

GREATER LETABA LOCAL MUNICIPALITY



DRAFT BY-LAWS

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The Municipal Manager of Greater Letaba Local Municipality hereby in terms of section 13(a) of the local government: Municipal Systems Act,32 of 2000, read with section 162(2) of the Constitution, 1996, published the By-law for Greater Letaba Local Municipality as approved by its council which will come into operation on the date of promulgation of this notice.

CHAPTER 1.

DRAFT GLM BUSINESS REGISTRATION BY-LAW

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GREATER LETABA LOCAL MUNICIPALITY

BUSINESS REGISTRATION BY LAW 2023

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PART 1: DEFINITIONS AND APPLICATIONS

1. DEFINITIONS

""""**LIBRA**"""" refers to the Limpopo Business Registration Act, Act 5 of 2003.

""""**Act and Regulations**"""" refer to the National Building Regulations and Building Standards Act No.103 of 1977 and National Building Regulations & Building Standards Amendment Act No.49 of 1995.

""""**Asylum**"""" means a person seeking recognition as a refugee in the Republic.

""""**Authorized Officer**"""" means any official of the Municipality whom Municipality has authorized to administer, implement, and enforce the provisions of this By-law.

""""**Council**"""" means the Greater Letaba Local Municipality, a municipality established in terms of section 12 of the Local Government Municipal Structures Act, no.117 of 1998, and any member of administration to whom the Council has delegated the powers, functions, and duties vesting in the Council in relation to this By-Law.

""""**Dwelling**"""" means a building designed for use as a house for, and used exclusively by, a single household Family.

""""**Departmental Head**"""" means the head of the Planning Department of Greater Letaba Local Municipality.

""""**Municipality**"""" means the Municipality of Greater Letaba Municipality or its successor in title as envisaged in section 155(1) of the Constitution, established by Notice No 308 and Notice No 397 of 2000 in terms of the Local Government: Municipal Structures Act, 1998(Act 117 of 1998) and for this By-Law includes an employee or official acting in terms of a delegation issued under section 59 of the Municipal Systems Act.

""""**Municipal Consent**"""" means the consent, in writing, by the Municipality for any activity on or use of land or building for which an application is made in terms of any relevant legislation.

""""**Municipal Manager**"""" means the person appointed as the Greater Letaba Local Municipality Municipal Manager in terms of section 54A of the Municipal Systems Act and includes any person acting in that position or to whom authority has been delegated.

""**Public Nuisance**"" means any activity that spills over beyond the property and causes problems for immediate and surrounding neighbors. This includes noise levels or activities that may cause health or population problems such as smoke or flies/vermin, vehicle oil, or unsightly activities/storage goods that detract from the amenities of the neighborhood.

""**Operator**"" in relation to any business, means any person who owns the business and/or is leasing space in the 'owner's site for them to run the business.

""**Outbuilding**"" means a building attached to or separate from a dwelling and ancillary to a dwelling.

""**Owner**"" means the person in whose name the site/erf is registered in the 'deed's registry for Limpopo Province, or they are the beneficial holder of a real right in the site/erf, or they are the person in whom the site/erf vests.

""**Person**"" means a natural or juristic person and includes an organ of state.

""**Premises**"" in relation to any business, means a site/erf wherein the business is operated.

""**Property**"" means that to which a person has legal title, whether in his possession or not, thing owned, an estate, whether in lands, goods, or money.

""**Refugee**"" means any person granted asylum in terms of the Act (Act No.130 of 1998).

""**Residential areas**"" a residential area is a type of land use where the predominant use is housing. In zoned residential areas, Buildings may include single family housing and multiple family housing such as (apartments, duplexes, and town homes).

""**Business**"" means a business building, whether attached or separated from a residential dwelling or any building on a site, operated to sell basic groceries (daily convenience goods) and fresh produce, in response to local needs in the neighborhood within walking distance of 'people's homes.

2. PURPOSE OF THE BY-LAW

The purpose of this By-law is to regulate and control the operations of businesses within the area of jurisdictions of the Municipality to ensure compliance with safety and health requirements and to provide the proper establishment of Business and the application process thereof.

3. SCOPE AND APPLICATION OF THE BY-LAW

The By-law applies to all Businesses within the Greater Letaba Local Municipality jurisdiction.

