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IPHONDO LEMPUMA KOLONI
PROVINSIE OOS-KAAP

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Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.

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AMENDMENTS TO NOTICES

take note!

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GPW has a **2-working day turnaround time for processing notices** received according to the business rules and deadline submissions.

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REMINDER

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- Single notice, single email – with proof of payment or purchase order.
- All documents must be attached separately in your email to GPW.
- 1 notice = 1 form, i.e. each notice must be on a separate form
- Please submit your notice **ONLY ONCE**.
- Requests for information, quotations and inquiries must be sent to the Contact Centre **ONLY**.
- The notice information that you send us on the form is what we publish. Please do not put any instructions in the email body.

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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

NOTICE 195 OF 2015

LUKHANJI MUNICIPALITY

BUDGET AND TREASURY DIRECTORATE



CREDIT CONTROL AND DEBT MANAGEMENT BYLAW

Reviewed Bylaw by Chief Financial Officer
045 807 2001/2
nntshanga@lukhanji.gov.za
Adopted 28 May 2015

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PREAMBLE

WHEREAS section 152 (1) (b) of the Constitution of the Republic of South Africa Act 108 of 1996 (*the Constitution*) provides that one of the objects of local government is to ensure that the provision of services to communities occurs in a sustainable manner;

AND WHEREAS section 153 (a) of the Constitution provides that a municipality must structure its administration, budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community;

AND WHEREAS section 195 (1) of the Constitution provides that the public administration must be governed by the democratic values and principles enshrined in the Constitution, including-

- The promotion of the efficient, economic and effective use of resources;
- The provision of services impartially, fairly, equitably and without bias; and
- The fact that people's needs must be responded to.

AND WHEREAS section 4 (1) (c) of the Local Government: Municipal Systems Act 33 of 2000 (*the Systems Act*) provides that the Council of a municipality has the right to finance the affairs of the municipality by charging fees for services, imposing surcharges on fees, rates on property and, to the extent authorised by national legislation, other taxes, levies and duties;

AND WHEREAS section 5 (1) (g), read with subsection (2) (b), of the Systems Act provides that members of the local community have the right to have access to municipal services which the municipality provides provided that,

where applicable and subject to the Bylaw for indigent debtors, pay promptly for services fees, surcharges on fees, other taxes, levies and duties imposed by the municipality;

AND WHEREAS section 6 (2) (c), (e) and (f) of the Systems Act provides that the administration of a municipality must take measures to prevent corruption; give members of a local community full and accurate information about the level and standard of municipal services that they are entitled to receive; and inform the local community about how the municipality is managed, of the costs involved and the persons in charge;

AND WHEREAS Chapter 9, sections 95, 96, 97, 98, 99 and 100, of the Systems Act provides for Customer Care Management, Debt Collection responsibility of the Municipality, contents of the Bylaw, by-laws that give effect to the Bylaw, Supervisory authority and Implementing authority;

AND WHEREAS Chapter 8, section 64 of the Municipal Finance Management Act stipulates that an Accounting Officer of a municipality is responsible for effective revenue collection systems consistent with section 95 of the Municipal Systems Act and the municipality's credit control and debt collection Bylaw.

IT IS HEREBY ADOPTED: a credit control and debt management Bylaw of the Lukhanji Municipality.

DEFINITIONS

For the purpose of this Bylaw, the wording or any expression has the same meaning as contained in the Act, except where clearly indicated otherwise and means the following:

“Act” The Local Government Acts: Systems Act, 2000 (Act No 32 of 2000), The Municipal Finance Management Act (MFMA) (Act No 56 of 2003), as amended from time to time;

“Arrangement” A written agreement entered into between the Council and the debtor where specific repayment parameters are agreed.

“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”
Person or instance legally appointed by the Council to act or to fulfil a duty on its behalf;

“billing” Refers to the process of charging for services provided by issuing

Accounts;

- “CFO”* The person appointed as the Chief Financial Officer of the municipality in terms of the provisions contained in the MFMA, or his or her nominee.
- “Council”* The municipal council, as referred to in section 157 of the Constitution of the Republic of South Africa Act 108 of 1996, of the Lukhanji Municipality established by part 7 of provincial notice 80, dated 27 September 2000;
- “Credit Control”* Credit control encompasses all the functions relating to the management of the contract with and collection of monies owed by customers of municipal services including but not restricted to:
- Signing of a valid service agreement, the payment of a service deposit and the verification of the customers creditworthiness.
 - Accurate meter readings at fixed intervals
 - Accurate and regular billing
 - Regular communication to customers
 - Provision of Indigent support
 - Maintain efficient and affordable service levels and standards within Councils financial constraints and capacity
 - Provide appropriate payment terms and options
 - Provide an effective and efficient enquiry system
 - Implement consistent credit control measures with the aim to enforce a culture of payment for services and a commitment to pay the current account and service any arrears monthly.
 - Furnish monthly reports to Council on the performance of revenue collection.
- “customer”* Any occupier of any premises to which Council has agreed to supply or is actually supplying services, or if there is no occupier, then the owner of the premises and includes any debtor of the municipality;
- “debt collection”* Entails all actions to ensure the effective collection of all monies due to the municipality;
- “defaulter”* Any Person who is owing the Council arrear monies in respect of rates and / or service charges;

“effective disconnection”

Includes, inter alia, the physical removal of connections and/or equipment as a consequence of unauthorised reconnection (tampering and/or by-passing) of the disconnected service

“engineer”

The Director : Technical Services and/or his delegated official of Council;

“equipment”

A building or other structure, pipe, pump, wire, cable, meter, engine or any accessories;

“financial year”

Means a year ending 30 June

“gender”

Any reference to the one gender shall include reference to the other

“Implementing Authority”

Means the Municipal Manager or his or her nominee, acting in terms of section 100 of the Systems Act.

“interest”

A charge levied with the same legal priority as service fees and calculated at a rate determined by council from time to time on all arrear monies;

“municipal account”

An account rendered specifying charges for services provided by the municipality, or any authorised and contracted service provider, and/or assessment rates levies;

“Municipality”

Means the Lukhanji Municipality.

“Municipal Manager”

The person appointed as Municipal Manager in terms of section 82 of the Local Government: Structures Act, 1998, (Act 117 of 1998) and include any person acting in that position or to whom authority was delegated;

“municipal services”

Those services provided by the municipality, such as, inter alia the supply of water and electricity, refuse removal, sewerage treatment, sundries and any other services for which service charges are levied;

“occupier”

Any person who occupies any property or part thereof, without regard to the title under which he or she occupies the property,

“owner” –

- (a) The person in whom from time to time is vested the legal title to premises;
- (b) In a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) In a case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of such premises with a building thereon;
- (d) In the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- (e) In relation to-
 - i. A piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act 1986, (Act 95 of 1986), and without restricting the above the developer or the body corporate in respect of the common property; or
 - ii. A section as defined in such Act, the person in whose name such a section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
- (f) Any legal person including but not limited to-
 - i. A company registered in terms of the Companies Act, 1973 (Act 61 of 1973), a trust, a closed corporation registered in terms of the Closed Corporations Act, 1984 (Act 69 of 1984) and a voluntary association;
 - ii. Any department of State;

- iii. Any Council of Board established in terms of any legislation applicable to the Republic of South Africa;
- iv. Any Embassy or other foreign entity;

“premises” Includes any piece of land, the external surface boundaries of which
Is delineated on-

- a) A general plan or diagram registered in terms of the Land Survey Act, 1927 (9 of 1927), or in terms of the Deed Registry Act, 1937 (47 of 1937); or
- b) A sectional plan registered in terms of the Sectional Titles Act, 1986 (95 of 1986), which is situated within the area of jurisdiction of the Council;

“rates” means a municipal rate on property envisaged in section 229(1)(a) of the constitution and the Property Rates Act (Act Number 6 of 2004).

“Ratable property”

means a property on which a municipality may in terms of section 2 levy a rate, excluding property fully excluded from the levying of rates in terms of section 17 of the Act

“service”

means a municipal service rendered by the municipality and includes the supply of electricity, water, sanitation and refuse removal

“Supervisory Authority”

Means the Executive Mayor of the Municipality or his or her nominee, acting in terms of Section 99 of the Systems Act

“tampering”

means the unauthorised reconnection of a supply that has been disconnected for non-payment, the interference with the supply mains or bypassing of the metering equipment to obtain an unmetered service

1. PRINCIPLES

- 1.1 The administrative integrity of the municipality must be maintained at all costs. The democratically elected councillors are responsible for Bylaw-making, while it is the responsibility of the Municipal Manager to ensure the execution of these policies.
- 1.2 All customers must complete an official application form, formally requesting the municipality to connect them to service supply lines. Existing customers may be required to complete new application forms from time to time, as determined by the Municipal Manager.
- 1.3 A copy of the application form including conditions of services and a copy of the Lukhanji’s Council credit control and debt collection Bylaw must be handed to every new customer on date of application for services.
- 1.4 Billing is to be accurate, timeous and understandable.
- 1.5 The customer is entitled to reasonable access to pay points and to a variety of reliable payment methods.

- 1.6 The customer is entitled to an efficient, effective and reasonable response to appeals, and should suffer no disadvantage during the processing of a reasonable appeal.
- 1.7 Enforcement of payment must be prompt, consistent and effective.
- 1.8 Unauthorised consumption, connection and reconnection, the tampering with or theft of meters, service supply equipment and the reticulation network and any fraudulent activity in connection with the provision of municipal services will lead to disconnections, penalties, loss of rights and criminal prosecutions.
- 1.9 Incentives and disincentives may be used in collection procedures.
- 1.10 Results will be regularly and efficiently reported by the Municipal Manager and the Executive Mayor.
- 1.11 Application forms will be used to, inter alia, categorise customers according to credit risk and to determine relevant levels of services and deposits required.
- 1.12 Targets for performance in both customer service and debt collection will be set and pursued and remedies implemented for non-performance.

2. DUTIES AND FUNCTIONS

2.1. Duties and Functions of Council

- 2.1.1. To approve a budget consistent with the needs of communities and ratepayers in line with financial capability of council.
- 2.1.2. To impose rates and taxes and to determine service charges, fees and penalties to finance the budget.

- 2.1.3. To facilitate sufficient funds to give access to basic services for the poor.
- 2.1.4. To provide for a bad debt provision, in line with the payment record of the community, ratepayers and residents, as reflected in the financial statements of the municipality.²
- 2.1.5. To set an improvement target for debt collection, in line with acceptable accounting ratios and the ability of the Implementing Authority.³ (Debt collection target to be determined by Council annually.)
- 2.1.6. To approve a reporting framework for credit control and debt collection.
- 2.1.7. To consider and approve by-laws to give effect to the Council's Bylaw.
- 2.1.8 To monitor the performance of the Executive Mayor (Supervising Authority) regarding credit control and debt collection.
- 2.1.8. To revise the budget should Council's targets for credit control and debt collection not be met;
- 2.1.9. To take disciplinary and/or legal action against councillors, officials and agents who do not execute council policies and by-laws, or act improperly in terms of such policies.
- 2.1.11. To establish a Municipal Internal Legal Debt Collection Unit to attend to the Legal Process of Collection up to the hand over of debtors for the implementation of the Execution process. The utilisation of external role players to achieve this goal in the interim.
- 2.1.12. To ensure that a list of attorneys is compiled in terms of Council's

³ A realistic target would be to improve on the previous year's result by 5% - 10%. The target should be reviewed every year until the turnover rate of debtors is between 45-56 days.

Procurement Bylaw, who will be utilised as part of the Legal process of Council in legal action instituted in terms of Council's Bylaw for matters relating to debt collection.

