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**CONTENTS • INHOUD**

<i>No.</i>		<i>Page No.</i>	<i>Gazette No.</i>
<b>LOCAL AUTHORITY NOTICES</b>			
145	Local Government: Municipal Systems Act (32/2000): Dr J S Moroka Local Municipality: Credit Control and Debt Collection By-law .....	3	1685
146	do.: Municipal Property Rates Act (6/2004): Dr JS Moroka Local Municipality: Property Rates By-law .....	21	1685

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## LOCAL AUTHORITY NOTICES

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### LOCAL AUTHORITY NOTICE 145

#### DR JS MOROKA LOCAL MUNICIPALITY

#### CREDIT CONTROL AND DEBT COLLECTION BY-LAW

The Municipal Manager of Dr JS Moroka Local Municipality hereby, in terms of Section 98(1) of the Local Government: Municipal Systems Act 32 of, 2000 , publishes the Credit Control and Debt Collection By-law for the Dr JS Moroka Local Municipality, as approved by its Council as set out hereunder.

#### **PURPOSE OF BY-LAW**

To allow Council to exercise its power to collect all monies due to council within its area of jurisdiction in such a manner that it will contribute to effective and economic service delivery to the entire community.

<b>TABLE OF CONTENT</b>		
1.	<b>PREAMBLE</b>	3
2.	<b>DEFINITION</b>	3
3.	<b>INSTITUTIONAL RESPONSIBILITIES</b>	7
3.1	Responsibility of council	7
3.2	Responsibility of Executive Committee	8
3.3	Responsibility of Municipal Manager	9
3.4	Conduct of Councilors	10
4.	<b>CREDIT CONTROL AND DEBT ADMINISTRATION</b>	10
4.1	Service agreement and deposit	10
4.2	Agreement with Employers Account	11
4.3	Interest on overdue account	11
4.4	Cost Recovery	12
4.5	<b>APPEALS</b>	13
4.6	Arrangements	14
4.7	Report defaulters	14
5.	<b>POWER OF THE MUNICIPAL COUNCIL</b>	15
5.1	Powers to restrict or disconnect supply of services	15
5.2	Power of entry and Inspection	16
6.	<b>LEGISLATIVE AUTHORITY</b>	16
6.1	Repeal	17
6.2	Offence	17
6.3	Conflict of Law	17

## 1. PREAMBLE

Whereas each municipal council must, under section 98(1) of the Local Government: Municipal System Act, Act No.32 of 2000, adopt by-laws to give effect to the municipality's credit control and debt collection policy, its implementation;

Now therefore the following is adopted as the "By-law on Credit Control and Debt Collection";

## 2. DEFINITIONS

In this by-law, unless the context indicates otherwise:

**"Act"**

Means the Local Government: Municipal System Act 32 of 2000;

**"By – law"**

Means legislation passed by the council of a municipality binding in the municipality on the person to whom it applies as referred to in the Municipal System Act No.32 of 2000.

**"Basic Municipal Services"**

Means a municipal services that is necessary to ensure an acceptable and reasonable availability of life and if not provide, would endanger public health or safety or the environment as per Municipal Systems Act No.32 of 2000.

**“Council”**

Means a municipal council as referred to in chapter 7 of the Constitution of the Republic of South Africa, Act No108 of 1996.

**“Customer”**

Means any person to whom a service is rendered by the council.

**“Day”**

Means a calendar and a period of days are calculated by excluding the first day of the period and including the last day, unless the last day falls on a Saturday, Sunday or public holiday in which event the period is calculated with exclusion of the day and also of the Saturday, Sunday or public holiday.

**“Employer”**

Means an employer as defined in paragraph 1 of the seventh schedule of the Income Tax Act, act no 58 of 1962.

**“Financially Sustainable”**

In relation to the provision of a municipal service, means the provision of a municipal service in a manner aimed at ensuring budgeted that the financing of that service from internal and external sources, including budgeted income, grants and subsidies for the service, is sufficient to cover the cost of

- a) The initial capital expenditure required for the service
- b) Operating the service and
- c) Maintaining, repairing and replacing the physical asset used in the provision of the service.

**“Implementing authority”**

Means the municipal manager of the council, their nominee or any other official appointed by the Council for the purpose of the implementation and enforcement of the council’s Credit Control and Debt Collection Policy and this By-law.

**“Occupier”**

Includes any person in actual occupation of premises without regard to the title under which they occupies, if any.