4. APPOINTMENT AND COMPOSITION OF THE BUSINESS REGISTRATION COMMITTEE

- 4.1. The Municipal Manager of the Municipality must establish a committee of at least five people to oversee the business registration center.
- 4.2. The Municipal Manager must designate at least 5 (five) officials to form part of the Committee and appoint from the Committee two people to serve as chairperson and deputy chairperson.
- 4.3. The Municipal Manager may opt for other people as may be necessary to assist the Committee.
- 4.4. A person co-opted may not vote at any meeting of the Committee.
The Municipal Manager must submit a report to the Council on the performance of the Business Registration Center on a quarterly basis.

5. TERMS OF REFERENCE OF THE COMMITTEE

- 4.1. The Committee must ensure that the businesses registration complies with the by-law and other related legislation.
- 4.2. The Committee must play an oversight role in overseeing the registration, management, and monitoring of the business registration.

- 4.3. The Committee must recommend to the municipal manager the appointment of expertise and capacity from other government institutions, when necessary, need.
- 4.4. The Committee, through the chairperson, must report to the Municipal Manager monthly.

6. MEETING OF THE COMMITTEE

- 6.1. The Committee must meet at least once a month.
- 6.2. The chairperson of the Committee.
 - a) Must determine the time, date, and venue of the meeting.
 - b) Must give notice of meetings at least five days prior to the meeting.
 - c) Must use a method of communication agreed upon by the Committee unless the Municipal Manager decides otherwise.

7. CONDUCT OF COMMITTEE MEMBERS

- 7.1. Members of the Committee must
 - a) A declaration of interest must be signed and recorded at every meeting.
 - b) Treat all information distributed to them and discussed in meetings as confidential.
 - c) Must recuse himself/herself from the meeting for any conflict of interest and allow them to decide whether to allow the member to participate in the meeting or not.
- 7.2. Information must only be distributed by the chairperson or her/his delegation.
- 7.3. The chairperson shall report any misconduct to the Municipal Manager within a reasonable time.

8. APPOINTMENT OF BUSINESS ADMINISTRATION OFFICERS

- 8.1. The Municipal Manager must appoint a business registration officer/s who will implement the business registration by law.
- 8.2. The business registration officer must already be within the establishment of the Municipality at the point of his/her appointment as a business registration officer.
- 8.3. The business registration officer must report to their internal supervisor as per their municipal/unit institutional structure.

- 8.4. The business registration officer must compile a report on all business registrations and submit it to their respective supervisor.

9. APPOINTMENT OF INSPECTORS

- 9.1. The Municipal Manager must appoint an inspector/s.
- 9.2. The appointment of the inspector will follow the appointment process of the Municipality.
- 9.3. The appointment inspectors must be appointed in line with section 8(1) of the Act with a certificate that must be in the format of form 7.

10. FUNCTIONS OF THE INSPECTOR

- 10.1. The inspectors issue an administration of guilt.
- 10.2. The inspectors Issue notice to appear in court, In terms of the Act must do so in the format of form 8
- 10.3. The inspector must forward a copy of the notice in terms of sub-regulation (2) to the clerk of the court.

11. ADMINISTRATIVE CAPACITY

- 10.1. The municipal manager may request capacity through IGR and appoint experts at his/her discretion.

11. TRANSFER OF BUSINESS REGULATION CERTIFICATE

- 11.1. When the owner of a registered business alienates that business, the new owner must lodge an application in the format of form 5 to transfer the business registration certificate.
- 11.2. Where an application in terms of sub-regulation (1) has been lodged, and the Committee is satisfied that the applicant has complied with the requirements of the Act, the business registration center must issue a certificate.
- 11.3. A certificate issued in terms of section 9 sub-section (2), of the Limpopo Business Registration Act No 5 of 2003 must have the same certificate number as the certificate that the business registration center previously issued.

12. BUSINESS REGISTER

- 12.1. The business regulator and Business registration center must keep and maintain a business registration register format of 6 of business registration register in form 6 of businesses registered in the Greater Letaba Municipality and the province.
- 12.2. When a business that is registered in terms of this by-law –
 - a) Changes the name or address, or
 - b) Ceases to operate for whatever reason,
- 12.3. The person in charge of the business must inform the business Registration Centre within 30 working days after such a change or ceasing of the operation.
- 12.4. The business registration center must submit a report monthly to the business regulator, detailing any transfers, alteration of business interest, or amendments made to the register.

PART 2: APPLICATIONS AND APPROVALS

13. APPLICATION FORMS

- 13.1. A person who wants to operate a business within the jurisdictional area of the Municipality must apply to the Municipality on prescribed forms available at Municipal offices.
- 13.2. The Municipality will consider the application within the period of (30) working days from the date of the receipt of the application forms.
- 13.3. For the application to be considered, the applicant must complete the forms fully and attach the relevant documents mentioned in subsection (4) below to the forms.

