a By-law to give effect to the municipality's credit control and debt collection policy including its implementation and enforcement.

NOW THEREFORE the Council of the municipality in terms of section 156 of the Constitution of the Republic of South Africa read with section 11 of the Municipal Systems Act hereby makes and enacts the following By-law:

2. Definitions

“Act” means Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as amended

“Constitution” means the Constitution of the Republic of South Africa

“Council” means Municipal Council of Municipality

“Councillor” means a sitting Councillor of Municipality

“Credit Control and Debt Collection By-law and Policy” means Credit Control and Debt Collection Policy and By-law of the Municipality

“Municipal Council” means Municipal Council of the Municipality

“Municipal Equipment” means any part of the reticulation supply system, water meter (smart, post & prepaid), electricity meter (smart post & prepaid), including any other devices municipality uses to measure consumption

“Municipal Finance Management Act” means Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) as amended

“Municipal Property Rates Act” means Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004)

“Municipal Systems Act” means Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as amended

“Municipality” means Thaba Chweu Local Municipality

“Official” means employee of the municipality or/and employee of the Service Provider of the Municipality

“Policy” means Credit Control and Debt Collection Policy

“Rate” means property rate in terms of Municipal Property Rates Act

“Tariff” means fees, charges and surcharges on tariffs levied by the municipality in respect of any function or service provided by the municipality or on behalf of the municipality, but excludes levying of property rates in terms of Municipal Property Rates Act

Water Services Act means Water Services Act, 1997 (Act No. 108 of 1997) as amended

3. Object

The Object of this By-law is to:

- a. Give effect to the implementation and enforcement of the Credit Control and Debt Collection Policy of the municipality as contemplated in section 96 of the Municipal Systems Act
- b. Provide enforcement instrument for the collection of all money due and payable to the municipality in terms of the mechanism and procedure more fully set out in the policy referred to in paragraph 5 hereof and other enforcement mechanism which the municipality may adopt from time-to-time subject to compliance with Municipal Systems Act.

4. Adoption and Implementation of Credit Control and Debt Collection Policy

- a. The municipality shall in terms of section 96 of the Municipal Systems Act, adopt, maintain and implement Credit Control and Debt Collection Policy for the purpose of collecting all money due and payable to the municipality
- b. The Credit Control and Debt Collection Policy adopted in terms of subparagraph 5(a) hereof shall be reviewed annually as part of the Annual Budget Process of the municipality, for either confirmation and reiteration or amendment; which reiteration or amendment shall have the force and effect as contemplated in section 96 of the Municipal Systems Act.

5. Enforcement

This By-law shall be enforced through:

- a. The Credit Control and Debt Collection Policy of the municipality adopted in terms of paragraph 4 hereof and;
- b. The Property Rates and Tariff Policies of the municipality, including the By-laws thereof.

6. Offences and penalties

Any person who:

- 1) contravenes or fails to comply with the provisions of this By-law or the Policy;
- 2) fails to comply with a notice served in terms of this By-law or the Policy;
- 3) tampers with any municipal equipment or breaks any seal on a meter;
- 4) uses or consumes municipal service(s) unlawfully;

- 5) interferes unlawfully with municipal equipment or the supply system of municipal service(s) in one way or another; or
- 6) obstructs or hinders any official or councillor of the municipality in the execution of her/his duties under this By-law or the Policy, is
 - (a) in respect of residential consumer, guilty of an offence and liable to imprisonment for a period not exceeding 6 months for the first offence or 12 months for the second offence or to a fine not exceeding **R8 000.00** for a first offence or **R16 000.00** for the second offence.
 - (b) in respect of business consumer, guilty of an offence and liable on conviction to imprisonment for a period not exceeding 6 months for the first offence or 12 months for the second offence or to a fine not exceeding **R40 000.00** for a first offence or **R90 000.00** for the second offence.
 - (c) in respect of industrial consumer, guilty of an offence and liable to imprisonment for a period not exceeding 6 months for the first offence or 12 months for the second offence or to a fine not exceeding **R175 000.00** for a first offence or **R200 000.00** for the second offence.

Reconnection

Reconnection will only be done upon receipt of the penalty amount including all costs related to the discontinuation of services.

7. Repeal

This By-law hereby repeals all previous by-laws on Credit Control and Debt Collection of the municipality hitherto the promulgation of this by-law

8. Delegation

The Municipal Manager may delegate any of his or her powers in terms of this By-Law or the policy to any employee or official of the municipality subject to applicable legislation.

9. Short title

This By-law is called Credit Control and Debt Collection By-law, and takes effect on the date of the publication hereof in the provincial gazette or as otherwise indicated in the Notice hereof.