**“Owner”**

In relation to premises means:-

- a) The person who from time to time is registered as such in deeds registry as defined in the Deeds Registry Act No. 47 of 1937; or
- b) Where the person's insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of their property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative; or
- c) In any case where the council is unable to determine the identity of such person who is entitled to the benefit of such premises or a building thereon, on
- d) In the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof, or
- e) In relation to –
  - 1) Where a sectional title register has been opened under section 8 of the Sectional Title Act no 66 of 1971, the body corporate as defined in that act, and includes any person receiving rent for the premises whether for their own account or as agent for a person entitled to it.
  - 2) A piece of land delineated on a sectional plan registered in the Sectional Title Act no 95 of 1986, and without restricting the above the developer or the body corporate in respect of the common property, or
  - 3) A section as defined in such act, the person in whose name such 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), Trust inter vivos, Trust mortis causa, a closed corporation
  - j) Registered in terms of the Closed Corporations Act 1984 (act 69 of 1984), a Voluntary Association.
  - ii) Any department of state
  - iii) Any council or board established in terms of any legislation applicable to the Republic of South Africa.
  - iv) Any embassy or other foreign entity.

**“Person”**

Means any natural person, local government body or similar authority, a company or close corporation incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust.

**“Premises”**

Means any piece of land, which is situated in the area of jurisdiction of the council, the external surface boundaries of which are delineated on:

- a) A general plan or diagram registered under the Land Survey Act No. 9 of 1927, or under the Deeds Registries Act no 47 of 1937: or
- b) A sectional plan registered under the sectional Titles Act no 95 of 1986.

**“Ratepayer”**

In relation to a municipality, as referred to in the Municipal System Act No.32 of 2000, liable to the municipality for the payment of:-

- a) Rates on property in the municipality
- b) Any other service tax, duty or levy imposed by the municipality or
- c) Fees for services provided either by the municipality or in terms of a service delivery agreement.

**“Service”**

Means any service rendered by the council, in respect of which an account may be rendered, excluding any service rendered by the council as an agent for another principal; and “service” have a corresponding meaning.

**“Service Provider”**

Means a person or institution or any combination of persons and institutions which provide a municipal service.



**"Service delivery agreement"**

Means an agreement between a municipal and an institution as stated in the Municipal System Act No. 32 of 2000 or person mentioned in section 76(b) in terms of which a municipal service is provided by that institution or persons, either for its own account or on behalf of the municipality.

**"Supervisory authority"**

Means a municipality's executive committee.

**3. INSTITUTIONAL RESPONSIBILITIES**

The municipal council has certain responsibilities so as to ensure that this by-law is in agreement with other applicable legislative directives and it is practically possible for the council administration to implement, in an effective and cost efficient manner.

**3.1 Responsibility of council**

The council is the ultimate authority at local government level. It has the executive and legislative authority. After consultation with communities it has the power to take decision pertaining to local government issues which will have a direct impact of all residents within its municipal boundaries.

- 3.1.1 It is the responsibility of every councilor and official within a municipal council to uphold this by-law.
- 3.1.2 It is the responsibility of council to ensure that all money that is due and payable to the council is collected, subject to the provisions of the act and any other applicable legislation, including this by-law.
- 3.1.3 The council has adopted a Credit Control and Debt Collection Policy which is consistent with its rates and Tariff policies and complies with the provisions of the act and provides for the following matters:
  - a) Credit Control procedures and mechanisms.
  - b) Debt Collection procedures and mechanisms.
  - c) Indigent Debtors in a manner that is consistent with its rates and tariff policies and any national policy on indigents.
  - d) Realistic targets consistent with –

- i) generally recognized accounting practices and collection ratios; and
- ii) The estimates of income set in the budget less an acceptable provision for bad debts.
- e) Interest on arrears
- f) Extensions of time for payment of accounts
- g) Termination of services or the restriction of the provision of services when payments are in arrears.
- h) Matters relating to unauthorized consumption of services when payments are in arrears
- i) Any other matters that may be prescribed by regulation under section 104 of the act.

### **3.2 Responsibilities of the Executive Committee**

The Supervisory authority is the executive committee of council constituted by council with the aim of ensuring that there is co-ordination and proper implementation and operation of council activities on a regular basis.

#### **3.2.1 The supervisory authority must**

- 3.2.2 The supervisory authority in the municipal council is responsible for the implementation and enforcement of the council's Credit Control and Debt Collection Policy and this By-law.
- 3.2.3 The supervisory authority is also responsible for evaluating or reviewing the policy and any applicable by-laws, when the need arises, so as to improve the efficiency of its Credit Control and Debt Collection mechanisms, processes and procedures; and
- 3.2.4 Report to the meeting of the Council at intervals as may be determined by the council.

### **3.3 Responsibilities of the Municipal Manager**

The municipal manager is charged with the responsibility of ensuring that municipal services which are delivered to the communities are delivered in a cost-effective, sustainable manner and that there are cost recovery measures in place to ensure that services can be delivered continuously.

### **3.3.1 The implementing authority must –**

- a) It is the responsibility of the municipal manager as head of administration to ensure that according to the Credit Control and the Debt Collection Policy and By-laws, effective administrative mechanisms, processes and procedures are established to collect money that is due and payable to the council; and
- b) Report the prescribed particulars to a meeting of council executive committee at intervals as may be determined by the council.