14. OPERATING CERTIFICATE

- 14.1. The operating certificate shall be issued by the Municipality, and it is renewable after 12 months after the date of issuance.
- 14.2. The following terms and conditions shall apply to the operating certificates.
 - a) Operating certificates can only be issued by the Municipality upon the payment of the prescribed fee determined by the Council from time to time.
 - b) The operating certificate is not transferable without the permission of the Municipality.
 - c) The operator of the business must always be able to produce the operating certificate on demand by the authorized officer whenever required.

- d) If the operating certificate gets lost or accidentally or unwillingly damaged or destroyed, the owner must immediately report the loss, damage, or destruction to the Municipality.

15. REQUIREMENTS FOR APPLICANTS

15.1 The following documents must accompany the completed application form.

- a) Proof of representation (if application is done by proxy)
- b) Certified copy of South African Identity Document if he/she is a South African citizen.
- c) Proof of permission to conduct business in the Republic of South Africa/ Confirmation of Refugee Status from Home Affairs.
- d) CIPRO Registration Certificate (in case of juristic person)
- e) Proof of ownership of Premises/Permission to occupy/ Lease Agreement.
- f) Proof of Payment
- g) Recommendation from local Authorities (e.g., Traditional Authority/Municipality)

16. APPROVAL OF APPLICATION

- 16.1. Once the Libra Adjudication Committee or designee has approved the application, an applicant will be notified of the approval within the period of ten (10) working days.
- 16.2. The applicant will be required to pay the prescribed operating fee, and he/she will be issued the operating certificate.
- 16.3. The business operator is not permitted to trade until he/she receives his /her trading permit.

17. DISAPPROVAL OF APPLICATION

- 17.1. If the Municipality, by LIBRA Adjudication Committee or designee, has decided to disapprove the application, the applicant will be notified of the decision to disapprove his application within the period of ten (10) working days.

- 17.2. The applicant will be provided with written reasons for disapproval, and the decision can be in terms of the provisions of this By-law or in terms of any legislation applicable or circumstances warranting the Municipality to arrive at such decision.

18. APPEAL AGAINST DISAPPROVAL

- 18.1. The applicant whose application has been disapproved has the right to appeal against the decision directly to Limpopo Economic Development Environment And Tourism (LEDET).
- 18.2. The affected applicant must lodge his appeal with the LEDET within the period of fourteen (14) days upon the receipt of the notice of disapproval.

19. WITHDRAWAL AND LAPSING OF AN APPROVAL

- 19.1. Approval is granted to the owner of the property to run a business from his dwelling unit and will be withdrawn under the following circumstances:
- a) When the property is alienated.
 - b) In the event of the death of the owner.
 - c) Valid objections have been received, and an interdict against the owner has been obtained.
 - d) The owner of the property is arrested in connection with drug abuse, selling of drugs, prostitution, gun incidents, knife stab incidents, or any other crime incidents.
 - e) Where the owner terminates the lease agreement with the operator.
 - f) Where the business is a nuisance to the surrounding neighborhood.
 - g) Where operating certificate conditions are not obeyed.
 - h) Where any provision of this By-law is violated.

20. NON-COMPLIANCE WITH APPROVAL CONDITIONS

- 20.1. If approval conditions are not complied with, the Planning Department will issue a written notice to the operator to rectify any irregularities within 7 days.
- 20.2. If complaints are received regarding the approved business, the Planning Department will evaluate the validity of the complaints and, where applicable, notify the operator about the complaints and further give written notice to the operator to comply with the conditions set by the Municipality.

- 20.3. Failing to comply with points (a) and (b) above may result in the Municipality withdrawing to the operating certificate and further seeking court interdict against the operator compelling the business owner from operating on the property.

