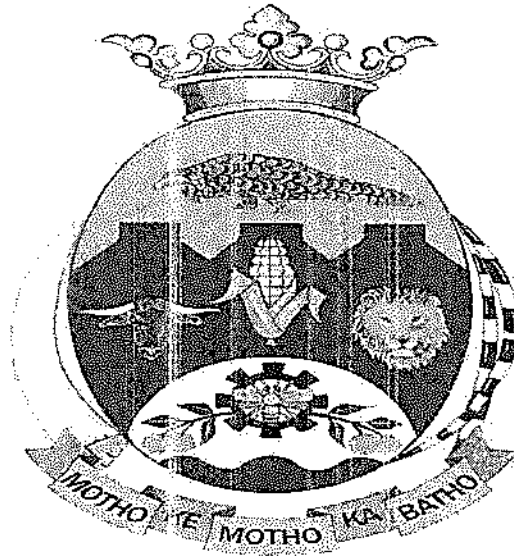


# LEPELLE – NKUMPI MUNICIPALITY



## CREDIT CONTROL AND DEBT COLLECTION POLICY

2019 - 2020



LEPELLE – NKUMPI LOCAL MUNICIPALITY  
CREDIT CONTROL AND DEBT COLLECTION POLICY

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## 1. INTRODUCTION

### 1.1 LEGISLATIVE REQUIREMENTS

- 1.1.1 The Debt Collection and Credit Control By – Laws have been gazetted in March 2008, Gazette No. 1454.
- 1.1.2 Chapter 7 of the Constitution of the Republic of South Africa.
- 1.1.3 The policy will enable Council to collect all money that is due and payable to as set it is out in Municipal Systems Act , No. 32 of 2000.
- 1.1.4 The policy seeks to bring relief to consumers who have huge outstanding debts and have no income or are registered as indigents and are currently unable to pay for the outstanding debts.

### 1.2 LEGAL FRAMEWORK

This policy has been compiled in accordance with the Local Government- Municipal Systems Amendment Act (MSA), 2003, Act No 44 of 2003. The Council of the municipality, in adopting this policy on Credit Control and Debt Collection, recognizes its constitutional obligations as set out in Chapter 7 of the Constitution and Chapter 9 of the Municipal Systems Act, No 44 of 2003, to develop the local economy and to provide acceptable services to its residents.

### 1.3 PROVISION OF SERVICES

1.3.1 The Municipal Council must give priority to the basic needs of the community, promote the social and economical development of the community and ensure that all residents and communities in the municipality have access to at least the minimum level of basic municipal services in terms of section 152 (1) (b) and 153 (a) of the Constitution.

1.3.2 In terms of the MSA the municipal services provided to residents and communities in the Municipality must:-

- be within the municipality's financial and administrative capacity;
- be provided in a manner that –
  - is fair and equitable to all its residents and communities;
  - ensures the highest quality service at the lowest cost and the most economical use and allocation of available resources; and



- is financially and environmentally sustainable; and
- regularly be reviewed with a view to upgrading, extension and improvement.

1.3.3 According to the MSA the phrase “financial sustainable”, in relation to the performance of a municipal service, means the performance of a municipal service in a matter that:-

- is likely to ensure that revenues from that service are sufficient to cover the cost of operating the service; and
- maintaining, repairing and replacing the physical assets used in the performance of service;
- is likely to ensure –
  - a reasonable surplus in the case of a service performed by the Municipality itself;
  - a reasonable profit, in the case of a service performed by a service provider, other than the Municipality itself;
- is likely to enable the Municipality or other service provider to obtain sufficient capital requirements for the performance of the service; and
- takes account of the current and anticipated future –
  - level and quality of that service;
  - demand for the service and
  - ability and willingness of residents to pay for the service.

#### 1.4 CREDIT CONTROL AND DEBT COLLECTION

1.4.1 The Municipal Council must ensure that all money that is due and payable to the Municipality is collected, subject to the provisions of the MSA.

1.4.2 For this purpose the Municipal Council must adopt, maintain and implement a credit control and debt collection policy consistent with its rates and tariff policies and complying with the provisions of the MSA.

1.4.3 The credit control and debt collection policy 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 discrimination.



1.4.4 The Municipal Council must adopt by-laws to give effect to its credit control and debt collection policy, its implementation and enforcement.

## 2 PURPOSE

The purpose of this policy is to ensure that credit control forms part of the financial management system of the Lepelle – Nkumpi Municipality and ensure that the same procedures be followed for each individual case.