Particulars which may be contained in the report include the following:-

- Debtors outstanding,
- Turnover rates
- Actions instituted against defaulting debtors.

### **3.4 Conduct of Councilors and officials**

- 3.4.1 Every councilor and official must uphold and enforce the provision of this by-law and must refrain from any conduct which may undermine or be seen to undermine it.
- 3.4.2 The council must investigate any allegations of the conduct by a councilor or an official. Disciplinary action will be taken against officials. Councilors, whose conduct may be construed as a breach of the Code of Conduct for Councilors in Schedule 1 of the Act, are dealt with under its terms.

## **4. CREDIT CONTROL AND DEBT ADMINISTRATION**

### **4.1 Service agreement and deposit**

- 4.1.1 The council must enter into a service agreement with every new customer, failing which no service is rendered by the council.
- 4.1.2 Existing customers are regarded having such an agreement in place.
- 4.1.3 All service agreements are in the council's prescribed form.
- 4.1.4 The council may in any service agreement, determine and require a deposit from the customer, equivalent to the charge for two months' estimated supply of the service to the particular customer, or as determined by the council from time to time (thus these deposits can be increased from time to time)

- 4.1.5 The form of deposit will be cash or bank guarantee, or as determined by the council from time to time.
- 4.1.6 Before deposit has been paid in full, the council will render no service.
- 4.1.7 The council may increase the deposit required from the customer for the supply of a service, to a greater amount as may be determined by the council, after the disconnection of services to a customer before resuming the supply to a customer of a service. The increased deposit may be required in addition to connection fee.

#### **4.2 Agreement with employers Accounts**

- 4.2.1 The council may enter into an agreement with a customer's employer, with the consent of the customer, to deduct any outstanding amounts due by the customer to the council or any regular monthly amounts as may be agreed, from the salary or wage of the customer; and
- 4.2.2 Bank deposits for municipal employees and other consumers can also be affected.
- 4.2.3 The council may provide special incentives for employers to enter into agreement and for employees to consent to the agreement.

#### **4.3 Interest on overdue accounts**

- 4.3.1 all accounts must contain at least the following particulars, where applicable:-

- c) The name of the council.
- d) The name of the customer
- e) Account number
- f) The service levies or rates in question.
- g) The period allowed for the payment of services and rates
- h) The land in respect of which the payment is required
- i) The date before which payment must be made.
- j) Business hours
- k) The method and place(s) of possible payment
- l) Interest on late payment.
- m) Consequences of non-payment.
- n) Amount brought forward

o) Total amount payable

4.3.2 Accounts must be paid at the office of the council as indicated on the account where a cash receipting facilities is available without deduction and free of exchange on or before the day specified in the account as the date before which payment must be made.

4.3.3 The council may in its discretion arrange with any customer about alternative methods of payment of any monies due to it.

4.3.4 Except where there is a dispute between the municipality and customer about any specific amount claimed by the municipality from that customer, the council may:-

- a) Consolidate any of the accounts for any of the services rendered to any one customer.
- b) Credit a payment by the customer against any service reflected on the account claimed by the municipality from that customer, and
- c) Implement any of the debt collection and credit control measures provided for in the debt collection and credit control policy and this by-law in relation to any arrears on any of the accounts of the customer.

4.3.5 All amounts outstanding after the due date for payment bear interest at the standard rate of interest as from the due date for payment.

4.3.6 In legal proceedings by the council, certificate reflecting the amount due and payable to the council, under the hand of the municipal manager, or suitable qualified person authorized by the Municipal Manager, shall upon mere production thereof be accepted by any court of law as prima facie evidence of the indebtedness.

#### 4.4 **Cost Recovery**

The council may levy the following costs against the account of the debtor.

- a) All legal costs, including attorney and own client costs, incurred in the recovery of amounts in arrears.
- b) A penalty fee, under council's tariff provisions for action taken in demanding payment from the debtor, or reminding the debtor, by means of telephone, fax, e-mail, letter or otherwise, that their payments are overdue.
- c) Cost and administration fees, under the council's tariff provisions, where any payment made to the council is later dishonored by the bank.

- d) The standard disconnection fee as determined by the council from time to time, where any service is disconnected.

4.4.2 The council may appropriate any payment by a customer in any manner it deems fit including firstly to any penalties and legal costs due to the council by the customer, secondly to any interest outstanding amount, and thereafter to the outstanding amount.

4.4.3 Where the exact amount due and payable to the council has not been paid in full, any lesser amount tendered to and accepted by any council employee, is not deemed to be in full and final settlement.

#### **4.5 Appeals**

4.5.1 Any customer may appeal to the council against the accuracy of an amount reflected in particular account within a reasonable period after receiving the amount.

4.5.2 When an account is in dispute, the customer is expected to pay an average of the last three months.

4.5.3 Appeals are made by way of written representations to the council or for those who cannot write filling in a form which council personnel will assist.