21. GENERAL TERMS AND CONDITIONS

- 21.1. Any approved business must abide by the following terms and conditions, to the extent that they are applicable:
- a) If the erf is a residential site, it must remain residential in appearance and character.
 - b) The overall use of the ERF must remain at 60% of the residential use.
 - c) The owner who resides on the site, may operate the business. Only in exceptional circumstances may the business activity be conducted by anyone other than the owner.
 - d) The owner must obtain consent from the neighbors.
 - e) The building plans of the business must have been approved by the Municipality or the structure used must comply with regulations.
 - f) Business structure must comply with the Act and Regulations as well as the building Regulations and By-laws of the Municipality regarding human competency.
 - g) Such buildings must, therefore at least have a foundation, be adequately ventilated, allow for sufficient natural light to enter the structure, have access to toilet and a hand basin for sanitation purposes (connected to the municipal network), have electrical and plumber certificates and must provide for adequate storm-water run-off.
 - h) A container or timber structure can be converted to comply with the regulations and used for business purposes.
 - i) Corrugated iron sheets may be used in erecting the business building, provided that the Constitution thereof adheres to the Regulations and the Act.
 - j) A business shall only be operated with an operating certificate issued by the Municipality, which is not transferable.
 - k) Flammable substances such as paraffin may only be sold in small containers and subject to the Municipality's fire fighting By-laws.
 - l) A business should always have a fire extinguisher and renew every year.
 - m) A business should not cause or be a cause of any disturbance or public nuisance which will disturb people within the neighborhood.
 - n) The operating hours of for all businesses are allowed between 06:00, in the morning, and 20:00, in the night, every day except otherwise permitted by the Municipality.

- o) The storage of goods and equipment shall be within the area designated for that purpose on the plan which is to accompany the application detailing that area to be used for the business as well as any portion of that area in which goods or equipment will be stored.
- p) If the business is closed for a period longer than 90 days, it will be presumed that the business is no longer operating and the operator or the site owner should inform the Municipality in writing.
- q) No business shall be erected or approved a 400 meters less from a formally rezoned business stand as the business established to help community members to access their basic needs close by, in a case where there is a formal business on a business stand there is no need for a business near that stand for the above-mentioned distance.
- r) The Municipality will proceed to cancel the operating certificates regarding those businesses.
- s) A person is allowed to own as many businesses as he can registered in his/her name within a township or the Municipality.
- t) Where an operator has more than one business on separate sites, a separate certificate is required for each business.
- u) No person is allowed to sleep and/or wash himself/herself in the business.
- v) No person is allowed to operate a business if he/she has been declared by the court of law to be of unsound mind.
- w) The operator must not commit any criminal activity in the business in question.
- x) No 'pets' birds should be kept in the business.
- y) Trading is restricted to the boundaries of the property. No trading is permitted on either sidewalks or road reserve.
- z) No signs advertising the business shall be larger than 600mm by 450_meters in size.
- aa) Such signs should include indicate the owner, the name of the business and the nature of the trade and operating hours.
- bb) Any other sign must be applied for and approved by the Municipality before it can be erected.
- cc) Advertising signs must comply with the outdoor Advertising By-law of the Municipality.
- dd) The owner must ensure that the business is clean all the time and does not have:
 - i) Waste kept in a manner that attracts rodents or other pets to the business, or

- ii) Flies, cockroaches, or mice attracted to, or breeding, in significant numbers in the shop.
- ee) The following health regulations must be complied with if food is to be sold or prepared from the premises, namely:
 - i) The owner obtains a business license for the preparation of meals as required in terms of the Business Act, 1991 (Act 71 of 1991) from the Municipality.
 - ii) That the premises comply with the general hygiene requirements for food premises and the transport of food regulations R962 of November 2012 promulgated under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972)
 - iii) That certificate of Acceptability be obtained as required by regulations R962 of November 2012 promulgated under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972) from the Municipality.
 - iv) That the premises comply with government notice R264 of 30 March 2012 relating to the smoking of tobacco products in public places as promulgated in terms of the tobacco Products Control Act, (Act 83 of 1993) as amended.
- ff) Operators must register Tax with the South African Revenue Services.
- gg) Business may not be permitted on a property if the use conflicts with a restriction contained in the title deed of that property.
- hh) In case of a Spaza Shop must only be for the sale of grocery items that appear to be required for the day-to-day consumption or usage, such as sweets, cigarettes, bread, milk, maize meal, salt, sugar, tea, airtime, chips, and other small goods, home-made foods and preserves.
 - ii) A business building plan must show the the proposed plan's layout, extent, position, and elevations.

22. TRANSITIONAL ARRANGEMENTS

- 22.1. The Municipality should, by public notice, call all the businesses within the area of jurisdiction of them Municipality to register their businesses.
- 22.2. All the existing businesses must have been registered with the Municipality within the period of twelve (12) months upon the promulgation of this By-law in the provincial gazette.
- 22.3. Any existing business that will not have registered with the Municipality in terms of the public notice issued by the Municipality, prescribing deadline for registrations of existing business will be regarded as operating illegally after such a prescribed date.