- 2.1.13. To delegate the required authorities to monitor and execute the credit control and debt collection Bylaw to the Executive Mayor and Municipal Manager and Service Provider respectively in compliance with the relevant Acts.
- 2.1.14. To provide sufficient capacity in the Municipality's Financial Department for credit control and debt collection.
Alternatively to appoint a Service Provider as debt collection agent (such service provider must be a registered debt collection agent in terms of legislation).
- 2.1.15. To assist the Municipal Manager in the execution of his duties, if and when required.
- 2.1.16. To provide funds for the training of staff.

2.2 DUTIES AND FUNCTIONS OF EXECUTIVE MAYOR

- 2.2.1 To ensure that Council's budget, cash flow and targets for debt collection are met and executed in terms of the Bylaw and relevant by-laws¹.
- 2.2.2 To monitor the performance of the Municipal Manager in implementing the Bylaw and by-laws².
- 2.2.3 To review and evaluate the Bylaw and by-laws in order to improve the efficiency of Council's credit control and debt collection procedures, mechanisms and processes³.
- 2.2.4 To report to Council.

2.3 DUTIES AND FUNCTIONS OF THE MUNICIPAL MANAGER

- 2.3.1 To implement good customer care management systems.

Section 99 of the Local Government: Municipal Systems Act, 2000 provides that the executive Mayor must –
a) Oversee and monitor -

¹ (i) The implementation and enforcement of the municipality's customer care, credit control and debt collection Bylaw and any by-laws enacted in terms of section 98; and

² (ii) The performance of the municipal manager in implementing the Bylaw and any by-laws.

³ (b) When necessary, evaluate or review the Bylaw and any by-law, or the implementation of the Bylaw or such by-laws, in order to improve efficiency of its credit control and debt collection mechanisms, processes and procedures; and

- 2.3.2 To implement council's credit control and debt collection Bylaw.
- 2.3.3 To install and maintain an appropriate accounting system as required by the MFMA and appropriate regulations.
- 2.3.4 To bill customers.
- 2.3.5 To demand payment on due dates.
- 2.3.6 To raise penalties for defaults.
- 2.3.7 To appropriate payments received.
- 2.3.8 To collect outstanding debt.
- 2.3.9 To provide different payment methods.
- 2.3.10 To determine credit control and debt collection measures.
- 2.3.11 To determine all relevant work procedures for, inter alia, public relations, arrangements, disconnections of services, summonses, attachments of assets, sales in execution, write-off of debts, sundry debtors and legal processes.
- 2.3.12 To instruct attorneys to proceed with the legal process (i.e. attachment and sale in execution of assets, emolument attachment orders etc.).
- 2.3.13 To set performance targets for staff.
- 2.3.14 To submit the appointment of staff to Council to execute council's Bylaw and by-laws in accordance with council's staff Bylaw.
- 2.3.15 To delegate certain functions to the Directors of departments.
- 2.3.16 To determine control procedures.
- 2.3.17 To monitor contracts with service providers in connection with credit control and debt collection
- 2.3.18 To report to the Executive Mayor.

2.4 DUTIES AND FUNCTIONS OF COMMUNITIES, RATEPAYERS AND RESIDENTS

- 2.4.1 to fulfil certain responsibilities, as brought about by the privilege and or right to use and enjoy public facilities and municipal services.
- 2.4.2 to pay service fees, rates on property and other taxes, levies and duties imposed by the municipality.
- 2.4.3 to observe the mechanisms and processes of the municipality in exercising their rights.

- 2.4.4 To allow municipal officials access to their property to execute municipal functions
- 2.4.5 To comply with the by-laws and other legislation of the municipality.
- 2.4.6 to refrain from tampering with municipal services and property.

2.5 DUTIES AND FUNCTIONS OF WARD COUNCILLORS

- 2.5.1 to hold regular ward meetings wherein the credit control and debt collection Bylaw and procedures of Council are addressed.
- 2.5.2 to adhere to and convey council policies to residents and ratepayers and in particular the credit control and debt collection Bylaw and procedure.
- 2.5.3 To adhere to the Code of Conduct for Councillors.
- 2.5.4 Ward Committees will act in terms of roles and functions as approved by Council and assist in the dissemination and distribution of information relating to the cc and dc proc of Council.

3. AREA OF APPLICATION

This Bylaw applies throughout the area of the Municipality of Lukhanji.

4. APPLICATION FOR SERVICES

- 4.1 Customers who require a service must enter into a written service agreement with the Municipality which service agreement shall incorporate documentary annexures as determined and required by the municipality.
- 4.2 The process must occur at least five days prior to taking occupation of the premises, so that the Municipality can ensure that a meter reading is taken on the appropriate day and that the services are available when occupation is taken. Failure to adhere to the timeframe may result in customers not having the services available when occupation is taken.
- 4.3 The Municipality will render the first account after the first meter reading cycle to be billed following the date of signing the service agreement.

Customers who illegally consume services without this agreement will be subject to punitive action.

No tenant accounts are allowed.

- 4.4 If an existing tenant vacates the property where services are being provided without written notice to the Municipality then the owner of said property will be liable for any outstanding balance.

5. CUSTOMER SERVICE AGREEMENTS

- 5.1 Customer service agreements are those agreements that are entered into between the client and the Municipality for the supply of municipal services and shall include the documentary annexures as required.

- 5.2 The contents of the agreement includes this Bylaw as well as:

An undertaking by clients:

- That they are liable for the costs of collection, including any administration fees, penalties for late payment, legal costs on an attorney client basis, interest, any administrative levy relating to disconnection and/or reconnection of services and personally liable as surety for legal entities;
- That any alleged non-receipt of an account does not stop the collection process;
- To agree that Council may conduct an ITC credit verification of his credit affairs.
- An additional/higher deposit may be required to be paid depending on the associated risk as determined by Council from time to time.
- That they will provide Council with all information and documentation required to assess credit worthiness of the customer.
- To furnish Council on application with all information relating to insolvency, sequestration, administration and or any other legal impediment relating to his status

6. DEPOSITS

6.1 The deposits are payable when new customers sign on and when existing customers move to a new supply address. Customers must pay a deposit equal to one month's total average bill. The municipality may increase or decrease deposits to suit the particular circumstances.

6.2 Before services can be provided, a service deposit is required to be paid by the customer to the Municipality.

Residential properties:

- (i) The deposit is payable in cash or direct bank deposit for all clients.
- (ii) Only destitute indigents are exempted from paying the deposit.
- (iii) Indigent clients: R150.00
- (iv) Prepaid meter Domestic: R350.00
- (v) Conventional electricity meter: R450.00
- (vi) Non-Profit Organisation: R500.00
- (vii) Businesses: from R2500.00 to a maximum of R100 000.00
- (viii) Name change are done in Whittlesea, Ezibeleni and Mlungisi
- (ix) Deceased Owners name change will be done with only a letter of authority and memo from Human Settlement Directorate. No deposit required if there is already a sufficient deposit hold by the Municipality.
- (x) Deposit that are paid will only be refunded at the closure of the account after settlement of all levies, service charges, sundry charges, rates & taxes due to the Municipality.
- (xi) Cash deposits retained on behalf of customers shall not earn interest.
- (xii) Any deposit held by or on behalf of a customer shall, on being claimed, be refunded within 60 days after the termination of the clients agreement after deducting any amount due by the client to the Municipality.
- (xiii) Unclaimed deposits will be forfeited, after allocation to any arrears /refund to consumer the final account has been processed.
- (xiv) The Municipality may at any time when the deposit is found to be inadequate require a customer to increase the deposit, in which event the customer shall, within 30 days after being so required, deposit with the Municipality such additional sum.
- (xv) Deposits of new Business and Industrial clients will be determined based on the type of business being established and will be determined by the Revenue Manager or his/her delegate.

6.3 Customers must pay a deposit.

- (i) Residential properties as determined by Council's Tariff Bylaw annually.
- (ii) Non-SA Citizens -
All persons who are not SA Citizens and do not hold fixed property shall be required to pay triple the deposit as determined for residential properties.
- (iii) Non-Domestic -
As determined by Council's Tariff Bylaw annually.

6.4 The Municipality shall increase the required deposit of defaulting customers who are disconnected or should be disconnected in accordance with this Bylaw, to a figure as determined by the Council's Tariff Bylaw.

6.5 The Municipality may apply the deposit towards any and all arrears arising on a service account and thereafter shall apply (6.4) here of.

7. ACCOUNTS, BILLING AND RESPONSIBILITY FOR PAYMENT

7.1 Customers will receive one consolidated bill for all Lukhanji municipal services to a property, which is situated within the boundaries of the municipality.

7.2 Accounts are produced in accordance with the meter reading cycles.

7.3 An account will be rendered each month in cycles of approximately 30 days.

7.4 The consolidated account can include property rates charges

7.5 The Municipality will undertake reasonable steps to have the accounts delivered to all customers. However non-receipt of an account does not prevent interest charges and debt collection procedures. In the event of non-receipt of an account, the onus rests on the account holder to obtain a copy of the account, before the due date.

7.6 Accounts must be paid on the due date as indicated on the account.

- Interest on arrears will accrue after due date if the account remains unpaid as at due date, irrespective of the reason for non-payment.
- Indigents and destitute indigents are exempted from all interest charges
- A levy on late payments as determined by Council's Tariff Bylaw will be raised if the account remains unpaid as at due date irrespective of the reason for non-payment.

7.7 Payments for accounts must be received by

- close of business on or before the due date at a Municipal pay-point.
- In the case of any electronic payments or payments via agents, the money must be received in the municipal bank account by close of business on or before the due date and/or Council notified accordingly.

7.8 Inter-Governmental Transfers

- The Accounting Officer must immediately inform the National Treasury of payments due by an organ of state to the municipality in respect of municipal tax or for municipal services, if such payments are regularly in arrears for periods of more than 30 days (Section 64.3 of the MFMA)

7.9 Customers who have failed

- To pay the service charges levied by due date,
- or to comply with the conditions of supply of services

shall receive no further notification of Councils intention to disconnect services as such notification is supplied on the services account the debt collection process will be implemented.

8. METERING OF CONSUMABLE(ELECTRICITY) SERVICES

- 8.1 The municipality may introduce various metering equipment and customers may be required to convert to a system preferred by the municipality.
- 8.2 Customers who default (fail to pay by a due date) will be required by the municipality to convert to a prepaid metering system.
- 8.3 Prepayment metering will be installed for all new domestic if there is a problem. We should consider giving notice on the bill that cutoffs will take place in 14 days. Make the bills due and payable on receipt.
Perhaps discuss the option of a door hanger a couple of days before cut off is done.
Electrical ,where applicable, non-domestic electrical accounts.
- 8.4 Meters (credit) will generally be read monthly. Should circumstances prevent reading, the municipality is entitled to estimate a reading that is within reason comparable.
- 8.5 A customer is responsible to allow municipal officials access to their property to execute municipal functions and will accept any cost to ensure access (such as relocating the meter) if satisfactory access is not possible.
- 8.6 Routine or special maintenance of metering equipment will be communicated to the customer. The meter replacement advice will indicate the removal reading.
- 8.7 the tariffs to calculate the electricity are determined annually and approved by Council and are contained in the tariff book produced by Council

9. SUNDRY DEBTOR ACCOUNTS

Sundry debtor accounts are raised for miscellaneous charges for services provided by Council or charges that rose against the debtor as a result of an action by a debtor or person which necessitates a charge to be raised by council against the debtor or person in terms of Council policies, bylaws and decisions. The sundry debtor account is included in the Monthly consolidated account produced by Council.