## 3 OBJECTIVES

3.1 Provide a framework within which the municipality can exercise its legislative authority with regard to credit control and debt collection.

3.2 Ensure that all monies due and payable to the municipality are collected and used to deliver municipal services in the best interest of the community and in a financially sustainable manner.

3.3 Set realistic targets for debt collection.

3.4 Outline credit control and debt collection policy procedures and mechanisms.

3.5 Provide a framework to link the municipal budget to Indigents Policy, Tariff Policy and the Writing off of Irrecoverable debt policy.

## 4. PRINCIPLES

4.1 The council is responsible for policy making, while it is the responsibility of the implementing authority to execute these policies.

4.2 All property owners must complete service agreements forms formally requesting the municipality to connect them to service supply lines.

4.3 A copy of the municipal credit control, debt collection and customer care policy and by – laws must be handed to every property owner on request.

4.4 Billing is to be accurate, timeous and understandable.

4.5 The property owner is entitled to an efficient, effective and reasonable respond to queries, and should suffer no disadvantage during the processing of a reasonable query.

4.6 Enforcement of payment must be prompt, consistent and effective.



- 4.7 Fraud or criminality will lead to heavy penalties.
- 4.8 All costs incurred by the Council relating to the Credit Control and debt collection process shall be recovered from the property owner.
- 4.9 New applications for services will be subject to prescribed credit information and outstanding amounts may be transferred to a new account.
- 4.10 Interest may be charged on overdue accounts at the rate determined by council from time to time.
- 4.11 Property owners can make arrangements with the council to repay overdue amounts.
- 4.12 Indigents will be identified and supported.
- 4.13 The policy must be implemented with equity, fairness and consistency.

## **5. RESPONSIBILITY FOR CREDIT CONTROL**

### **5.1 Supervisory Authority**

In terms of the MSA section 91, the Executive Committee must:-

Oversee and monitor-

- the implementation and enforcement of the Municipality credit control and debt collection policy and any by-laws enacted; and
- When necessary evaluate, review or adapt the policy and any by-laws, or the implementation of the policy and any by-laws, in order to improve efficiency of its credit control and debt collection mechanisms, processes and procedures. Report to every scheduled meeting of the Council.

### **5.2 Implementing Authority**

In terms of the MSA the Municipal Manager must:-

- implement and enforce the Municipality's credit control and debt collection policy and any by-laws enacted in terms of the Municipal Systems Act;
- In accordance with the credit control and debt collection policy and any such by-laws establish effective administrative mechanisms, processes and procedures to collect money that is due and payable to the Municipality, and

Report the prescribed particulars monthly to a meeting of the supervising authority.

### **5.3 Unsatisfactory Levels of Indebtedness**

The responsibility of Councillors is also determined in the MSA as set out below.

- 5.3.1 If the level of indebtedness in a particular ward or part of the Municipality exceeds 20% of the amount billed/accounts receivable during a specific month, the supervisory



authority (Executive Committee) must, without delay, advise the Councillor for that ward.

5.3.2 The level of indebtedness shall be determined by Council from time to time in the Annual Budget resolutions.

5.3.3 The Councillor concerned:-

Must, within a month, after having realised that the level of indebtedness has exceeded the acceptable norm, convene a community meeting and report the matter to the meeting for discussion and advice; and may make any appropriate recommendations to the supervisory authority.

## **6. FINANCIAL MATTERS**

### **6.1 Service Agreement**

6.1.1 Before supplying of a service, the owner of the property must enter into a contract of agreement and such contract should provide for a deposit to be paid as security.

6.1.2 Such contract shall set out the conditions on which services are provided and shall require the consumer to note the contents of the municipality's credit control and debt collection policy. (A copy of the policy will be provided to such consumer upon request.) The consumer shall note the provision of the Municipal Systems Act in regards to the municipality right of access to property.

6.1.3 No occupier of the property will be allowed to enter into a service agreement with the municipality, unless if the property is still undergoing the registration processes.

6.1.4 Contractors may be allowed to enter into a service agreement for the duration of their operation within the municipal area.

6.1.5 No service agreement will be entered into if the property is in arrears with the municipality rates and taxes, unless proper arrangements are made to settle the account.

## **7 LIABILITY FOR PAYMENT**

7.1 The owner of the property will be liable for payment of the municipal account for the provision of municipal services entered into in terms of the written agreement entered with the municipality.