- 22.4. The application of the existing business must also comply with the application procedure of this By-law.
- 22.5. Any business established after the coming into operation of this By-law must apply in terms of the application procedure of this By-law before they can operate.

23. OFFENCES AND PENALTIES

23.1. Any person who-

- a) Contravenes or fails to comply with any provisions of these By-laws,
- b) Contravenes to comply with any notice served on him or her in terms of or for this By-law,
- c) Contravenes to comply with the terms and conditions of any approval issued in terms of this By-law,
- d) Obstructs, hinders, or interferes with an authorized official or other official of the Council acting under power delegated to him or her, in the exercise of any power or the performance of any duty under this By-law,
- e) Contravenes to furnish to an authorized official or other official of the Council acting under power delegated to him or her with any documentation or information required for this By-law or furnishes a false or misleading document or false or misleading information,
- f) Contravenes to comply with any instruction given in terms of or for this By-law, or
- g) Pretends to be an authorized official of the Municipality acting under power delegated to him or her, shall be guilty of an offence and-
 - i) Upon conviction, be liable to a fine or imprisonment or both a fine and such imprisonment. The Municipal shall determine the fine and
 - ii) A person convicted of an offense under this By-law who, after conviction, continues with the action in respect of which he or she was so convicted is guilty of a continuing offense and liable to fine, or upon conviction, to imprisonment or to both such fine and imprisonment in respect of each day on which he or she so continues or has continued with that Act or omission.

- 23.2. Nothing in subsection (1) above shall be construed to prevent the Municipality from imposing, in addition to the civil and criminal options available, a rates penalty as per the 'Municipality's approved Rates Policy against an owner of a property that is in contravention of any provision of this By-law.

- 23.3. Any person who establishes a business without Municipal approval shall be liable to a fine of R3000.
- 23.4. Business owners who fail to renew their trading certificates on time will be fined R2500,00, and their business will be closed until they pay the fine and apply for renewal of their permits.
- 23.5. Those found sleeping inside the business will be fined an amount of R5000.00.
- 23.6. A business owner who fails to display a trading certificate will be fined an amount of R1500.00.
- 23.7. A business owner who sells expired goods will be fined R1500.00.

24. REPEAL

By-laws on businesses previously made by the Greater Letaba Local Municipality Councils or their constituent's Predecessors in respect of any portion of the area of the Greater Letaba Municipality, are hereby repealed in so far as they are inconsistent with the provisions of these By-laws.

25. SHORT TITLE

This By-law is referred to as the Greater Letaba Local Municipality Business By-law and will come into operation on the date of promulgation of the By-law in the Provincial Gazette.

ANNETURES



WRITTEN NOTICE TO APPEAR IN COURT (Section 9(2) of Act No.5 of 2003)

From: Greater Letaba Municipality

To: Full Names/Company name.....

ID Number.....

Residential Address.....

Work Address.....

Occupation.....

Telephone number...../.....

Gender.....

To appear in Magistrate`s Court of.....

CAS No.....

Date.....

Time.....

You are hereby called upon in terms of section 9(2) of Limpopo Business Registration Act, No. 5 of 2003 to appear before the above-mentioned Court on the date and time stated above to answer a charge/s of.....

...

.....

The original hereof was today handed to the accused personally and the importance thereto, the consequences of this notice and the payment of admission of guilt, if applicable, explained to him or her.

_____ Date _____
 Place

Inspector`s name _____ Signature _____

I acknowledge receipt of the original hereof and confirm that I understand the content thereof.



_____ Date _____
 Signature of recipient

ADMISSION OF GUILT

RECEIPT

[PAYMENT, in terms of section 9(2) of Limpopo Business Registration Act, 5 of 2003]

Admission of guilt for: (please tick the applicable offence)

Failure to display Municipal business registration certificate	
Non-compliance trading licence	
Selling of expired goods	
Sleeping inside the shop	
Failing to renew the concerned licence	

Received fromof ID
No.....

Nationality:

Place.....

the sum of
.....Rand.....
.....cents

Office date stamp

R

.....

Designated Official

CHAPTER 2

CREDIT CONTROL AND DEBT COLLECTIONS BY – LAW

PREAMBLE

Whereas section 96 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) requires a municipality to adopt, maintain and implement a credit control and debt collection policy. And whereas section 97 of the Systems Act prescribes what such policy must provide for; Whereas the Municipal Council of the Municipality of Greater Letaba Local adopts the Credit Control and Debt Collection Policy as set out in this document: -

For the purposes of this policy, unless the context indicates otherwise, any word or expression to which a meaning has been attached in the Act shall bear the same meaning and means; -

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12. SHORT TITTLE

1. DEFINITIONS

ACT The Local Government Act: Municipal System Act 2000 (Act No. 32 of 2000) as amended from time to time.