10. BACK CHARGES

Council may, if it is found that the relevant Customer of Services has been undercharged for a period of time irrespective of the reason, charge the customer for the period as determined but not exceeding the current financial year from the date

11. PROPERTY RATES

- 11.1 Property rates and refuse charges are billed annually or monthly as preferred y customer
- 11.2 Property rates and refuse charged annually are billed in July account of each year and due date for the payment of these charges is 30 September of each year
- 11.3 Property rates and refuse charges charged monthly are billed on monthly accounts and the due date for the payment of charges will be indicated on the accounts
- 11.4 Tariffs are determined annually and approved by council in the tariffs register produced by Council
- 11.5 All properties within the boundaries of the Lukhanji Municipality are to be valuated in terms of the legislation, applicable to the valuation of properties for the purpose of levying property rates.

12. BILLING OF GOVERNMENT FUNDED (RDP) HOUSES

The Municipality will only commence to raise charges in respect of rates and services once the property has been officially handed over to the beneficiary (i.e the keys to the house) by Human Settlement and the applicable service agreement must have been entered into.

13. RATES REBATE

Council may grant rebates on rates in terms of Council's rates Bylaw.

14. ARRANGEMENTS FOR SETTLEMENT

Arrangements are permissible for debtors who experience difficulties in paying their accounts in accordance with council Bylaw.

14.1 Principles for Residential Debtors

1. Current charges will be paid in full
2. The debtor may be required to prove the levels of income and must agree to monthly payment towards arrears based on such debtors ability to pay or based on such debtors liquidity if the Municipality so requires.
3. All negotiations with the debtor should strive to result in an arrangement that is in the interests of both parties and is sustainable
4. Interest will be charged on arrears
5. Interest on:
Arrears in respect of all services may be suspended and
Rates may be calculated at 0%
6. Debtors who default on three occasions in respect of arrangements will be denied the privilege of making further arrangements and the full amount becomes payable. Interest will be calculated from the original due date of the debt, taking any payments into consideration.
7. All arrangements may be subject to periodic review
8. Electricity may be disconnected and legal action may be taken against debtors referred above and such debtors may be referred to third party debt collectors for recovery

14.2 Arrangements Criteria for Residential Debtors

In case where residential debtors wishes to make arrangements to liquidate their arrears, the following payment criteria, inter alia will apply:

1. current account and
2. an agreed payment towards arrears based on principles contained in this Bylaw and minimum payment adjusted by the Municipality from time to time
3. each debtor will be required to pay instalment as determined in (1) above
4. should the debtor default, payment will be as follows:
 - (a) the first default :current account and monthly payment as determined increased by 50% of that payments(meaning the arranged instalment)
 - (b) Second Default: current account and double monthly payment as determined above
 - (c) Final default :current account and full arrears
5. In all cases failure to respond to notices will result in normal credit control procedures and all debt collection processes as provide for in this Bylaw may be taken

14.3 Principles of Non –Residential (Businesses) Debtors

- 1) In cases where non-residential debtors wish to make arrangements to liquidate their arrears, the following criteria, inter alia will apply:
- 2) Debtors may be required to furnish the Municipality with their latest audited annual financial statements and other supporting documentation relevant to their financial position in order to negotiate a settlement arrangement acceptable to the Municipality

- 3) All negotiations with debtors should strive to result in an agreement that is in the Municipalities best interests and sustainable
- 4) Interest will be charged on arrears at an interest rate that shall be determined by council from time to time
- 5) Interest on:

5.1 Arrears in respect of all services may be suspended ad

5.2 Rates may be calculated at 0% whilst the debtor adheres to the conditions of the arrangements

- 6) All arrangements may be subject to periodic review
- 7) The final decision to make these arrangements will rest with the Chief Financial Officer

14.4 Arrangement Criteria for Non –Residential (Businesses) Debtors

- 1) If the non-residential debtor wishes to make arrangements, interest may be charged or suspended on any outstanding amount and such arrangement will be subject to approval of the official as delegated
- 2) Should the debtor default on any arrangements electricity may be disconnected or terminated and legal action may be taken and such debt may be referred to a third party for recovery. Interest will be calculated from the original due date of debt taking any payments into consideration.

14.5 Special Condition for Regarding Arrangements

- 1) Where any residential or non –residential debtor has entered into an arrangement in respect of arrears on a property, the prescribed certificate as referred to Section 118 of the systems act will not be issued until such time as the full outstanding amount is paid
- 2) The conditions contained in the municipality arrangement document as amended from time to time will be deemed to form part of arrangement criteria in this Bylaw.
- 3) Should the current account be higher than normal due to, but not limited to under estimation and faulty meters, previous accounts will be taken into consideration when determining an amount to pay in order to enter into an arrangement.
- 4) Notwithstanding when the debt is irrecoverable the Municipal Manager may determine that interest ,disconnection and reconnection charges be excluded from the first upfront amount to be paid when entering into an arrangements
- 5) All debtors entered into an arrangements shall provide their banking details and those who have the facility to sign a debit order with their financial instructions shall do so.
- 6) The Municipal Manager would normally only enter into arrangement with the property owners and account holders and may on receipt of an affidavit by the occupier or a tenant of a residential property which certifies that the owner of the property which such tenant or occupier so resides in, is untraceable or not contactable or such owners whereabouts are unknown.
- 7) That they have a right to occupy such property and stating the time period that they have occupied the property
- 8) The last known address of the owner
- 9) The rental due for such right to occupy

- 10) That such occupier or tenant undertakes to advise the owner at the first reasonable opportunity of the current situation and that the tenant or occupier further agrees to obtain the consent of the owner to condone the process as set out in this sub item:
- 11) Enter into an agreement with such a tenant or occupier in terms of this Bylaw to pay off arrears on an account which is a charge against the property

14.6 Municipal Staff and Councillors Payments

Section 10 of schedule 2 of the Municipal systems at no 32 of 2000 provides the following:

- (i) "A staff member of a Municipality may not be in arrears to the municipality for rates and service charges for a period longer than three months and a municipality may deduct any outstanding amounts from a staff member's salary after this period"
- (ii) Arrear debt relating to rates and services charges will be collected from staff and councillors in terms of collection arrangements approved by Municipal Manager from time to time
- (iii) Financial situation of each applicant will be assessed
- (iv) If the staff member or Councillor cannot afford to repay the debt over six months the debt be spread over twelve months or repayment will not be more that 50% of the net salary. In case the size of the debt and net salary will be considered
- (v) Municipal staff and Councillors are not entitled to benefit from the Indigent support subsidy and write off Bylaw whilst employed and if it discovered that a staff member or a councillor has benefitted from indigent support and write off Bylaw after the date of their employment with the Municipality this will result in disciplinary action being taken against the relevant staff member or Councillor
- (vi) No owner or tenant of a property may benefit from the indigent subsidy or write off Bylaw whilst a staff member or Councillor is residing in the same property.

15. PAYMENT OF RATES BY INSTALMENTS

- (i) may pay the property rates:
- (ii) Annually in advance or
- (iii) By application in writing on the prescribed form, to pay in equal monthly instalments over a period of 12 months.
- (iv) A service charge will be levied for customers who elect for monthly instalments (or discount for annual payments) to cover the administrative costs associated with this activity as laid out in the tariff Bylaw.
- (v) Interest shall accrue on all rates accounts if they are not paid by the due date as indicated on the account (except as specifically exempted by council Bylaw).
- (vi) Regular monthly instalment payments must be maintained. Failure to maintain monthly instalment payment for three (3) consecutive months shall result in the cancellation of the facility and all future instalments become payable.

16. GOVERNMENT DEPARTMENTS.

All governments departments are required to pay their accounts balances in full. Governments departments owing municipality over 60 day in arrears, services will be disconnected without any further notice. Furthermore, in terms of Section 64(3) of the Municipal Finance Management Act (Act.no56 of 2003) the amount to which the department is in arrears will be reported to both National Treasury and Provincial Treasury.

17. RENTAL OF FACILITIES

General Principles

- 1) Interest may be charged on all overdue accounts at an interest rate that shall be determined by council from time to time
- 2) Interest charges on arrears will be frozen subject to the rescheduled debt arrangements being honoured
- 3) A debt rescheduling arrangement requires the payment of the current monthly charges plus a mutually agreed amount towards the arrears each month
- 4) If a debt arrangement is not honoured, the debt collection process or legal action will resume from where it was suspended and not restart at the beginning of the debt management process
- 5) The municipality will be reasonably sent the notification of defaulting debtors following the issuing of the letter of demand and when judgement is granted against occupant
- 6) Home visits may be undertaken by officials or representatives on behalf of the Municipality following the issuing of the letter of demand to the debtor. Where the tenant and spouse are not home at the time of the visit ,a letter for the tenant to call debt collection division of the municipality will be left at the dwelling (After one recorded unsuccessful attempt by the Municipal officials or representatives ,house visits will be deemed to have been completed). The visiting official or representatives will make every effort to encourage the defaulting debtor to pay their current account and enter into an arrangement for arrears.
- 7) The Municipal Manager may recover from the debtor the following costs in instances where such costs are incurred by or on behalf of the Municipality:
 - i. Cost and administration fees where payments, made to the Municipality by negotiable instruments are dishonoured by the banks when presented for payment
 - ii. Legal and administrative costs, including attorney and client costs and tracing fees incurred in the recovery of debts
 - iii. Any collection commission
- 8) The following minimum payment equal to monthly rental charge will be added to legal costs are required from the debtor prior stopping the legal processs
 - i. Following the service of summons1 x total monthly
 - ii. Where judgement has been granted.....2 x total monthly
 - iii. On day of eviction.....3 x total monthly

- 9) The Municipality may use discretion where tenant is found to be indigent
- 10) If the debtor defaults on arrangement which was made on the day of eviction or re-issued warrant of eviction will be obtained and the subsequent eviction process can be stopped if 12 x total monthly rental charge plus legal costs are paid.
- 11) Should the debtor default on this second arrangement ,no further arrangements will be entered into and the eviction will be enforced unless the debtor pays amount owing in full.
- 12) There will no restatement after eviction

18. COLLECTION PROCESS RENTAL OF FACILITIES

- I. Rental payable in advance by due date
- II. If payment is not received, a first contact letter /sms/email requesting payment and offering the debtor an opportunity to make arrangements within 30 days from the date of the communication mentioned above
- III. If the debtor fails to respond to this letter of demand within 30 days ,the debtor may within the next 30 days receive a house visit
- IV. Failure to respond after house visit, will result in legal proceedings
- V. The legal collection process will start with a letter demanding payment within a stipulated period
- VI. If the debtor fails to respond within the allowed time summons will be issued
- VII. No response to the summons will result in default judgement and ultimate sanction of eviction

19. COMMUNICATION

- (i) The municipality will where reasonably possible at its own cost make the Credit Control and Debt Collection Bylaw brochure available to the community. Any amendments may be communicated in a newsletter or website.
- (ii) Councillors must on a regular basis, address ward committees and their wards on the contents of the Bylaw and any amendments thereto.

20. PAYMENT FACILITIES AND METHODS

- (i) Municipal payment and enquiry facilities will be maintained subject to acceptable levels of activity when compared to the operational costs. The Municipal Manager or his designate has the discretion to open and close offices as required.
- (ii) The customer acknowledges that any agent used for transmitting payments to the Municipality is at the risk and cost of the customer. In addition the customer must take into account the transfer time of the particular agent.

- (iii) A range of payment methods is available and may be extended as required subject to financial implications. The Municipality shall actively monitor the effectiveness of pay facilities, methods and convenience for customers.
- (iv) The Chief Financial Officer shall allocate payments according to pre-determined priorities.
- (v) The customer is not allowed to selectively nominate any monies paid for specific services. The allocation of payments are automatically done according to priorities as determined by the CFO in line with Councils direction.
- (vi) No allegation for the non-receipt of an account will be exempted from the responsibility to pay on or before the due date.
- (vii) Officials and Councillors service accounts are to be deducted on a monthly basis from their salary remuneration.
- (viii) The Municipality may enter into agreement with businesses and their employees for the business to deduct from and pay over to the Municipality the Municipal service account due and owing by the employee.