7.2 The occupier will be liable for payment of the municipal account for the provision of municipal services entered into in terms of the written agreement with the municipality,

7.3 The occupier will remain liable for payment in terms of par 7.2 above, up to and including the date which the occupier terminates the Service Agreement as indicate in



the Notice of Termination of Services, whether the occupier was in actual occupation of the property or premises during the currency of the Service Agreement or otherwise.

- 7.4 Nothing contained in this policy will prohibit the Council to collect payment of any amount from the owner or any other person, in terms of applicable legislation.
- 7.5 The Municipal Manager may consolidate separate municipal accounts, or portions thereof, of persons liable for payment to the Council.
- 7.6 A deposit as approved by council becomes payable immediately when the account is opened.
- 7.7 A copy of the identity document/and marriage certificate (if applicable) must be submitted with the Service Agreement.

## **8 JURISDIC PERSON**

8.1 Should the occupier be a juristic person, the following will apply:-

- (a) If the occupier is a Company registered in term of the Companies Act, 1973, Act no 61 of 1973, the Directors of such Company shall agree to be jointly and severally liable for payment in terms of the Service Agreement, if the Company fails to make such payment.
- (b) If the occupier is a Closed Corporation registered in terms of the Closed Corporation Act, 1984, Act no 69 of 1984, the Members shall agree to be jointly and severally liable for payment in terms of the Service Agreement, if the Closed Corporation fails to make such payment.
- (c) If the occupier is an Association with legal persona, the Members of the Association shall agree to be jointly and severally liable for payment in terms of the Service Agreement, if the Association fails to make such payment.

8.2 Any Service Agreement signed by a person on behalf of a legal person must be accompanied by a resolution authorising such person to sign on behalf of the legal person.

## **9 CONTROL OVER DEPOSITS OF SECURITY**

9.1 The consumer deposit is paid when a service agreement is concluded with the owner of the property.

9.2 Deposits received must be reviewed annually and a register should be maintained. The total sum of deposits received shall constitute a short-term liability in the books of the Municipality.





9.3 No interest shall accrue in favour of the depositors thereof upon termination of the debtor's agreement with the Municipality. The deposit will first be offset against any outstanding balance (if any) and then be refunded without interest to the customer.

## 10. RENDERING OF ACCOUNTS

10.1 The municipality will issue two separate accounts whereupon property rates and refuse removal will be in one account, while water and sewerage will be in the other one account. Although the Municipality must render an account for the amount due by a debtor, failure thereof shall not relieve a debtor of the obligation to pay the amount.

10.2 Accounts will be delivered to all consumer/ratepayers fourteen (14) days before the due date of payment, which is the end of each month.

10.3 Accounts to ratepayers and users of municipal services must contain at least the following particulars:-

- The name of the Municipality.
- The name of the ratepayer/ user of the service.
- The service levies or rates in question.
- The period allowed for the payment of services and rates.
- The land and address in respect of which the payment is required.
- Any discount for early or prompt payment (if applicable).

10.4 The Municipal Account shall reflect amounts due for the following:-

- Basic Water Charge.
- Water consumption
- Refuse Removal.
- Sewerage Service
- Property Rates.
- Other charges, levies and taxes.
- Any Arrear Amount Due.
- Interest on Arrear Amounts.
- Collection Charges or Legal Costs.
- Unit price and number of units consumed in relation to water consumption
- The total amount payable
- The date on or before which payment must be made.



## **11. ACTIONS TO SECURE PAYMENT**

The Municipality and service providers may, in addition to the normal civil legal procedures to secure payment of accounts that are in arrears, take the following action to secure payment for municipal rates and services:-

- Termination/Restriction of the provisions of water services in accordance with the relevant legislation.

## **12. DISHONoured PAYMENTS**

12.1 Where the bank later dishonours any payments made to the Municipality, the Municipality may levy such costs and administration fees against an account of the defaulting debtor in terms of the Municipality's tariff provisions.

12.2 Any dishonoured payment due to insufficient funds with the financial institution on which it is drawn, will be sufficient grounds for a review of the credit rating of the customer.

12.3 The Chief Financial Officer may determine not to accept a cheque or other negotiable instrument as payment from a customer, other than a cheque or negotiable instrument on which payment is guaranteed by the financial institution on which it is drawn, should a payment or previous payment by the customer has been dishonoured.