Authorized Representative The person or instance legally appointed by the Council to act or to fulfil a duty on its behalf.

Arrears Amount due, owing and payable in respect of fees, charges, surcharges on fees, property rates and other municipal taxes and services, levies, penalties and duties.

Agreement Means the contractual relationship between the municipality and a consumer whether in writing or not.

Account/ Municipal Accounts Account in the name of customer held with the Greater Letaba Local municipality.

a) The proper and formal notification by means of a statement of account, to persons liable for monies levied and indicating the net accumulated balance of account, specifying charges levied by the Municipality, or any authorized and contracted service provider, in the format of, but not limited to:-

- Show the levies for property rates and services.

b) Monthly account rendered monthly and shows the levies for property rates and/or building clause, availability charge, sewage, refuse removal, electricity, water, sundries, housing rentals and instalments, as well as monthly instalments for annual services paid monthly.

BASIC SERVICE The amount or level of any municipal service that is necessary to ensure an acceptable and reasonable quality of life and which, if not provided, would endanger public health or safety of the environment and for the purposes of this Policy are restricted to the delivery of electricity, refuse, sewerage, and water services.

Chief Financial Officer An officer of the municipality appointed as the Head of the Finance Department (Budget and Treasury) and includes any person: -

- a) Acting in such position; and
- b) To whom the Chief Financial Officer has delegated a power, function or duty in respect of such a delegated power, function or duty.

Child-headed household A household where all the occupants of a residential property are younger than 18 years old, i.e a child-headed household is a household consisting only of children and household income of below the indigent threshold.

Council or Municipal Council A municipal council referred to in section 18 of the Local Government: Municipal Structure Act, 1998 (Act No. 117 of 1998) and for purposes of this policy, the municipal council of the Municipality of Polokwane.

Credit Control The functions relating to and aimed at the collection of any monies due and payable to the Municipality.

Debt The functions relating to and aimed at the collection of any monies due and payable to the Municipality after due date has passed or not paid on due date.

Closely connected person Any immediate relative of the person namely spouse, child, parent, parent-in-law, life partner, siblings (brother or sister from same parents) and in laws.

customer Any occupier of any property to which the Municipality has agreed to supply services or already supplies services to, or there is occupier, then the owner of the property (including registered indigent households)

Due date Means the date on which the amount payable in respect of an account becomes due, owing, and payable by the customer, which date shall be determined by council from time to time.

Defaulter A person who owes money to the Municipality in respect of a municipal account after the due date for payment has expired.

Director The person in charge of the civil and/ or electrical component(s) of the Municipality and includes any person: -

- a) Acting in such position; and
- b) To whom the Director has delegated a power, function or duty in respect of such delegated power, function or duty.

Equipment A building, structure, pipe, pump, wiring, cable, meter, machine, or any fittings.

Household All persons who are jointly living on a stand or site on a permanent basis and who receives electricity and/or water from one meter, regardless whether the person rents or owns the property.

Indigent A household which is not financially capable of paying for the delivery of basic services and meeting the criteria determined by Council from time to time – this also includes poor households as per the Municipality's Indigent Policy.

Interest A levy with the same legal priority as a service fees and calculated on all amounts in arrears in respect of assessment rates and service levies or any other sundry services or surcharge at a standard rate as approved by Council from time to time.

Municipality Means Greater Letaba Local Municipality established in terms of the Local Government Structures Act, 1998 as amended from time to time.

Municipal Manager The accounting officer appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) as amended from time to time and being the head of administration and accounting officer

in terms of section 55 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as amended from time to time and includes any person: -

- a) Acting in such position; and
- b) To whom the Municipal Manager has delegated a power, function, or duty in respect of such a delegated power, function or duty in respect of such a delegated power, function or duty.

Municipal Services Those services provided by the Municipality such as, amongst others the supply of water and electricity, refuse removal, sewerage treatment, and for which payment is required by the Municipality or not.

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

Premises or property Any portion of land, the external surface boundaries of which are delineated on: -

- a) A general plan or diagram registered in terms of the Land Survey Act, 1927 (Act No. 9 1927) as amended from time to time or in terms of the Deeds Registry Act, 1937 (Act No. 47 of 1937; as amended from time to time or
- b) A sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986); as amended from time to time which is situated within the area of jurisdiction of the Municipality.