21. ENQUIRIES AND APPEALS

- (i) Any customer who has a query/dispute concerning his service account or on the application of the credit control and debt collection Bylaw and procedure to himself must address a letter to the Chief Financial Officer or visit any Customer Care Office provided by the municipality to lodge the query/dispute.
- (ii) A customer who has lodged a query/dispute is not relieved of the responsibility to maintain regular payment of the account. An interim payment similar to the average account must be paid by the due date pending finalisation of the enquiry. Failure to make a payment will result in debt collection action been instituted against the customer.
- (iii) The customer will receive a written response to a submitted written query within 10 working days of the query being lodged.
- (iv) If a customer is not satisfied with the response received from the Customer Care Office or the CFO he may make a written submission to the Municipal manager, setting out the reasons for his dissatisfaction. The Municipal manager shall investigate the written submission and forward his findings to the client within 21 working days of receipt thereof. The Municipal Managers decision shall be final.

- (v) The testing of electricity meter may be done on request of the customer upon payment of the prescribed fee, which will be published in Council's annual tariff schedule.
- (vi) The fee will be refundable to the customer on the following conditions:
- (vii) If it is alleged in an appeal that a measuring device is inaccurate, the device must be subjected to a standard industry test to establish its accuracy, the customer must be informed of the possible cost implications including the estimated amount of such test, as set out in this section of the Bylaw, prior to such test being undertaken.
- (viii) If the outcome of any test shows that a measuring device is

Within a prescribed range of accuracy, the customer will be liable for the costs of such test and any other amounts outstanding and the paid fee will be forfeited by the customer.

Outside a prescribed range of accuracy, the Council will be liable for the costs of such test and the customer must be informed of the amount of any credit to which he, or it is entitled.

22. DEBT COLLECTION

- (i) The Chief Financial Officer is authorised to institute these mechanisms without exception and with the intention of proceeding until the debt is collected.
- (ii) The following mechanisms are to be used to collect:
- (iii) Disconnection / restriction of metered services for all overdue rates and service accounts.
- (iv) Barring from buying prepayment services by debtors who are in arrears with all overdue rates and service accounts.
- (v) Allocating a portion of any payment for prepayment services to arrear debt.
- (vi) Insisting that a prepayment meter be installed.
- (vii) Withholding of rates clearance certificates under certain conditions. (Refer to section 118 of the Systems Act of 2000.)
- (viii) Legal process, including proceeding(s/arrangements) in terms of section 57 of the Magistrates court act, an emoluments attachment order on the debtors salary, summons, the attachment and sale of moveable or immovable property, section 65 proceedings.
- (ix) Withholding payments of grants-in-aid.
- (x) Any other method authorised by Council.

23. BLOCK FROM THE PURCHASE OF ELECTRICITY:

- (i) Council will block a customer from the purchase of electricity on the prepayment electricity system if the account rendered by council is not paid by the due date as indicated on the account
- (ii) The block from the purchase of electricity will be for the total amount outstanding on the account, including unpaid amounts handed over for collection to the debt collection and not just for the electricity portion of the account
- (iii) The blocked from purchase of electricity for the non-payment of an account will be during the 30 day period following due date
- (iv) Non indigent customers with arrears will be blocked on a block type that will require the customer to pay the amount due to council before the prepayment electricity can be purchased.
- (v) Low income non-indigent customers with arrears living in a property with certain municipal value at discretion of the Chief Financial Officer upon providing proof of income will be blocked on a block type that will require the customer to pay the current monthly account due before prepayment electricity can be purchased and with the purchase of electricity 40% of the amount rendered to purchase electricity will be held back and be allocated to arrear debt.
- (vi) Indigent customers with arrears will be blocked on a block type on the prepayment system that will require the Customer to pay the current monthly account due before prepayment electricity can be purchased and with the purchase of electricity 40% of the amount tendered to purchase electricity will be held back and be allocated to arrear debt. **The amount of the current monthly account due is the amount after the indigent subsidy has been deducted.**
- (vii) Customer will be placed on a total block from the purchase of electricity for the following reasons and will not be permitted to purchase electricity after a visit to Council Offices by the Customer to attend to the reason for blocking:
 - (a) When customer moved into a property and failed to apply for services from Council and failed to pay the required Customer deposits

24. SECTION 118 OF THE LOCAL GOVERNMENT MUNICIPAL SYSTEMS ACT NO 32 OF 2000

- (i) Council will issue a certificate required for the transfer of immovable property in terms of section 118 of the above mentioned act which is lodged with Council in the prescribed manner, only when all amounts that became due in connection with the property for Municipal service fees, surcharges on fees, property rates and other services, levies and duties during the two years preceding the date of application for the certificate have been fully paid. The Municipality will not accept letters of undertaking and will only release the clearance once the charges contemplated above have been fully paid, whether in cash or irrecoverable bank guaranteed cheque or an Attorneys Trust account Cheque.
- (ii) Debt older than two years on property irrespective of whether the owner of the property had accumulated the debt will also have to be paid before the transfer of the property by the owner.
- (iii) If the owner refuses to pay the debt which is older than two years, then council will apply to a competent court for an order in the following manner:**
- (a) In the case where there is already a judgement for the payment of the amount, an order that the judgement debt be paid out of the proceeds of the sale before the mortgage debt is settled
- (b) In the case where there is no judgement debt for an order staying transfer of the property pending finalization of a civil action to be instituted against the person who is in law liable for the payment of outstanding debt
- (c) The above action must be taken before the property is transferred as the statutory lien created by section 118 (3) of the act only endures until property has been transferred and in terms of section 118(5) of the act can the new owner of the property not being held liable for the debt that became due before a transfer of a residential property took place.

25. WITHHOLDING APPROVAL OF BUILDING PLANS

Institutions or individual persons, who apply to Council for the approval of a building plan and who are in arrears with their services account, will have approval of the building plan withheld by council until the arrear debt with council is settled.

26. OTHER DEBT COLLECTION METHODS

The debt collection methods mentioned in the above are not exhaustive list of methods that can be applied to collect debt and any other methods that can be initiated will be implemented with the consent of council to collect debt.

27. DEBT COLLECTION COSTS

Any costs which include collection costs, charges, disbursement and legal fees to any of the debt collection methods applied to collect the debt, will be debited to the account of the defaulting debtor. The reconnection fee charged is due and payable irrespective of whether the supply was disconnected or not.

28. METER READINGS

Meters will be read on a monthly basis, or as determined as the most efficient timetable by the Chief Financial Officer. Deviation lists are to be verified every month to ensure the correctness of the billing process. Deviations of more than 25% of the norm reported on electricity consumption are to be investigated by an inspector before billing is rendered on the account

29. THEFT AND FRAUD

29.1 The Municipality does not condone theft and fraud of municipal services and will monitor the service networks for signs of tampering or irregularities.

29.2 The Council may approve specific penalties for cases of vandalism and theft.

1st offence: R1110.00 for the disconnection at the pole and removal of the meter as well an estimate lost of revenue.

2nd offence: R2221.00 for the double tamper for the disconnection at the pole and removal of the meter and entire service as well as an estimate of lost of revenue.

3rd offence: R5290.00 for the disconnection at the pole and removal of the meter as well as an estimate of the lost revenue and full outstanding debt should be paid.

17.3 Subsequent acts of tampering may lead to a refusal to supply certain services for determined periods.

30. IRRECOVERABLE DEBT

Criteria for irrecoverable debt

- (i) Debt will only be considered as irrecoverable if it complies with the following criteria:
- (ii) (a) all reasonable notifications and cost effective legal avenues have been exhausted to recover a specific outstanding amount; or
- (iii) any amount as determined by Council from time to time, will be considered too small, after having followed basic checks, to warrant further endeavours to collect it; or
- (iv) the cost to recover the debt does not warrant further action; or
- (v) the amount outstanding is the residue after payment of a dividend in the rand from an insolvent estate; or
 - (i) there is a danger of a contribution; or
 - (ii) no dividend will accrue to creditors; or
- (vi) a deceased estate has no liquid assets to cover the outstanding amount following the final distribution of the estate; or
 - (i) where the estate has not been reported to the Master and there are no assets of value to attach; or
- (vii) it has been proven that the debt has prescribed; or
- (viii) the debtor is untraceable or cannot be identified so as to proceed with further action; or
 - (i) the debtor has emigrated leaving no assets of value to cost effectively recover Councils claim; or
- (ix) it is not possible to prove the debt outstanding; or
 - (i) a court has ruled that the claim is not recoverable; or
- (x) the outstanding amount is due to an irreconcilable administrative error by the Municipality; or
- (xi) arrears owed by previous Administrations, amongst themselves, that now form part of the Lukhanji Local Municipality; or
- (xii) expenditure incurred, in respect of internal accounts raised in the name of the Lukhanji Local Municipality, in any previous financial year; or
- (xiii) conversion of old dormant account balances of debtors, inherited from the previous municipalities which now form part of the Lukhanji Local Municipality, and where reasonable steps have been taken to recover these debts; or
- (xiv) all debtors who are registered as indigent as more fully set out in item 10 will have their arrears written off; or
- (xv) if an offer of full and final settlement is confirmed in writing by the Accounting Officer in terms of section 14 (2) of the Lukhanji Local Municipality: Credit Control and Debt Collection Bylaw; or

- (xvi) All arrears may be written off to bad debts where Council-
- (i) Expropriates any property; or
 - (ii) Purchases any property in terms of item 10 (1) (f); or
- (xvii) all arrears may be written off to bad debts where a property has been forfeited to the State in terms of the Prevention of Organised Crime Act 121 of 1998; or
- (i) Where the occupiers have been evicted from Council, Provincial or State properties due to criminal activities; or
- (xviii) through supporting the municipality's housing related debt management
- (xix) processes and in instances where a housing debtor has applied for and been granted a housing indigent grant in terms of the Housing Indigent Bylaw, all debt related to that property for that debtor (excluding capital debt of home ownership units), up to the date of granting of indigent status will be written back. Such write back will occur only once for any debtor, thereby allowing for a once off rehabilitation, where after the debtor will immediately be subject to the housing debt management Bylaw should the account again fall into arrears; or
- (xx) where an item 7 dispute or a section 62 appeal determines what needs to be written off; or
- (xxi) where the Director: Housing advises the Director: Revenue that a housing debtor has been granted a housing indigent grant such debtors rates, services and sundry debt related to that property for that debtor shall be written off once; or
- (xxii) where registered non-profit organisations or public benefit organisations would, except for there being arrears on their Municipal accounts, qualify to receive a 100% rates rebate, in terms of the Rates Bylaw, will, with effect from the date of qualification, have all their arrears written off, thus ensuring that they meet all the criteria to receive the rates rebate and;
- (i) this assistance will only be granted once to an organization subject to the condition that an electricity prepayment meter management device must be installed, where applicable;
 - (ii) should any tampering with or bypassing of electricity meters be discovered, any arrears written-off, in terms of this sub-item, will become payable with immediate effect and any other action as per any legislation or Bylaw that applies to such tampering and/or bypassing will be instituted;
 - (iii) should the Accounting Officer become aware that the focus of the organization has changed, or its financial position has improved or its registration as a non-profit organisation or public benefit organisation has lapsed or terminated within three years after the arrears were written-off, such arrears will become payable with immediate effect.

31. APPLICATION OF THE BYLAW

The Council reserves the right to differentiate between different categories of customers, debtors, services or service standards when applying the Bylaw. The Council will on application of the credit control Bylaw avoid discrimination

as forbidden by the Constitution unless it is established that the discrimination is fair as allowed by the Constitution.

32. EFFECTIVE DATE

The Bylaw shall come to effect upon approval by Council.