4.5.4 In the event of a customer alleging that any meter, measuring device or service connection is defective or inaccurate, the council may arrange for the meter, measuring device or service connection prove not to be defective or inaccurate by more than 3%, the costs of carrying out the inspection and test are paid by the customer who requested the inspection and test.

4.5.5 The implementing authority will endeavor to investigate and decide any appeal within two to three months of testing the meter after the receipt of the customer's representations.

4.5.6 Settlement offers for full and final payment of arrear amounts can be considered and granted by the Chief Financial Officer subject to the following conditions:

- a) Not more than the arrear interest levies on the account, or a portion thereof, can be granted as a credit against such an account, if it is in the best financial interest of the council.
- b) Out of court settlement offered by debtors against whom legal action is pending can be considered after consultation with the Legal Division of the Council and Legal Counsel, if it is in the best financial interest of the council.

#### **4.6 Arrangements**

4.6.1 Any customer may appeal to the council for an extension of time within which to pay any outstanding amount.

4.6.2 Arrangements will be on the written form, between the council and a customer for the payment in regular and consecutive monthly installments of the outstanding balance costs and interest thereon.

#### **4.7 Report to defaulters**

The council may in its discretion report persons who owe the council monies to bodies that collate and retain the information. The information that would be included in the report will be the available statutory details, including information about the responsible officers of such legal person.

## **5. POWERS OF THE MUNICIPAL COUNCIL**

The municipal council has certain powers and function which have been allocated according to the constitution. One of the powers is the collection of monies owed to council for services rendered, e.g. provision of water, electricity and other municipal services.

### **5.1 Powers to restrict or disconnect supply of services.**

5.1.1 The council may restrict, or disconnect the supply of water, and electricity, or discontinue any other service to any premises whenever a user of any service:

- a) Fails to make full payment on the due date or fails to make acceptable arrangements for the repayment of any amount for services, rates or taxes.

### **6.2 Offences**

6.2.1 Any person is guilty of an offence and liable, on conviction, to imprisonment for a period not exceeding six months or community service or to fine not exceeding R20 000, or combination thereof, who:-

- a) Fails to give access required by an officer under this by-laws;
- b) Obstructs or hinders an officer in the exercising of their powers or performance of functions or duties under this by-laws in an unauthorized manner
- c) Uses or interferes with council equipment or consumption of services supplied.
- d) Tampers or breaks any seal on a meter or as determined by the council causes a meter not to properly register the service used, are charged for usage;
- e) Gives an officer false or misleading information, knowing it to be false or misleading;
- f) Contravenes or fails to comply with a provision of this by-law;



- g) Fails to comply with the terms of a notice served on them under this by-law;
- h) A court convicting a person of an offence under this by-law may impose a sentence of community service in place of a fine or imprisonment.

### **6.3 Conflict of laws**

6.3.1 When interpreting a provision of this by-law, any reasonable interpretation that is consistent with the purpose of the act, as set out in chapter 9, on credit control and debt collection must be preferred over any alternative interpretation that is inconsistent with that purpose.

6.3.2 If there is any conflict between this law and any other by-laws of the council, this by-laws will prevail.

## CREDIT CONTROL POLICY

### **1. Purpose:**

To regulate credit control within the Dr J.S Moroka Municipality with the objectives of sustainable service delivery.

### **2. SCOPE OF APPLICATION:**

This policy applies within the Dr J.S.Moroka Municipality on each and every account issued by the municipality.

### **3. PROCEDURE:**

Paypoint should be arranged in a manner which facilitates payment of services council offices may also open on the 1<sup>st</sup> Saturday of the month so as to facilitate payment for services. Where a consumer's account accumulated an outstanding amount the following steps could be implemented:

- a) Written reminder-requesting consumer to pay within 60 days, or call at the offices to discuss account and make arrangements to pay. (Possible Unemployment, etc)
- b) If no reaction, a final notice to pay within 14 days if forwarded, and failing to do so, the account is referred to the council/council committee delegated with powers to act on behalf of council.
- c) A request to pay is issued by the lawyer to the consumer, informing the relevant person that legal action if there is no reaction.

The consumer is also requested to call at the lawyer's office if there are any problems (unemployment, pension, etc) and to make acceptable arrangements to pay the arrears.

- d) Where there is no reaction, a final notice is forwarded council/council committee will ensure that the individual in question receive the summons.
- e) If there is still no reaction, a summons is issued by court. It is however at this stage still possible to approach the lawyer to make arrangements to pay the arrears.
- f) Where there is no reaction to a summons, goods are attached to be sold to recover costs. At this stage the process can only be stopped if the full outstanding amount is paid.

### **3.1 DISCOUNT SERVICES**

Council will develop a separate policy on discounting services.

### **3.2 COMMUNICATION STRATEGY**

The community should at all times be made aware of the Credit Control measures that council is implementing.