Owner

- a) The person in whom the legal title to the property is vested.
- b) A person mentioned below may for the purposes of this policy be regarded by a municipality as the owner of 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 deceased estate.
 - iii) A trustee or liquidator, in the case of a property in an insolvent estate or in liquidation.
 - iv) A judicial manager, in the case of a property in the estate of a person under judicial management.
 - 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.
- c) In the case where the council is unable to determine the identity of such person; the person who is entitled to the benefit of such property or any building thereof.

2. GENERAL OBJECTIVES

The objectives of this policy are to:-

- 2.1. Provide framework within which the municipality can exercise its executive and legislative authority with regard to credit control and debt collection.
- 2.2. Ensure that all monies due and payable to the municipality are collected and in a financially sustainable manner.
- 2.3. Provide a framework for customer care and indigent support.
- 2.4. Describe credit control measures and sequence of events.

- 2.5. Outline debt collection and credit control procedures and mechanisms; and
- 2.6. Set realistic targets for credit control and debt collection.
- 2.7. Provide for actions that may be taken by the Municipality to ensure payment of accounts that are in arrears including and not limited to the termination or restriction of services and legal actions.
- 2.8. Provide for alternative debt repayment arrangements in accordance with the terms and conditions of this policy.
- 2.9. Create an environment which enables a customer to repay the outstanding debt and establish culture of payment for services rendered by the municipality.
- 2.10. Effectively and efficiently deal with defaulters in accordance with the terms and conditions of this policy.
- 2.11. Provide for procedures and mechanisms to ensure that all monies due and payable to the Municipality are collected.

3. PRINCIPLES

The credit control and debt collection policy is based on the following: -

3.1. GENERAL

- i) The administrative integrity of the Municipality must be maintained at all costs.
- ii) The democratically elected councillors are responsible for making the policies, while it is the responsibility of the Municipal Manager to ensure execution of these policies.
- iii) The policy and its application provide for the specific circumstances of the community to which it relates.

- iv) The credit control and debt collection procedures must be understandable, uniform, fair and consistently applied.
- v) Credit control must be effective, efficient, and economical.
- vi) The measures take must be sustainable in the long term.

3.2. COUNCIL

- i) To enable the Council to differentiate between those customers that cannot pay from those that simply do not want to pay, the “indigent Policy” will be applied.
- ii) The Credit Control and Debt Collection Policy may be supported by procedure manual(s) and/or Revenue Enhancement strategies that may be put in place by the Chief Financial Officer and Revenue Manager.
- iii) The Credit Control and Debt Collection Policy shall super cede all other policies aimed at achieving the same purpose to which the current credit control policy seeks to achieve.

3.3. CUSTOMERS

- i) All new customers must complete an official application form formally requesting the Municipality to connect them to the service supply lines. Existing customers may be required to complete new forms to update their information from time to time as determined by the Municipal Manager.
- ii) Application forms, agreements and documents relating to this policy must be available in English. Officials designated to control and managed these documents may be able to explain the contents thereof in other four languages dominant in Limpopo.
- iii) A copy of the application form, conditions of services and extracts of the Council’s Customer Care Policy, Credit Control and Debt Collection Policy and By-Laws

may be handed to every customer on request at a fee prescribed by council from time to time.

- iv) Application forms may be used to, amongst others, categorize customers according to credit risk and to determine relevant levels of services and deposits required.
- v) Unauthorized consumption, connection and reconnection, the tempering with or theft of meters, service supply equipment and reticulation network and fraudulent activity in connection with the provision of Municipal services will lead to disconnections, charges, penalties, loss of rights and/ or criminal prosecutions.
- vi) The Council shall not conduct any business activity with or accept new services application to any customer who is in arrears with the Municipality except if a suitable payment arrangement for repayment of arrears is made.
- vii) The Council shall not refund any credit/deposit to any customer or customer's nominee who is in arrears with the Council.

3.4. COUNCILOR SERVICES ACCOUNTS

In accordance with the provisions of Schedule 1 of the Municipal Systems Act 32 of 2000, an elected councillor residing within the demarcated are of the Council and is individually or jointly responsible for account, may not be in arrears for municipal service fees, surcharges on fees rates or any other municipal taxes, levies and duties levied by the Council for more than 3(three) months.