33. BYLAW ADOPTION

This Bylaw has been considered and approved by the COUNCIL OF LUKHANJI LOCAL MUNICIPALITY as follows:

Resolution No:

Approval Date:

N Makanda
Executive Mayor

S Nkonki
Acting Municipal Manager

NOTICE 196 OF 2015

LUKHANJI MUNICIPALITY

BUDGET AND TREASURY DIRECTORATE



FINAL REVIEWED WRITE OFF BYLAW

Reviewed Bylaw by Chief Financial Officer

045 807 2001/2

nntshanga@lukhanji.gov.za

Adopted 28 May 2015

1 INTRODUCTION

- 1.1 To ensure that household consumers with no or lower income are not denied a reasonable service and that the municipality is not financially burdened with non-payment of services, the Council of LUKHANJl Municipality approved a revised Indigent Bylaw.
- 1.2 However, the Council is faced with a significant amount of outstanding debt and the continuous defaulting by certain consumers who can afford to pay for services. The Council approved a revised Credit Control and Debt Collection Policy and Bylaw.
- 1.3 Despite strict enforcement of the above policies and Bylaws, Council will continuously be confronted by circumstances requiring the possible write-off of irrecoverable debt. To allow this the approved Credit Control Bylaw, inter alia, stipulated that:-
 - 1.3.1 The Municipal Manager must establish effective administrative mechanisms, processes and procedures to collect money that is due and payable to the municipality.
- 1.4 In addition, the Bylaw further stipulates that:-
 - 1.4.1 Council must appoint use Finance Standing Committee in terms of its delegations to review and recommend to Council to approve all bad debt write off cases.

2 PURPOSE OF THE BYLAW

- 2.1 The purpose of this Bylaw is to ensure that the principles and procedures for writing off irrecoverable debt are formalised.

3 RESPONSIBILITY / ACCOUNTABILITY

- 3.1 The Council has the overall responsibility for adopting and approving the Bylaw on Writing Off of irrecoverable debt.

4 BYLAW PRINCIPLES

- 4.1 The following are the guiding principles in implementing the Bylaw on Writing Off of Irrecoverable Debt:-
 - 4.1.1 The Bylaw has been compiled in accordance with the Local Government Municipal Finance Management Act (MFMA), 2003, Local Government Municipal Systems Act (MSA), 2000, as amended and other related legislation.
 - 4.1.2 Before any debt is written off it must be proved that the debt has become irrecoverable. To ensure that recommendations for write off are consistent and accurate, irrecoverable debt will be defined as debt where:-
 1. The tracing of the debtors is unsuccessful; and
 2. All reasonable steps, at the discretion of the appointed write off committee, were taken by the officials to recover the debt.

- 4.1.3 Bad debt write offs must be considered in terms of cost benefit; when it becomes too costly to recover and the chances of collecting the debt are remote, a write off should be considered.
- 4.1.4 Time value of money is very important because the older the debt becomes, the more difficult and costly it becomes to collect. It is therefore imperative that a proper system of credit control is implemented and maintained to avoid debt reaching the stage of becoming too expensive to recover.
- 4.1.5 Differentiation must be made between those household consumers who cannot afford to pay for basic services and those who just do not want to pay for these services.
- 4.1.6 Debt can only be written off if the required provision exists in the Municipality's budget and/ or reserves.

5 CATEGORIES OF DEBTORS THAT MAY QUALIFY FOR THE WRITING OFF OF IRRECOVERABLE DEBT

5.1 Approved Indigent Household Consumers in terms of the Municipality's Indigent Bylaw

- 5.1.1 Upon approval for registration as an indigent household consumer, the debtor's outstanding balance as at the date of approval is written off at the expiry of six months since registration as an indigent.
- 5.1.2 Any new arrears accumulated by the debtor (i.e. any amounts in excess of the indigent allowance for free basic services) whilst registered as an indigent consumer, will not qualify to be written off and must be dealt with strictly in accordance with the Municipality's Credit Control and Debt Collection Policy and Bylaw and the Indigent Consumer Policy and Bylaw

5.2 Balances too small to recover considering the cost for recovery

- 5.2.1 Where final accounts have been submitted and paid by the respective consumer and the remaining balance after finalisation of any final readings and other administrative costs results in a balance of one hundred rand (R100) or less, such account must be forwarded once to the consumer for payment.
- 5.2.2 Where such account is not paid by the respective consumer within a period of ninety (90) days such amounts will automatically be written off subject to the provisions of paragraph 6.4 below.

5.3 Insolvency of the Debtor and Insolvent Deceased Estates

- 5.3.1 Where a debtor becomes insolvent the Municipality must ensure that a creditor's claim is timeously registered. Any amount not being recovered due to insufficient funds or if there is a risk of a contribution being made to an insolvent estate must, after notification, be written off subject to the provisions of paragraphs 6.4, 6.5 and 6.6 below.
- 5.3.2 In case of death of the debtor a creditor's claim must be timeously registered against the deceased's estate. Any amount not being recovered due to insufficient funds or if there is a risk of a contribution being made to a deceased estate must, after notification, be written off subject to the provisions of paragraphs 6.4, 6.5 and 6.6 below.

5.4 Untraceable Debtors

- 5.4.1 Where for any reason the forward address of a debtor becomes untraceable or the debtor becomes untraceable from the current address, such account must be handed over to a collection agent for recovery of the debt. The Terms of Reference for such collection agent must include the appointment of a tracing agent to locate the debtor. Should a debtor be untraceable, the collection agent must report to the Municipality on the actions that were taken to attempt to trace the debtor.
- 5.4.2 Any amount owed by a debtor that has become untraceable must, after notification, be written off or sold to a debt collection agency at a discount.
- 5.4.3 Debt written off in the above instances will automatically result in the debtor being reported to the credit bureau by the Municipality.

5.6 Special Incentives introduced to the arrear debt as at 30 June 2010 by Council for Household Consumers in terms of the Credit Control and Debt Collection Bylaw

- 5.6.1 Notwithstanding the Municipality's Credit Control Bylaw the council may determine an incentive scheme to encourage the payment of the current account by giving various discounts or rebates on arrear amounts (30 June 2010). Such discounts and rebates will be determined by the council when such a scheme is implemented. The debtor may enter into a written agreement with the Municipality to repay any outstanding and due amount to the Municipality under the following conditions:-
- The outstanding balance, costs and any interest thereon shall be paid in regular and consecutive monthly instalments;
 - The current monthly amount must be paid in full; and
 - The written agreement has to be signed on behalf of the Municipality by a duly authorised officer (CFO).
- 5.6.2 In order to determine monthly instalments, a comprehensive statement of assets and liabilities and income and expenditure, must be provided by the debtor and reviewed by a finance official. To ensure the continuous payment of such arrangement the amount determined must be affordable to the consumer (i.e. amount not to exceed 25% of gross income), taking into account that payment of the monthly current account is a prerequisite for concluding an arrangement.
- 5.6.3 Due to ineffective implementation of credit control measures in the past, the majority of household consumers have accumulated significant arrear amounts and these consumers are not in a position to pay off these arrear amounts in full together with their current monthly accounts. In order to improve the current payment levels from consumers the Municipality has resolved to implement special incentives to address the arrear debt dating back to June 2010.
- 5.6.4 To encourage consumers to pay off arrear debt Council will enter into a once-off arrangement, with a household consumer only, to pay off his/ her arrear debt over a period of time in terms of specific incentives. The main aim of this agreement will be to promote full payment of the current account and to address the arrears on a consistent basis.
- 5.6.5 Writing off any debt in terms of such an agreement will be strictly in accordance with the provisions set out in the Municipality's Credit Control and Debt Collection Bylaw.

Where a debtor pays 50% or more on the principal portion of his/her arrear account of debt 30 June 2010 or settles the principal portion of the arrear account in full through a once-off payment, all interest penalties on arrear amounts will be written off immediately. All arrears after 30 June 2010 meaning 01 July 2010 must be paid in instalments after entered into payment arrangements.

- 5.6.6 Where arrangements are made to pay off the principal portion of the arrear amount in instalments, such instalments should be determined on the outstanding amount excluding arrear interest. Such an arrangement should be honoured for at least a six-month consecutive period where-after interest on arrear amounts will be written off on a monthly basis. This arrangement will imply that upon payment of the final instalment all interest on arrear amounts will have been written off.
- 5.6.7 Where debtors fail to honour their arrangements without prior consultation interest will be reinstated and added to the original debt amount.
- 5.6.8 The arrangement referred to in paragraph 5.6.4 may be extended to other Poverty Alleviation & Job Creation Strategies that the Municipality may implement. Such strategies may include:-
- The casual/contract employment of a debtor in a particular Municipal project (i.e. refuse collection, road maintenance, verge cutting etc.).
 - A 50% cash payment to the debtor and 50% payment that will be credited against the debtor's arrear account.
 - The accounting treatment shall be that the project or programme will be debited (charged) full 100% as this will be the input cost of the labour (100% cost paid out as 50% cash paid to the debtor and 50% credited against the debtor's arrear account as though it were a cash payment).
- 5.6.9 The purpose of the above strategy/arrangement is to instil a sense of pride to the customers of the Municipality that cannot pay off their arrears, whilst extending services delivery, creating jobs and alleviating poverty and at the same time reducing the Debtors Book and enhance the financial viability and image of the Municipality.
- 5.6.10 any property sold after incentive is granted, 50% of the amount will be recovered from sale of the property in question

5.7 Registered Destitute and Indigents

A debtor who submitted building plans after the write off is granted the full amount will be recovered.

6. ESTABLISHMENT OF A COMMITTEE TO MONITOR ANY DEBT TO BE WRITTEN OFF

6.1 Finance Standing Committee will serve as a Committee to monitor the implementation of this Bylaw. And be chaired by Portfolio Head Finance.

All write off's from account balance R 1000 to R 50 000 will be considered by this committee and approved. From R 50 001 recommendation for Council approval will be done by this committee.

5.2 The Committee will consist of the following members:-

6.2.1 The Municipal Manager;

6.2.2 Chief Financial Officer;

- 6.2.3 Officials from the Finance Department designated by the Chief Financial Officer;
- 6.2.4 The above Committee will meet at least quarterly to receive and review a report from the Chief Financial Officer containing full details of any actions taken by officials with respect to this Bylaw and to consider any circumstances not covered by this Bylaw. In respect of meetings the following arrangements will prevail:-
- 6.3.1 The quorum for the Committee shall be 50% of the members plus one.
- 6.3.2 Formal minutes of Committee meetings must be prepared and submitted to Mayoral Committee and onward transmission to Council.

7. Details of the Debt to be written Off

Debtors Name

Debtors Address

Description of the Debt

Period of the Debt and or Debt of Invoice

Amount to be written Off

Reason for the write Off

Supporting Documentation must be retained and available that shows:

Evidence to support write off

Recovery history

Details of tracing and enquiries carried out

8. IMPLEMENTATION AND REVIEW OF THIS BYLAW

- 8.1 This Bylaw shall be implemented once approved by Council. All future submissions for the writing off of debt must be considered in accordance with this Bylaw.
- 8.2 In terms of section 17 (1) (e) of the MFMA this Bylaw must be reviewed on annual basis and the reviewed Bylaw tabled to Council for approval as part of the budget process.

9. EFFECTIVE DATE

The Bylaw shall come to effect upon approval by Council.