- a) Considering the fact that the Council is legally compelled to implement its credit control policy, ward committee could be requested to submit positive executable proposals to support the matter and make it more acceptable to the community.
- b) That the Municipal Manager could be requested to draw-up a notice regarding the policy as described above, and that the policy be published in public Places and be distributed to all households in the Council area of jurisdiction.
- c) That the overlapping amount after the R 86.00 subsidy be added to the current consumer account if the consumer is an indigent (Council discretion will apply).

### 3.3 IRRECOVERABLE BEBTS

With the exclusion of approved indigent applications, outstanding amounts of debtors be submitted from time to time to council for considering the writing off thereof, where after these debtors who could not be traced after legal action was instituted are to remain register with ITC Business Administration until the outstanding amounts are received, or an amount stipulated by council is received.

All debtors who purchase site and do not pay for the municipal services on the sites, the sites will be repossessed, auctioned and/or sold to pay the debt owing to council.

Should money be received from debtor after the debtor's account was written off then the amount should be paid into the provision for Bad Debts(**Bad Debt Recovered**)

A comprehensive register should be maintained of all debts, which have been written off, of which the debtors are to be registered with ITC Business Administration since the debtors are to be written off, interest can no longer accrue on the account. They should be liable for an account which will be regular reviewed by council.

**LOCAL AUTHORITY NOTICE 146  
DR JS MOROKA LOCAL MUNICIPALITY**

**PROPERTY RATES BY-LAW**

The Municipal Manager of Dr JS Moroka Local Municipality hereby, in terms of Section 6 of the Local Government: Municipal Property Rates Act, 2004 (No. 6 of 2004), publishes the Property Rates By-law for the Dr JS Moroka Local Municipality, as approved by its Council as set out hereunder.

**PURPOSE OF BY-LAW**

To allow Council to exercise its power to value and impose rates on immovable properties located within its area of jurisdiction in such a manner that it will contribute to effective and economic service delivery to the entire community.

**TABLE OF CONTENTS:**

1.	<b>DEFINITIONS</b>
2.	<b>PRINCIPLES</b>
3.	<b>APPLICATION OF BY-LAW</b>
4.	<b>PRINCIPLES APPLICABLE TO FINANCING OF SERVICES</b>
5.	<b>CATEGORIES OF PROPERTY</b>
6.	<b>CATEGORIES OF OWNERS</b>
7.	<b>PROPERTIES USED FOR MULTIPLE PURPOSES</b>
8.	<b>DIFFERENTIAL RATING</b>
9.	<b>EXEMPTIONS AND IMPERMISSIBLE RATES</b>
10.	<b>REDUCTIONS</b>
11.	<b>REBATES</b>
12.	<b>PAYMENT OF RATES</b>
13.	<b>ACCOUNTS TO BE FURNISHED</b>
14.	<b>PHASING IN OF RATES</b>
15.	<b>SPECIAL RATING AREAS</b>
16.	<b>FREQUENCY OF VALUATION</b>
17.	<b>COMMUNITY PARTICIPATION</b>
18.	<b>REGISTER OF PROPERTIES</b>
19.	<b>REGULAR REVIEW PROCESSES</b>
20.	<b>SHORT TITLE</b>
21.	<b>COMMENCEMENT</b>

**1. Definitions**

For the purpose of these by-laws any word or expression to which a meaning has been assigned in the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004) shall bear the same meaning in these by-laws and unless the context indicates otherwise-

1.1 "Act" means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004);

1.2 "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;

1.3 "Agricultural purpose" in relation to the use of a property, includes the use of a property for the purpose of eco-tourism or for the trading in or hunting of game;

1.4 "Annually" means once every financial year;

1.5 "Category"

- (a) in relation to property, means a category of properties determined in terms of Section 7 of this policy; and
- (b) in relation to owners of properties, means a category of owners determined in terms of Section 8 of this policy.

1.6 **“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 terms of section 28(3) of the Constitution.

1.7 **“Definitions, words and expressions”** as used in the Act are applicable to this policy document where ever it is used;

1.8 **“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, 1993 (Act No. 126 of 1993); or  
 (ii) the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);  
 (b) holds the property subject to the Communal Property Associations Act, 1996 (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 (Act No.108 of 1996) be enacted after this Act has taken effect;

1.9 **“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 (Act No.11 of 2004);

1.10 **“Municipality”** means the Local Municipality of Dr JS Moroka;

1.11 **“Newly Rateable property”** means any rateable property on which property rates were not levied before the end of the financial year preceding the date on which this Act took effect, excluding –  
 (a) a property which was incorrectly omitted from a valuation roll and for that reason was not rated before that date; and  
 (b) a property identified by the Minister by notice in the Gazette where the phasing-in of a rate is not justified;

1.12 **“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 usufruct or 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;

1.13 **“Privately owned towns serviced by the owner”** means single properties, situated in an area not ordinarily being serviced by the municipality, divided through sub division or township establishment into (ten or more) full title stands and/ or sectional units and where all rates related services inclusive of installation and maintenance of streets, roads, sidewalks, lighting, storm water drainage facilities, parks and recreational facilities are installed at the full cost of the developer and maintained and rendered by the residents of such estate.