## **13. COSTS TO REMIND DEBTORS OF ARREARS**

For any action taken in demanding payment from the debtor or reminding the debtor, by means of telephone, fax, email, letter or otherwise, that his/her payments are due, a penalty fee will be levied against the account of the debtor in terms of the municipality's tariff provisions.

## **14. DISCONNECTION FEES**

Where any service is disconnected as a result of non-compliance with these regulations by the customer, the Municipality shall be entitled to levy and recover the disconnection fee as determined by the Municipality from time to time from the user of the services.

## **15. LEGAL FEES**

All legal costs, including attorney-and-own-client costs incurred in the recovery of amounts in arrears shall be levied against the arrears account of the debtor.

## **16. INTEREST CHARGES**

Interest will be charged on the outstanding amount excluding interests already levied.



## **17. PAYMENT OF ACCOUNTS**

17.1 The Municipality may:-

- Consolidate any separate accounts of persons liable for payments to the Municipality;
- Credit any payment by such a person against any account of that person; and
- Implement any of the debt collection and credit control measures provided for in these regulations in relation to any arrears on any of the accounts of such a person.

17.2 When payment is received from a debtor, the principle of current account first will be followed and consumer accounts credited as such.

## **18. UNKNOWN/UNCLAIMED DIRECT BANK DEPOSITS**

Where the municipality identifies direct bank deposits with incomplete, doubtful or wrong references, the following procedure shall apply:

18.1 Investigations will be made to ensure proper allocation of the deposit.

18.2 The amount will temporarily be placed in the Unallocated Direct Deposits vote (suspense account) while investigations are being done.

18.3 If the deposit still remains untraced for a period of Six(6) months, then the community and other stakeholders will be notified, whereupon they will be given a period of 30 days to claim the deposit upon proof of deposit.

18.4 Claimed deposits will then be allocated accordingly, while unclaimed deposits will then be transferred to the Revenue account of the municipality.

## **19. NOTICE OF DEFAULT AND INTENDED TERMINATION/RESTRICTION OF SERVICES**

19.1 The procedure to be followed when the debtor defaults will be as follows:-

- Issue of monthly account statements to consumers
- Issue of reminders to defaulters(30 days after due date)
- Issue of letters of demand(14 days after issue of a reminder)
- Issue cut-off notice (14 days after issue of demand)
- Restriction/Termination of a service rendered to the customer (five days after issue of letters of demand)-Notices will be distributed with the discontinuation of services notice.
- Entering into arrangements with defaulters
- Handover of the debt to the appointed service provider for collection



19.2 The Municipality shall reconnect and or restore full levels of supply of any of the restricted or discontinued services only after the consumer has complied with the conditions prescribed in this policy.

19.3 The right to restrict, disconnect or terminate service due to non-payment shall be in respect of any service rendered by the Municipality and shall prevail notwithstanding the fact that payment has been made in respect of any specific service and or the fact that the person who entered into agreement for supply of services with the municipality and the owner are different entities or persons, as the case may be.

## **20. DISPUTES AND PAYMENTS DURING DISPUTES**

20.1 A dispute must be submitted in writing to the Municipal Manager prior to the final due date for payment of the contested amount. Such dispute must contain details of the specific item(s) on the account, which are subject to dispute with full reasons.

20.2 Should any dispute arise as to the amount owing by an owner in respect of municipal services the owner shall, notwithstanding such dispute, proceed to make regular minimum payments based on the calculation of the average municipal debits for the preceding three months prior to the arising of the dispute and taking into account interest as well as the annual amendments of tariffs of the Municipality.

## **21. FULL AND FINAL SETTLEMENT OF AN AMOUNT**

21.1 Where the exact amount due and payable to the Municipality has not been paid in full, any lesser amount tendered to and accepted by a municipal employee, except the Municipal Manager and/or his/her fully authorised delegate, shall not be deemed to be in final settlement of such an amount.

21.2 The provisions above shall prevail notwithstanding the fact that such lesser payment was tendered and/or accepted in full settlement.

21.3 The Chief Financial Officer and/or his/her delegate shall consent to the acceptance of such a lesser amount in writing.