10. BYLAW ADOPTION

This Bylaw has been considered and approved by the COUNCIL OF LUKHANJI LOCAL MUNICIPALITY as follows:

Resolution No:

Approval Date: 28 May 2015

N Makanda
Executive Mayor

S Nkonki
Acting Municipal Manager

NOTICE 197 OF 2015

**LUKHANJI MUNICIPALITY
BUDGET AND TREASURY DIRECTORATE**



REVIEWED RATES BYLAW

Prepared by Chief Financial Officer

045 807 2002

nntshanga@lukhanji.gov.za

Adopted: 28 May 2015

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1. DEFINITIONS

'Act' means the Local Government: Municipal Property Rates Act, No 6 of 2004 and includes the regulations made in terms of Section 83 of the Act;

'Agent', in relation to the owner of a property, means a person appointed by the owner of the property-

- (a) to receive rental or other payments in respect of the property on behalf of the owner; or
- (b) to make payments in respect of the property on behalf of the owner;

'Agricultural purpose' in relation to the use of a property, excludes the use (of a property for the purpose of eco-tourism or for the trading in or hunting of game);

Other definitions:

'Annually' means once every financial year (1 July to the 30 June the following year);

'Appeal board' means a valuation appeal board established in terms of section 56;

'Assistant municipal valuer' means a person designated as an assistant municipal valuer in terms of section 35(1) or (2);

'Bona fide farmers' is a person that is fulltime farmer and if such land is used *bona fide* and exclusively by the owner or occupier for agricultural purposes;

"Building Allotment", means a property located in the rural area and described in the Deeds Office Records as Building Allotment;

'Category'

- (a) in relation to property, means a category of properties determined in terms of Section 8; and
- (b) in relation to owners of properties, means a category of owners determined in terms of section 15(2)

'Chief Financial Officer' means the Chief Financial Officer as defined in the Municipal Finance Management Act;

'Child-headed household' means a household where the main caregiver of the said household is younger than 18 years of age. Child-headed household means a household headed by a child as defined in the section 28(3) of the Constitution.

'Council' means the Council of the Lukhanji Municipality;

'Communal Land' as defined in Section 1 of the Communal Land Right Act of 2004;

'Data-Collector' means a person designated as a data-collector in Section 36;

'Date of valuation' means the date determined by a municipality in terms of section 31(1);

'District management area' means a part of a district municipality which in terms of section 6 of the Municipal Structures Act has no local municipality and is governed by that municipality alone;

'District Municipality' means a municipality that has municipal executive and legislative authority in an area that includes more than one municipality, and which is described in section 155(1) of the Constitution as a category C municipality;

'Dominant use' in relation to a property means where a particular use is the largest proportion as compared to other uses on that property / pro rata

'Due date' means the date specified as such on a municipal account dispatched from the offices of the responsible officer for any rates payable and which is the last day allowed for the payment of such rates;

'Effective date'-

(a) in relation to a valuation roll, means the date on which the valuation roll takes effect in terms of section 32(1);

(b) in relation to a supplementary valuation roll, means the date on which a supplementary valuation roll takes effect;

'Exclusion', in relation to a municipality's rating power, means a restriction of that power as provided for in section 17;

'Exemption', in relation to the payment of a rate, means an exemption granted by a municipality in terms of section 15;

'Financial year' means the period starting from 1 July in a year to 30 June the next year;

'Income Tax Act' means the Income Tax Act, 1962 (Act No. 58 of 1962);

'Infrastructure rate' the municipality retains the right to implement a levy as determined by council according to sec.7 and 11;

'Land reform beneficiary', in relation to a property, means a person who -

- (a) acquired the property through -
 - (i) the Provision of Land and Assistance Act No. 126 of 1993; or
 - (ii) the Restitution of Land Rights Act No. 22 of 1994;
- (b) holds the property subject to the Communal Property Associations Act No 28 of 1996;
- (c) holds or acquires the property in terms of such other land tenure reform legislation as may pursuant to section 25(6) and (7) of the Constitution be enacted after this Act has taken effect;

'Land tenure right' means an old order right or a new order right as defined in section 1 of the Communal Land Rights Act, 2004;

'Local Community', in relation to a municipality-

- (a) body that mean of persons comprising –
 - (i) the residents of the municipality;
 - (ii) the ratepayers of the municipality;
 - (iii) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the municipality; and

- (iv) visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality; and
- (b) includes, more specifically, the poor and other disadvantaged sections of such body of persons;

'Local Municipality' means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, and which is described in section 155(1) of the Constitution as a category B municipality;

'Market Value', in relation to a property, means the value of the property determined in accordance with Section 46 of the Act;

'MEC for Local Government' means the member of the Executive Council of a province who is responsible for local government in that province;

'Minister' means the Cabinet member responsible for local government;

'Multiple purposes', in relation to a property, means the use of a property for more than one purpose;

'Municipal Council' or **'Council'** means a municipal council referred to in section 18 of the Municipal Structures Act;

'Municipal Finance Management Act' means the Municipal Finance Management Act No. 56 of 2003;

'Municipal Systems Act' means the Local Government: Municipal Systems Act, No 32 of 2000;

'Municipality'-

- (a) as a corporate entity, means a municipality described in section 2 of the Municipal Systems Act; and
- (b) as a geographical area, means a municipal area demarcated in terms of the Municipal Demarcation Act No. 27 1998;

'Municipal Manager' means a person appointed in terms of section 54A of the Amended Municipal Systems Act 7 of 2011 of the Municipal Structures Act;

'Municipal-owned property' refers to property that is registered in the name of the Municipality and property vested by usage in the name of the Municipality whether it is used by the Municipality itself or made available to other entities without cost or in terms of a rental agreement;

'Municipal Structures Act' means the Municipal Structures Act No 117 of 1998;

'Municipal Systems Act' means the Municipal System Act No. 32 2000;

'Municipal Valuer' or "Valuer of a municipality" means a person designated as a municipal valuer in terms of section 33(1) of the MPRA;

'Old order right' means a tenure or other right in or to communal land which (Ciskei, Transkei and RSA) :-

- (a) is formal or informal;
- (b) is registered or unregistered;
- (c) derives from or is recognised by law, including customary law, practice or usage; and
- (d) exists immediately prior to a determination by the Minister in terms of section 18, but does not include –
 - (i) any right or interest of a tenant, labour tenant, sharecropper or employee if such right or interest is purely of a contractual nature; and
 - (ii) any right or interest based purely on temporary permission granted by the owner or lawful occupier of the land in question, on the basis that such permission may at any time be withdrawn by such owner or lawful occupier;

'Occupier', in relation to a property, means a person in actual occupation of a property, whether or not that person has a right to occupy the property;

'Organ of state' means an organ of state as defined in section 239 of the Constitution;

'Owner'-

- (a) in relation to a property referred to in paragraph (a) of the definition of "property", means a person in whose name ownership of the property is registered;
- (b) in relation to a right referred to in paragraph (b) of the definition of "property", means a person in whose name the right is registered;
- (c) in relation to a land tenure right referred to in paragraph (c) of the definition of "property", means a person in whose name the right is registered or to whom it was granted in terms of legislation;
or
- (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of "property", means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of "publicly controlled", provided that a person mentioned below may for the purposes of this Act be regarded by a municipality as the owner of a property in the following cases:
 - (i) a trustee, in the case of a property in a trust excluding state trust
land;
 - (ii) an executor or administrator, in the case of a property in a deceased estate;
 - (iii) a trustee or liquidator, in the case of a property in an insolvent estate or in
 - (iv) a judicial manager, in the case of a property in the estate of a person under
 - (v) a curator, in the case of a property in the estate of a person under curatorship;
 - (vi) a person in whose name a usufruct or other personal servitude is
registered, in the case of a property that is subject to a usufructure
other personal servitude;
 - (vii) a lessee, in the case of a property that is registered in the name of a municipality and
is leased by it; or
 - (viii) a buyer, in the case of a property that was sold by a municipality and of which
possession was given to the buyer pending registration of ownership in the name of
the buyer;

'Penalty' in relation to the time period of underdeveloped vacant land, excluding agricultural land, which is not utilized in the specific time period as stipulated in the Bylaw;

'Permitted use', in relation to a property, means the limited purposes for which the property may be used in terms of -

- (a) any restrictions imposed by -

- (i) a condition of title;
 - (ii) a provision of a town planning or land use scheme; or
 - (iii) any legislation applicable to any specific property or properties;
- (b) any alleviation of any such restrictions;

'Person' includes an organ of state;

'Prescribe' means prescribed by regulation in terms of section 83;

'Property' means -

- (a) immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;
- (b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; or
- (d) public service infrastructure;

'Property register' means a register of properties referred to in section 23 of the MPRA;

'Protected area' means an area that is or has to be listed in the register referred to in section 10 of the Protected Area Act;

'Protected Areas Act' means the National Environmental Management: Protected Areas Act, 2003;

'Publicly controlled' means owned by or otherwise under the control of an organ of state, including -

- (a) a public entity listed in the Public Finance Management Act No. 1 of 1999.
- (b) a municipality; or
- (c) a municipal entity as defined in the Municipal Systems Act;

'Public service infrastructure' means publicly controlled infrastructure of the following kinds:

- (a) national, provincial or other public roads on which goods, services or labour move across a municipal boundary;

- (b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme serving the public;
- (c) power stations, power substations or power lines forming part of an electricity scheme serving the public;
- (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;

- (e) railway lines forming part of a national railway system (excluding the land upon which the railway line is based) ;
- (f) communication towers, masts, exchanges or lines forming part of a communications system serving the public;
- (g) runways or aprons at national or provincial airports;
- (h) breakwaters, sea walls, channels, basins, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising lighthouses, radio navigational aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;
- (i) any other publicly controlled infrastructure as may be prescribed; or
- (j) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (i);

'Rate' means a municipal rate on property envisaged in section 229(1)(a) of the Constitution;

'Rateable property' means property on which a municipality may in terms of section 2 levy a rate, excluding property fully excluded from the levying of rates in terms of section 17;

'Rebate', in relation to a rate payable on a property, means a discount granted in terms of section 15 on the amount of the rate payable on the property;

'Reduction', in relation to a rate payable on a property, means the lowering in terms of section 15 of the amount for which the property was valued and the rating of the property at that lower amount;

'Register'-

- (a) means to record in a register in terms of-
 - (i) the Deeds Registries Act 47 of 1937; or

- (ii) the Mining Titles Registration Act 16 of 1967; and
- (b) includes any other formal act in terms of any other legislation to record-
 - (i) a right to use land for or in connection with mining purposes; or
 - (ii) a land tenure right;

'Residential property' means a property included in a valuation roll in terms of section 48 (2)(b) as residential;

'Residential property: mixed use' refers to property that is used predominantly for residential purposes (51 % or more) but has significant portions of the property devoted to purposes that fall within other categories of property;

'Rural communal settlements' means the residual portion of rural communal land excluding identifiable and rateable entities within the property and excluding State Trust Land and land reform beneficiaries as defined in the Act.

'Sectional Titles Act' means the Sectional Titles Act No. 95 of 1986;

'Sectional title scheme' means a scheme defined in section 1 of the Sectional Titles Act;

'Sectional title unit' means a unit defined in section 1 of the Sectional Titles Act;

'Special State Owned Properties' properties that are owned by National and Provincial Government, used for public benefit purposes and as a rule do not trade regularly in a four year valuation cycle.

'Specified public benefit activity' means an activity listed in item 1 (welfare and 5 humanitarian), item 2 (health care) and item 4 (education and development) of Part 1 of the Ninth Schedule to the Income Tax Act;

'State trust land' means land owned by the state-

- (a) in trust for persons communally inhabiting the land in terms of a traditional
- (b) over which land tenure rights were registered or granted; or
- (c) which is earmarked for disposal in terms of the Restitution of Land Rights

"Trading services", means services for which the tariffs are fixed to yield a trading surplus, like electricity and water services.

'Vacant land' means land, excluding agricultural land, where no immovable improvements have been erected.