1.14 **“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.

1.15 **“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;
- (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).

1.16 **“Residential property”** means improved property that:-

- (a) is used predominantly (60% or more) for residential purposes including any adjoining property registered in the name of the same owner and used together with such residential property as if it were one property. Any such grouping shall be regarded as one residential property for rate rebate or valuation reduction purposes.
- (b) Is a unit registered in terms of the Sectional Title Act and used predominantly for residential purposes.
- (c) Is owned by a share-block company and used solely for residential purposes.
- (d) Is a residence used for residential purposes situated on property used for or related to educational purposes.
- (e) Retirement schemes and life right schemes used predominantly (60% or more) for residential purposes.

And specifically exclude hostels, flats, old age homes, guest houses and vacant land irrespective of its zoning or intended use.

1.17 **“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.

1.18 **“state trust land”** means land owned by the state-

- (a) in trust for persons communally inhabiting the land in terms of a traditional system of land tenure;
- (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 Act, 1994 (Act No. 22 of 1994).

1.19 In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa.

## 2. Principles

2.1 Rates will be 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.

2.2 The municipality will differentiate between various categories of property and categories of owners of property as contemplated in clause 5 and 6 of this by-law.

- 2.3 Some categories of property and categories of owners will be granted relief from rates.
- 2.4 The municipality will 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.
- 2.5 There will be no phasing in of rates based on the new valuation roll, except as prescribed by legislation and in accordance with clause 14 of this by-law.
- 2.6 The municipality's rates policy will be based on the following principles:
- (a) Equity  
The municipality will treat all ratepayers with similar properties the same.
- (b) Affordability  
The ability of a person to pay rates will be taken into account by the municipality. In dealing with the poor/indigent ratepayers the municipality will provide relief measures through exemptions, reductions or rebates and cross subsidy from the equitable share allocation.
- (c) Sustainability  
Rating of property will be implemented in a way that:
- i. it supports sustainable local government by providing a stable and buoyant revenue source within the discretionary control of the municipality;
  - ii. Supports local, social and economic development; and
  - iii. Secures the economic sustainability of every category of ratepayer..
- (d) Cost efficiency  
Rates will be based on the value of all rateable property and will be used to fund community and subsidised services after taking into account surpluses generated on trading (water, electricity) and economic (refuse removal, sewerage disposal) services and the amounts required to finance exemptions, rebates, reductions and phasing-in of rates as approved by the municipality from time to time.

### 3. Application of By-law

- 3.1 Where this by-law contradicts national legislation, such legislation has preference over this by-law. The Municipal Manager shall bring such conflicts immediately to the attention of the municipality once he becomes aware of such conflicts and will propose changes to the municipality's by-laws to eliminate such conflicts.
- 3.2 If there is any conflict between this by-law and the Property Rates policy of the municipality, this by-law will prevail.
- 3.3 In imposing the rate in the rand for each annual operating budget component, the municipality shall grant exemptions, rebates and reductions to the categories of properties and categories of owners.

### 4. Principles applicable to financing services

- 4.1 The municipal manager or his/her nominee must, subject to the guidelines provided by the National Treasury and Executive Committee of the municipality, make provision for the following classification of services:-
- (a) Trading services
- i. Water
- (b) Economic services
- i. Refuse removal.
  - ii. Sewerage disposal.
- (c) Community and subsidised services  
These include all those services ordinarily being rendered by the municipality excluding those mentioned in 4.1 (a) and (b).
- 4.2 Trading and economic services as referred to in clauses (a) and (b) must be ring fenced and financed from service charges while community and subsidised services referred to in clause (c) will be financed from surpluses on trading and economic services, regulatory fees, rates and rates related income.

### 5. Categories of property

- 5.1 Different rates may be levied in respect of the categories of rateable properties as determined by the municipality's rates policy.
- 5.2 Such rates will be determined on an annual basis during the compilation of the municipality's budget.



5.3 In determining the category of a property referred to in 5.1 the municipality shall take into consideration the dominant use of the property regardless the formal zoning of the property;

5.4 Properties used for multiple purposes shall be categorised and rated as provided for in section 9 of the Act and as more fully described in clause 7 of this by-law.

**6. Categories of owners**

6.1 For the purpose of granting exemptions, reductions and rebates in terms of clause 9, 10 and 11 respectively the following categories of owners of properties are determined:

- (a) Those owners who qualify and who are registered as indigents in terms of the adopted indigent policy of the municipality;
- (b) Those owners who do not qualify as indigents in terms of the adopted indigent policy of the municipality but whose total monthly income is less than the amount annually determined by the municipality in its budget;
- (c) Owners of property situated within an area affected by-
  - i. a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 of 2002); or
  - ii. serious adverse social or economic conditions.
- (d) Owners of residential properties with a market value below the amount as determined annually by the municipality in its budget;
- (e) Owners of properties situated in "privately owned towns" as determined by the municipality's rates policy;
- (f) Owners of agricultural properties as determined by the municipality's rates policy; and
- (g) Child headed families where any child of the owner or child who is a blood relative of the owner of the property, is responsible for the care of siblings or parents of the household.