## **22. ARRANGEMENTS TO PAY OUTSTANDING AND DUE AMOUNT IN CONSECUTIVE INSTALLMENTS**

22.1 Arrangements by Consumers should be as follows:



Category	Arrear amount	Immediate Payment	Arrangement Period
1	R0-R800	40%	3 months
2	R801-R2000	35%	6 months
3	R2001-R5000	30%	12 months
4	R5001-R7500	25%	12 months
5	R7501-R10000	20%	12 months
6	R10001-R20000	15%	12 months
7	R20000- Above	10%	12 months

22.2 Arrangements by Businesses should be as follows:

Category	Arrear Amount	Immediate Payment	Arrangement Period
1	R0-R50 000	50%	3 months
2	R50001-R100 000	50%	6 months
3	R100 001-Above	50%	12months



### **23. INTEREST ON ARREARS OVER ARRANGED ACCOUNTS**

- 23.1 Levying of interest on arrear accounts should be immediately suspended upon completion of a debt agreement.
- 23.2 In case of defaulting customers, the suspended amount will be reversed and interest will again be levied from date of default.

### **24. RECONNECTION OF SERVICES**

The Municipal Manager or his delegate shall authorise the reconnection of services or reinstatement of service delivery only after satisfactory payment or arrangement for payment has been made according to the Municipality's Credit Control Policy.

### **25. DEBTS BY COUNCILLORS AND MUNICIPAL OFFICIALS**

- 25.1 Debts by councilors will be dealt with according to Schedule 1(section 12A) of Code of Conduct of councilors in the Municipal Systems Act No. 32 of 2000(covered under section 5 of the collection procedures)
- 25.2 Debts by municipal officials will be dealt with according to Schedule 2(section 10) of the Code of Conduct of municipal staff members in the Municipal Systems Act No. 32 of 2000(covered under section 6 of the collection procedures)
- 25.3 The municipality shall deduct all monies owed by employees who leave employment while owing their municipal services from their payout benefits
- 25.4 Councilors must sign a debit order against their allowances and officials against their salaries for the monthly payment of consumer accounts.

### **26. ISSUE OF A CLEARANCE CERTIFICATE**

Clearance certificates will only be issued when the client has satisfied Section 118 of the Municipal Systems Act No. 32 of 2000.



## **27. FRAUD, TAMPERING AND OTHER CRIMINAL ACTIVITY**

- 27.1 Any person, who undertakes or allow or causes any other person to undertake an illegal connection, will be guilty of an offence.
- 27.2 The Council will immediately disconnect any illegal connection and remove any wiring, piping or other equipment or installation relating to an illegal connection.
- 27.3 In the event of illegal connection, the municipality may allow a defaulter to enter into acknowledgement of debt. In case the defaulter refuses, the municipality must institute legal and civil claims.
- 27.4 The Municipality may not supply water to a customer who is found guilty of/or if it is admitted that fraud, theft or any other criminal action involving the use of these services existed, until the total costs, penalties, other fees and tariffs and rates due to the municipality have been paid in full.

## **28. AGENTS, ATTORNEYS AND OTHER COLLECTION AGENTS**

- 28.1 All external agents acting on behalf of the Municipality are to be named, together with their details and contact information. Likewise, all agents are to be supplied with a copy of the credit control measures.
- 28.2 Clear instructions to agents and other arrangements must be explained for the customers' benefit. Under no circumstances may agents negotiate terms, extend payment periods or accept cash on behalf of municipality, unless specifically instructed in writing to do so. The agent, on request by consumers, must produce this instruction.
- 28.3 The costs to the Municipality and to the debtor must be detailed for each stage of the credit control measures and for all possible actions. The liability for the costs of legal action and other credit control actions must as far as is legally possible be for the account of the debtor.

## **29 DEBT COLLECTION**

### **29 .1 Abandonment of Claims**

The Municipal Manager must ensure that all avenues are utilised to collect the municipality's debt.



There are certain circumstances that allow for the valid termination of debt collection procedures as contemplated in section 109(2) of the Systems Act, such as:-

- The insolvency of the debtor, whose estate has insufficient funds.
- A balance being too small to recover, for economic reasons considering the cost of recovery.

This and other similar circumstances will be dealt with as per the Write-off and Bad Debts policy as well as the Indigent policy of the municipality.

### 29 .2 Writing off Bad Debt

Council must appoint a committee in terms of its delegations to review and recommend to Council to approve all bad debt write off cases as per the Bad Debts and Write-off policy.

## 30 IMPLEMENTATION AND REVIEW OF THIS POLICY

This policy shall be reviewed annually and will be implemented once approved by Council of Lepelle-Nkumpi municipality.

### o COUNCIL APPROVAL

Date	30 MAY 2019
Resolution Number	5.1.1.09/2018/2019:2019/2020
Signature	