2. INTRODUCTION

The purpose of this document is to serve as the foundation for public consultations on the Rates Bylaw the Lukhanji Municipality wishes to adopt on 1 July 2015, in line with the market-based valuation of all properties in the Lukhanji Municipal area of jurisdiction.

This document aims to invite views on how the municipality intends to apply the rating Bylaw mechanisms at its disposal in the 2015/16 financial year, as required by the Act (MPRA).

2.1 The Municipal Property Rates Act No. 6 of 2004 (MPRA) requires municipalities to develop and adopt rates policies consistent with the Act on the levying of rates on rateable property in the municipality.

2.2 Municipalities need a reliable source of revenue to provide basic services and perform its functions. Income derived from property rates are a most important source of revenue for the municipality.

2.3 Revenue from property rates is used to fund services that benefit the community as a whole as opposed to individual households. These include constructed and maintaining streets, roads, sidewalks, street lighting, and storm drainage facilities; and building and operating clinics, parks, recreational facilities and cemeteries. Revenue from property rates is also used to fund municipal administration, such as computer equipment and stationery, and costs of governance, such as council and community meetings, which facilitate community participation on issues of Integrated Development Plans (IDPs) and municipal budgets.

2.4 Municipal property rates are set, collected, and used locally. Revenue from property rates is spent within a municipality, where the citizens and voters have a voice in decisions on how the revenue is spent as part of the Integrated Development Plans (IDP's) and budget processes, which a municipality invites communities to input prior to municipal council adoption of the budget.

2.5 The Constitution of the Republic of South Africa, sec 229 Of 1996, entitles municipalities to impose rates on property in their areas, subject to regulation in terms of national legislation.

2.6 The Constitution enjoins local government to be developmental in nature, in addressing the service delivery priorities of our country and promoting the economic and financial viability of our municipalities and in general to meet its obligations in terms of section 152 of the Constitution of the Republic of South Africa, 1996.

2.7 There is a need to provide local government with access to a sufficient and buoyant source of revenue necessary to fulfill its developmental responsibilities.

2.8 Income derived from property rates is a critical source of revenue for municipalities to achieve their constitutional objectives, especially in areas that have been neglected in the past due to racially discriminatory, inadequate or inappropriate legislation and regulation.

2.9 It is essential that municipalities exercise their power to impose rates within a statutory framework that not only enhances certainty, uniformity and simplicity across the nation, but also takes into account historical imbalances and the rates burden on the poor.

2.10 The Constitution of the Republic of South Africa confers on Parliament the power to regulate the exercise by municipalities of their fiscal powers.

3. CONSULTATION PROCESS

1. Inspection period for Members of the Public and interested parties, runs during April and May of 2015 for the financial year 2015/2016.
2. Ward General Meetings and Public Information Sessions are to be held during April and May 2015 for the financial year 2015/2016. Dates and venues that will be announced by means of notices and newspaper advertisements during April and May of 2015.
3. Organisations, Associations, Forums, Groupings and or Individual members of the public who wish to make written submissions can do so by completing the available Rates Bylaw Comments/Suggestion form. These forms should be addressed to The Municipal Manager, Lukhanji Municipality, Private Bag X7111, Queenstown, 5320.
4. Upon conclusion of the consultation process, Lukhanji Municipality will assess the implications of submissions and will publish a final Draft Rates Bylaw.

5. The Rates Bylaw for 2015/16 is then tabled before Council with the adoption of the budget and will be legislated as a By-Law of Council.
6. The consultation process is in accordance with section 4 of the MPRA 6 of 2004.

4. GUIDING PRINCIPLES

In formulating the rates Bylaw for Lukhanji Municipality the following guiding principles will be taken into account:

- Equity, i.e. that all categories of property and categories of owners be treated equitably in relation to each other
- Affordability, i.e. that the rates Bylaw should take into account issues of affordability across categories of owners
- Poverty Alleviation, i.e. that the rates Bylaw should facilitate poverty alleviation within the context of the mechanisms at its disposal
- Social and Economic Development, i.e. that the rates Bylaw should within the context of the mechanisms at its disposal seek to enhance social and economic development
- Financial Sustainability and Cost Efficiency, i.e. that the rates Bylaw should be cost efficient and should enhance the financial sustainability of the municipality
- Encourage Development of Property, i.e. that the rates Bylaw should utilize the mechanism at its disposal to encourage the development of property in line with the socio-economic development needs and goals of the municipality
- Community Participation, i.e. that the rates Bylaw should be reflective of issues and options expressed during public engagements

5. Imposition of Property Rates

5.1 The Council shall as part of each annual operating budget component impose a rate in the rand on the market value of all rateable property recorded in the municipality's valuation roll and supplementary valuation roll.

5.2 Rateable property shall include any rights registered against such property, with the exception of a mortgage bond.

5.3 The Council pledges itself to limit each annual increase as far as practicable to the increase in the consumer price index over the period preceding the financial year to which the increase relates, except when the approved Integrated Development Plan of the municipality provides for a greater increase.

5.4 The Council shall, in imposing the rate for each financial year, take proper cognizance of the aggregate burden of rates and service charges on representative property owners, in the various categories of property ownership, and of the extent to which this burden is or remains competitive with the comparable burden in other municipalities within the local economic region. In dealing with the poor/indigent ratepayers the municipality will provide relief measures through exemptions, reductions, rebates and cross subsidy from the equitable share allocation.

6. IMPERMISSIBLE RATES

6.1 Rates are levied in accordance with the Act as an amount in the rand based on the market value of all rateable property contained in the municipality's valuation roll and supplementary valuation roll.

6.2 As allowed for in the Act, the municipality has chosen to differentiate between various categories of property and categories of owners of property as contemplated in clause 7 and 8 of this Bylaw. Some categories of property and categories of owners are granted relief from rates. The municipality however does not grant relief in respect of payments for rates to any category of owners or properties, or to owners of properties on an individual basis.

6.3 All existing rated property owners will not be phased in on the new valuation roll, except as prescribed by legislation.

Section 17 of the Act outlines Impermissible Rates, these include:

- the first 30% of the market value of public service infrastructure as defined in the Act
- protected areas
- (land with) mineral rights
- (land owned by) land reform beneficiaries

- the first R15 000 of the market value of residential property and properties used for multiple purposes of which one or more component thereof are used for residential purposes
- property used primarily for religious worshipping purposes, including an official residence occupied by the officiating office bearer

7. PROPERTY CATEGORIES

Lukhanji Municipality has the following property categories:

- (a) Residential properties
- (b) Business
- (c) Agricultural
- (d) Public Service Infrastructure
- (e) Communal and State Trust Land
- (h) State Owned Properties
- (i) Municipal Owned Properties
- (j) Schools including Public, Private and Early Childhood Development Centres
- (k) Vacant properties, excluding agricultural
- (l) Places of Worship
- (m) Public Benefit Organisations
- (n) Clinics and Institutions

8. RATING OF MULTIPLE USE PROPERTY

In determining the rating of multiple use properties Lukhanji Municipality classifies these properties in terms of Section 9(1) (b) of the Act, and will rate such properties based on their dominant use / pro rata.

9. DIFFERENTIAL RATING

The following factors will be taken into consideration for the purpose of differential rating:

- The nature of the property including its sensitivity to rating e.g. agricultural properties used for agricultural purposes.

- The effects of rates on the property on the promotion of the social and economic development of a municipality.
- Differential rating among the various property categories will be done by way of setting ratios between the main categories of property and therefore different Cent amount in the Rand for different categories of property.
- In this context it is the intent to set different rates for residential properties in relation to commercial properties and different rates for different categories of vacant land as outlined in this Bylaw.
- In addition exemptions, reductions in the value of properties and or rebates in respect of the cent in the rand payable, will be considered for various categories of owners, (such as for example owners receiving old age or disability grants), based on the outcomes of public consultations and rating Bylaw decisions.

10. EXEMPTIONS, REDUCTIONS AND REBATES

Exemptions, reductions and the level of rebate granted to specific owners within each category of property situated within the Municipality's jurisdiction will be determined annually as part of the review and determination of the Rates Bylaw and Budget process. Granting of rebates within a particular category of property is aimed at ensuring an equitable distribution of the property rates burden amongst the categories of property that constitute the property rates base of the Municipality.

Based on the guiding principles underpinning this Bylaw and subject to any changes in national legislation, the following categories of property owners will be considered on annual application where applicable for exemptions, rebates and reductions:

10.1 Exemptions:

- a) Child headed households (exempt if owner registered/court of law approval)
- b) Owners of property situated within an area affected by a declared disaster area within the meaning of the Disaster Management Act, No. 57 of 2002 for the time period as stipulated.
- c) The Municipality may exempt a specific category of owners of properties, or the owners of a specific category of properties, from payment of a rate levied on their property for the financial year applicable.
- d) Public Service Infrastructure

- e) Places of Worship
- f) Municipal owned properties
- g) Duly registered public benefit organisations
- h) Communal Land as defined in Section 1 of the Communal Land Right Act of 2004;
- i) Land Reform Beneficiaries Sect 17 (1)g.
- j) Properties in areas where accounts cannot reach owners by mail.

10.2 Rebates and Reductions:

- k) Indigent households as defined in the municipality's indigent Bylaw;
- l) Beneficiaries of old age grants;
- m) Beneficiaries of disability grants;
- n) Owners of properties who are not beneficiaries of old age or disability grants, but whose income is equivalent to that of such beneficiaries and who meet the criteria as defined in the municipality's indigent Bylaw;
- o) Owners of properties who are unemployed
- p) bona fide farmers;
- q) Sporting bodies;
- r) Demolished properties
- s) Grant to a specific category of owners of properties, or to the owners of a specific category of properties, a rebate on or a reduction in the rates payable in respect of their properties.

Indigent households: The Council has adopted an "Indigent Bylaw" that provides for the alleviation of the rates burden on the low income sectors of the community within the Municipality. Owners of property who qualify for the assistance provided by this Bylaw must make application to access the relief provided if they do not automatically receive it.

Bona fide farmers: In the case of properties that are used for agricultural purposes, the owner(s) may qualify for an agricultural rebate, subject to the following conditions:

- a) The property must be used for *bona fide* agricultural purposes.
- b) The usage of the property must accord with the zoning scheme for the area.

- c) The owner must be registered with the South African Revenue Service as a farmer and must submit a copy of the last IT48 (“calculation of taxable income from farming operations”) together with the application for a rebate. If no IT48 can be produced due to recent ownership change, upon application, a municipal official, authorised by the Municipal Manager shall issue an agricultural certificate to the owner of the property after an inspection of the property if he or she is satisfied that such land is used *bona fide* and exclusively by the owner or occupier for agricultural purposes.
- d) If the owner is a company or a close corporation, which would preclude the South African Revenue Services from issuing an IT48 on behalf of the owner, upon application, a municipal official, authorised by the Municipal Manager shall issue an **agricultural certificate** to the owner of the property after inspection of the property if he or she is satisfied that such land is used *bona fide* and exclusively by the owner or occupier for agricultural purposes.
- e) The land owner must prove that he/she has complied (or is awaiting confirmation of application) with the National Veld and Forest Fire Act 101 of 1998 and legislation governing the control of alien invasive species.

Rebates Applicable to Bona Fide Farmers and Agricultural Properties will be 65% for Farmers not receiving the following services from the Municipality:

Electricity

Farmers receiving the above service from the Municipality will receive a rebate according to the services which they receive.

An additional 5 % rebate could be granted to farmers that contributes to job creation provided that proof be given of:

- The number of jobs created
- That the salaries/wages given to employees meet the minimum standards set by Government.