**7. Properties used for multiple purposes**

7.1 Rates on properties used for multiple purposes will be levied by the "dominant use of the property".

**8. Differential rating**

8.1 Criteria for differential rating on different categories of properties will be according to-

- (a) The nature of the property including its sensitivity to rating e.g. agricultural properties used for agricultural purposes.
- (b) The promotion of social and economic development of the municipality.

8.2 Differential rating among the various property categories will be done by way of setting different cent amount in the rand for each property category; and

8.3 by way of reductions and rebates as provided for in the municipality's rates policy document.

**9. Exemptions and Impermissible Rates**

9.1 Categories of property and categories of owners as determined by the municipality's rates policy on an annual basis will be exempted from paying rates.

9.2 Conditions determined by the rates policy will be applied accordingly.

9.3 Exemptions will automatically apply where no applications are required.

9.4 Rates may not be levied by the municipality on properties prescribed in Section 17(1) of the Municipal Property Rates Act, 2004.

9.5 Public Benefit Organisations performing a specific public benefit activity and registered in terms of the Income Tax Act, 1962 (No 58 of 1962) for tax reduction because of those activities, may apply for exemption of property rates, on conditions as determined by the municipality's rates policy.

9.6 The municipality retains the right to refuse the exemption if the details supplied in the application form were incomplete, incorrect or false.

9.7 The extent of the exemptions implemented will annually be determined by the municipality and it must be included in the annual budget.

## 10. Reductions

10.1 Reductions as contemplated in section 15 of the Act will be considered on an *ad-hoc* basis in the event of the following:

10.1.1 Partial or total destruction of a property.

10.1.2 Disasters as defined in the Disaster Management Act, 2002 (Act 57 of 2002).

10.2 The following conditions shall be applicable in respect of 10.1:-

10.2.1 The owner referred to in 10.1.1 shall apply in writing for a reduction and the onus will rest on such applicant to prove to the satisfaction of the municipality that his property has been totally or partially destroyed. He/she will also have to indicate to what extent the property can still be used and the impact on the value of the property.

10.2.2 Property owners will only qualify for a rebate if affected by a disaster as referred to in the Disaster Management Act, 2002 (Act No. 57 of 2002).

10.2.3 A maximum reduction determined annually by the municipality will be allowed in respect of both 10.1.1 and 10.1.2.

10.2.4 An *ad-hoc* reduction will not be given for a period in excess of 6 months, unless the municipality gives further extension on application.

10.2.5 If rates were paid in advance prior to granting of a reduction the municipality will give credit to such an owner as from the date of reduction until the date of lapse of the reduction or the end of the period for which payment was made whichever occurs first.

## 11. Rebates

11.1 Categories of property

11.1.1 The municipality may grant rebates to categories of property as determined in the municipality's rates policy.

11.2 Categories of owners

11.2.1 The municipality may grant rebates to categories of owners as determined annually in the municipality's rates policy.

11.3 Conditions determined by the rates policy will be applied accordingly.

11.4 Applications for rebates must reach the municipality before the date determined by the property policy, preceding the start of the new municipal financial year for which relief is sought.

11.5 The municipality retains the right to refuse rebates if the details supplied in the application form were incomplete, incorrect or false.

11.6 Properties with a market value below a prescribed valuation level of an amount determined annually by the Municipality may, instead of a rate being determined on the market value, be rated a uniform fixed amount per property.

11.7 The extent of the rebate in terms of 11.1, 11.2 and 11.6 will annually be determined by the municipality and it must be included in the annual budget.

## 12. Payment of rates

12.1 Council may levy assessment rates: -

(a) On a monthly basis or less regular as determined by the Municipal Finance Management Act, (No.56 of 2003) or

(b) Annually, as agreed with the owner of the property.

12.2 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.

12.3 Rates payable on an annual basis, will be subject to a discount of 5% if paid in full on or before 30 September of each year.

12.4 Interest on arrears rates, whether payable on or before 30 September or in equal monthly instalments, shall be calculated in accordance with the provisions of the Credit Control and Debt Collection Policy of the Municipality.

12.5 If a property owner who is responsible for the payment of property rates in terms of the rates policy, 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 and Debt Collection By-law of the Municipality.

12.6 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 en debt collection by-law.

12.7 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.

12.8 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.

### 13. Accounts to be furnished

13.1 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.

13.2 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.

13.3 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.

### 14. Phasing in of rates

14.1 The rates to be levied on newly rateable property shall be phased in as explicitly provided for in section 21 of the Act.

14.2 The phasing-in discount on the properties referred to in section 21 shall be as follows:

- First year : 75% of the relevant rate;
- Second year : 50% of the relevant rate; and
- Third year : 25% of the relevant rate.