Public Benefit Organisations (PBO's)

Taking into account the effects of rates on PBO's performing a specific public benefit activity and registered in terms of the Income Tax Act for tax reduction because of those activities, it is proposed that PBOs performing the following specified public benefits activities be exempted from rating:

- Welfare and humanitarian, for example PBOs providing disaster relief.
- Health Care, for example PBO's providing counseling and treatment of persons afflicted with HIV and AIDS including the care of their families and dependents in this regard.
- Education and development, for example a PBO's providing early childhood development services for pre-school children.

Lukhanji Municipality will consider rebates in respect of public and independent schools as well as early childhood development centres.

Lukhanji Municipality may consider rebates in respect of Special State Owned Properties used for public benefit purposes and as a rule do not trade regularly in a four year valuation cycle in the open market.

11. PROCEDURES FOR GRANTING EXEMPTIONS, REBATES & REDUCTIONS

- (a) Applications for exemptions and rebates will only be considered after an application on the prescribed form has been lodged with the Chief Financial Officer on an annual basis
- (b) Applications must reach the Municipality before 31 May 2015, for which relief is sought, failing which the exemption or rebate will lapse and will only be re-instated once the application has been approved
- (c) All applications must be made under oath. In addition, applications for exemptions by public benefit organisations must be accompanied by a letter from the South African Revenue Service confirming that the organisation qualifies for exemption in terms of the Income Tax Act.
- (d) All other property owners seeking an exemption must submit either a letter from their auditors, or annual financial statements confirming that the applicant qualifies for an exemption. Properties for which application for exemption from the payment of rates is made must be used exclusively for the purpose that forms the basis for the application for exemption. Where this is not the case, the property will form part of the category multiple use properties and those portions not used for the purpose for which application for exemption has been made will be re-valued and property rates levied in accordance with the category/categories of property applicable. An application for an exemption or rebate must authorise the Municipality to inspect the property at any reasonable time during the financial year to confirm compliance with the conditions of the exemption or rebate. Where access is denied, the exemption or rebate may be withheld, or withdrawn, if already effective.

Applications for a reduction in rates based on a reduction in value of a property must be made on the prescribed form within 30 days of the occurrence of the event giving rise to the reduction of the value of the property relied upon. The onus rests on the applicant to ensure that the application form and all supporting documents are lodged timeously, and that the property concerned qualifies for the exemption, rebate, or reduction.

- (e) The effective date of an exemption or rebate shall be the date when the Municipality approves the application for exemption or rebate, irrespective of whether or not the property qualified for exemption or rebate in terms of its use prior to that date.
- (f) The Municipality reserves the right to refuse an exemption or rebate if the details supplied in the application are incomplete, incorrect, or false. In accordance with Section 15(3) of the Act, the Municipal Manager of the Municipality shall annually table in the Council of the Municipality:
 - (i) list of all exemptions, rebates and reductions granted by the Municipality during the previous financial year; and
 - (ii) statement reflecting the income of the Municipality foregone during the previous financial year by way of such exemptions, rebates and reductions and the exclusions referred to in Section 17 (1) (a), (e), (g), (h) and (i) of the Act.

The exemptions, rebates and reductions shall be clearly indicated on the property rates account submitted to each property owner.

12. PENALTIES

In relation to the time period of underdeveloped vacant land which is not utilized in the specific time period as stipulated in the agreement and or title deed, a periodical escalation will be applicable

13. PAYMENT OF RATES

13.1 The rates levied on the properties shall be payable:-

- (a) on a monthly basis; or
- (b) annually, before 30 September each year.
- (c) a once off application to pay on a monthly basis should be submitted in May of each year

- 13.2 The municipality shall determine the due dates for payments in monthly installments and the single annual payment and this date shall appear on the accounts forwarded to the owner/ tenant/ occupants/ agent.
- 13.3 Rates payable on an annual basis, excluding annual rates levied on state owned properties, will be subject to a discount determined by council if paid in full on or before 30 September of each year.
- 13.4 Interest on arrears rates, whether payable on or before 30 September or in equal monthly installments, shall be calculated in accordance with the provisions of the credit control, debt collection and indigent Bylaw of the municipality.
- 13.5 The municipality retains the right to implement a levy as determined and approved by council according to sec.7 and 11, for properties identified as suitable for a standard infrastructure rate. This is in terms of the Act and serves to simplify the billing of property rates for lower value properties.
- 13.6 If a property owner who is responsible for the payment of property rates in terms of this Bylaw fails to pay such rates in the prescribed manner, it will be recovered from him/her in accordance with the provisions of the Credit Control, Debt Collection and indigent Bylaw of the Municipality. Should an owner default on his debt for three consecutive months the amount is payable immediately. Application is not automatically resumed but re-application has to take place for monthly payments.
- 13.7 Arrears rates shall be recovered from tenants, occupiers and agents of the owner, in terms of section 28 and 29 of the Act and the Municipality's credit control and debt collection by-law.
- 13.8 Where the rates levied on a particular property have been incorrectly determined, whether because of an error or omission on the part of the municipality or false information provided by the property owner concerned or a contravention of the permitted use to which the property concerned may be put, the rates payable shall be appropriately adjusted for the period extending from the date on which the error or omission is detected back to the date on which rates were first levied in terms of the current valuation roll.
- 13.9 In addition, where the error occurred because of false information provided by the property owner or as a result of a contravention of the permitted use of the property concerned, interest on the unpaid portion of the adjusted rates payable shall be levied at the maximum rate permitted by prevailing legislation.

14. ACCOUNTS TO BE FURNISHED

14.1 The municipality will furnish each person liable for the payment of rates with a written account, which will specify:-

- (i) the amount due for rates payable,
- (ii) the date on or before which the amount is payable,
- (iii) how the amount was calculated,
- (iv) the market value of the property, and
- (v) rebates, exemptions, reductions or phasing-in, if applicable.

14.2 A person liable for payment of rates remains liable for such payment, whether or not such person has received a written account from the municipality. If the person concerned has not received a written account, he/she must make the necessary enquiries with the municipality.

14.3 In the case of joint ownership the municipality shall consistently, in order to minimise costs and unnecessary administration, recover rates from one of the joint owners only provided that it takes place with the consent of the owners concerned.

15. FREQUENCY OF VALUATION

15.1 The municipality shall prepare a new valuation roll at least every 4 (four) years.

15.2 In accordance with the Act the municipality, under exceptional circumstances, may decide to extend the validity of the valuation roll to 5 (five) years by applying for approval to the MEC for Corporative Government and Traditional Affairs in the province.

15.3 Supplementary valuations may be done on a continual basis but at least a minimum of one supplementaty valuation on an annual basis.

16. REGISTER OF PROPERTIES

16.1 The municipality will compile and maintain a register in respect of all properties situated within the jurisdiction of the municipality. The register will be divided into Part A and Part B.

- 16.2 Part A of the register will consist of the current valuation roll of the municipality and will include all supplementary valuations done from time to time.
- 16.3 Part B of the register will specify which properties on the valuation roll or any supplementary valuation roll are subject to:
- i. Exemption from rates in terms of section 15 of the Property Rates Act,
 - ii. Rebate or reduction in terms of section 15,
 - iii. Exclusions as referred to in section 17.
- 16.4 The register will be open for inspection by the public at elected municipal offices during office hours or on the website of the municipality.
- 16.5 The municipality will update Part A of the register during the supplementary valuation process.
- 16.6 Part B of the register will be updated on an annual basis as part of the implementation of the municipality's annual budget.

17. BY-LAWS TO GIVE EFFECT TO THE RATES BYLAW

The municipality must in terms of Section 6 of the MPRA N0 6 of 2004 adopt By-laws to give effect to the implementation of the Rates Bylaw and such By-laws may differentiate between different categories of properties and different categories of owners of properties liable for the payment of rates.

18. REGULAR REVIEW PROCESSES

The rates Bylaw must be reviewed on an annual basis to ensure that it complies with the Municipality's strategic objectives as contained in the Integrated Development Plan and with legislation.

19. LEGAL COMPLIANCE

In terms of Section 229 of the Constitution of the Republic of South Africa Act No. 108 of 1996, a municipality may impose rates on property.

In terms of Section 4(1) (c) of the Municipal Systems Act No. 32 of 2000, a municipality has the right to finance the affairs of the municipality by imposing, *inter alia*, rates on property.

In terms of Section 2(1) of the Municipal Property Rates Act No. 6 of 2004, a municipality may levy a rate on property in its area of jurisdiction in accordance with the provisions of the said Act.

The Council of the Municipality will impose a rate in terms of the aforementioned legislation. Consequently, this rates Bylaw has been developed within the parameters of the applicable legislation relating to property rates.

This Property Rates Bylaw ('the Bylaw') is in terms of the Municipal Property Rates Act No 6 of 2004 and in conjunction with the Municipal Financial Management Act of 2003.

20. BIODIVERSITY ACT

'**Critical Biodiversity Area**' refers to areas defined as Critical Biodiversity Areas 1 and 2 (CBA1; CBA2) as defined in the Conservation Assessment and Plan that forms part of the Municipal Spatial Development Framework (SDF);

'**Long-term protected critical biodiversity area**' refers to critical biodiversity areas which been made subject to contractual agreements between the land owner and the municipality for a period of thirty years or in perpetuity, and entered into the title deeds of the land;

'**Short-term protected critical biodiversity area**' refers to critical biodiversity areas which have been made subject to contractual agreements between the land owner and the municipality for a period of five years.

21. ENFORCEMENT/IMPLEMENTATION AND ENQUIRIES

This Bylaw has been approved by the Municipality in terms of resolutiondated 28 May 2015 and comes into effect on 1 July 2015.

22. ANNUAL REVIEW OF RATES BYLAW

This Bylaw has been considered and approved by the COUNCIL OF LUKHANJI LOCAL MUNICIPALITY as follows:

Resolution No:

Approval Date:

Cllr N Makanda
Executive Mayor

S Nkonki
Acting Municipal Manager

IMPORTANT

Information

from Government Printing Works

Dear Valued Customers,

Government Printing Works has implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submits your notice request.

Please take note of these guidelines when completing your form.

GPW Business Rules

1. No hand written notices will be accepted for processing, this includes Adobe forms which have been completed by hand.
2. Notices can only be submitted in Adobe electronic form format to the email submission address submit.egazette@gpw.gov.za. This means that any notice submissions not on an Adobe electronic form that are submitted to this mailbox will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
3. Notices brought into GPW by "walk-in" customers on electronic media can only be submitted in Adobe electronic form format. This means that any notice submissions not on an Adobe electronic form that are submitted by the customer on electronic media will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
4. All customers who walk in to GPW that wish to submit a notice that is not on an electronic Adobe form will be routed to the Contact Centre where the customer will be taken through the completion of the form by a GPW representative. Where a customer walks into GPW with a stack of hard copy notices delivered by a messenger on behalf of a newspaper the messenger must be referred back to the sender as the submission does not adhere to the submission rules.
5. All notice submissions that do not comply with point 2 will be charged full price for the notice submission.
6. The current cut-off of all Gazette's remains unchanged for all channels. (Refer to the GPW website for submission deadlines – www.gpwonline.co.za)
7. Incorrectly completed forms and notices submitted in the wrong format will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za)
8. All re-submissions by customers will be subject to the above cut-off times.
9. All submissions and re-submissions that miss the cut-off will be rejected to the customer to be submitted with a new publication date.
10. Information on forms will be taken as the primary source of the notice to be published. Any instructions that are on the email body or covering letter that contradicts the notice form content will be ignored.

You are therefore advised that effective from **Monday, 18 May 2015** should you not comply with our new rules of engagement, all notice requests will be rejected by our new system.

Furthermore, the fax number **012- 748 6030** will also be **discontinued** from this date and customers will only be able to submit notice requests through the email address submit.egazette@gpw.gov.za.



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 Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
 Also available at the Legal Advisory Services, **Province of the Eastern Cape**, Private Bag X0047, Bisho, 5605.
 Tel. (040) 635-0052.