14.3 No rates shall be levied on newly rateable properties that are owned and used by organisations conducting activities that are beneficial to the public and that are registered in terms of the Income Tax Act for those activities, during the first year. The phasing-in discount on these properties shall be as indicated below:-

- First year : 100% of the relevant rate;
- Second year : 75% of the relevant rate;
- Third year : 50% of the relevant rate; and
- Fourth year : 25% of the relevant rate.

### 15. Special rating areas

15.1 The municipality will, whenever deemed necessary, by means of a formal Council resolution determine special rating areas in consultation with the relevant communities as provided for in section 22 of the Act.

15.2 The following matters shall be attended to in consultation with the committee referred to in clause 15.3 whenever special rating is being considered:

15.2.1 Proposed boundaries of the special rating area;

15.2.2 Statistical data of the area concerned giving a comprehensive picture of the number of erven with its zoning, services being rendered and detail of services such as capacity, number of vacant erven and services that are not rendered;

- 15.2.3 Proposed improvements clearly indicating the estimated costs of each individual improvement;
- 15.2.4 Proposed financing of the improvements or projects;
- 15.2.5 Priority of projects if more than one;
- 15.2.6 Social economic factors of the relevant community;
- 15.2.7 Different categories of property;
- 15.2.8 The amount of the proposed special rating;
- 15.2.9 Details regarding the implementation of the special rating;
- 15.2.10 The additional income that will be generated by means of this special rating.

15.3 A committee consisting of 6 members of the community residing within the area affected will be established to advise and consult the municipality in regard to the proposed special rating referred to above. This committee will be elected by the inhabitants of the area concerned who are 18 years of age or older. No person under the age of 18 may be elected to serve on the committee. The election of the committee will happen under the guidance of the Municipal Manager. The committee will serve in an advisory capacity only and will have no decisive powers.

15.4 The required consent of the relevant community shall be obtained in writing or by means of a formal voting process under the chairmanship of the Municipal Manager. A majority shall be regarded as 50% plus one of the households affected. Each relevant household, i.e. every receiver of a monthly municipal account, will have 1 vote only.

15.5 In determining the special additional rates the municipality shall differentiate between different categories as referred to in clause 5.

15.6 The additional rates levied shall be utilised for the purpose of improving or upgrading of the specific area only and not for any other purposes whatsoever.

15.7 The municipality shall establish separate accounting and other record-keeping systems for the identified area and the households concerned shall be kept informed of progress with projects and financial implications on an annual basis.

## **16. Frequency of valuation**

16.1 The municipality shall prepare a new valuation roll every 4 (four) years.

16.2 The municipality, under exceptional circumstances, may request the MEC for Local Government and Housing in the province to extend the validity of the valuation roll to 5 (five) years.

16.3 Supplementary valuations will be done at least on an annual basis to ensure that the valuation roll is properly maintained.

## **17. Community participation**

17.1 Before the municipality adopts the rates by-law, the municipal manager will follow the process of community participation envisaged in chapter 4 of the Municipal Systems Act and comply with the following requirements:

17.1.1 Council must establish appropriate mechanisms, processes and procedures to enable the local community to participate and will provide for consultative sessions with locally recognised community organisations and where appropriate traditional authorities.

17.1.2 Conspicuously display the draft rates by-law for a period of at least 30 days (municipality to include period decided on) at the municipality's head and satellite offices and libraries (and on the website).

17.1.3 Advertise in the media a notice stating that the draft rates by-law has been prepared for submission to council and that such by-law is available at the various municipal offices and on the website for public inspection.

17.1.4 Property owners and interest persons may obtain a copy of the draft policy from the municipal offices during office hours at a fee as determined by Council as part of its annual tariffs.

17.1.5 Property owners and interest persons are invited to submit written comments or representations to the municipality within the specified period in the notice.

17.1.6 The municipality will consider all comments and/or representations received when considering the finalisation of the rates policy and by-law.

17.1.7 The municipality will communicate the outcomes of the consultation process in accordance with section 17 of the Municipal Systems Act 32 of 2000.

**18 Register of properties**

18.1 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.

18.2 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.

18.3 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, 2004,
- ii. Rebate or reduction in terms of section 15 of the Act,
- iii. Phasing-in of rates in terms of section 21 of the Act, and
- iv. Exclusions as referred to in section 17 of the Act.

18.4 The register will be open for inspection by the public at the municipal main offices during office hours or on the website of the municipality.

18.5 The municipality will update Part A of the register during the supplementary valuation process.

18.6 Part B of the register will be updated on an annual basis as part of the implementation of the municipality's annual budget.

**19. Regular review processes**

19.1 The municipality's rates policy 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 relevant legislation.

**20. Short title**

This by-law is the rates by-law of the Dr JS Moroka Local Municipality.

**21. Commencement**

This by-law comes into force and effect on 1 July 2009.

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