Notwithstanding any relevant procedure, method or action that may be taken in terms of this policy, the Municipal Manager may deduct amounts due for more than 3(three) months from such councilor's remuneration.

3.5. STAFF/OFFICIALS SERVICES ACCOUNTS

In accordance with the provisions of Schedule 2, of the Municipality Systems Act 32 of 2000, an official of council, residing within demarcated area of the Council an is individually or jointly responsible for account, may be in arrears for municipal service fees, surcharges on fees rates or any other municipal taxes, levies and duties levied by the Council for more than 3 (three) months.

Notwithstanding any relevant procedure, method or action that may be taken in terms of this policy, the City Manager may deduct amounts due for more than (three) months from such official's remuneration

4. PERFORMANCE EVALUATION

This is addressed in the SDBIP and Municipal Performance Management System.

5. REPORTING

5.1. The Chief Financial Officer shall report monthly to the Municipal Manager in a suitable format to enable the Municipal Manager to report to the Mayor as supervisory authority in terms of the Systems Act. This report shall contain particulars on:-

- a) Cash Collection statistics, showing high-level debt recovery information (number of consumers; enquiries; arrangements; default arrangements, growth or reduction of arrear debt).
- b) Where possible, the statistics should ideally be divided into wards, business (commerce and industry), domestic, government, institutional and other such divisions.
- c) Performance of all areas against targets agreed to in section 4 of this policy document.

5.2. If the opinion of the Chief Financial Officer, Council will not achieve cash receipt income equivalent of the income projected in the annual budget as approved by Council, the Chief Financial Officer will report this with motivation to the Municipal

Manager who may immediately move for a revision of the budget according to realizable income levels.

5.3. The Mayor as Supervisory Authority shall report quarterly to Council as contemplated in section 99(c) of the Systems Act.

6. CUSTOMER CARE MANAGEMENT

In relation to the levying of rates and other services by a municipality and the charging of fees for municipal services, a municipality must, within a financial and administrative capacity-

- a) Establish a sound customer management system that aims to create a positive and reciprocal relationship between persons liable for these payments and the municipality, and where applicable, a service provider.
- b) Establish mechanisms for customers to give feedback to the municipality or other service provider regarding the quality of the services and the performance of the service provider.
- c) Take reasonable steps to ensure that customers are informed of the costs involved in service provision, the reasons for the payment of service fees, and the manner in which monies raised from the service are utilized.
- d) Where the consumption of services has to be measured, take reasonable steps to ensure that the consumption by individual customers is measured through accurate verifiable metering systems.
- e) Ensure that persons liable for payments, receive regular and accurate accounts that indicate the basis for calculating the amounts due.
- f) Provide accessible mechanisms for customers to query or verify accounts and metered consumption, and appeal procedures which allow such persons to receive prompt redress for in accurate accounts.

- g) Provide accessible mechanisms for dealing with complaints from customers, together with prompt replies and corrective action by the municipality;
- h) Provide mechanisms to monitor the response time and efficiency in complying with paragraph (g); and
- i) Provide accessible pay points and variety of reliable payment methods which will include cash, debit or credit card swiping facilities, electronic fund transfer, debit order, bank order payments and bank guaranteed cheque.

7. ACCOUNTS ADMINISTRATION

7.1. ACCOUNTS AND BILLING

7.1.1. Accounts must be rendered and administered in accordance with the policy, other prescribed requirements and any other law.

7.1.2. Failure by the Council to render an account does not relieve a customer of the obligation to pay any amount that is due and payable in terms of these By-laws.

7.1.3. The customer is entitled to accurate, timeous and understandable bill as far as possible.

7.1.4. The Council may, in accordance with the provisions of section 102 of the Act:-

- a) Consolidate any separate accounts of a customer liable for payments in terms of these Policy to the Council;
- b) Credit any payment by such customer against any account of that customer; and
- c) Implement any of the debt collection and credit control measures provided for in these By-laws in relation to any arrears on any of the accounts of a customer.

7.1.5. The amount due and payable by a customer constitutes a consolidated debt, and any payment made by a customer of an amount less than the total amount due, will be allocated in reduction of the consolidated debt in the order prescribed by the Municipality.

- a) Any amount paid by a customer in excess of an existing debt may be held in credit for the customer in anticipation of future rates and fees for municipal services.
- b) No interest is payable on any amount contemplated in paragraph(s).

7.2. ACCOUNT QUERIES

- a) Account query refers to the instance when a customer queries any specific amount, or any content contained in any account as rendered by the Council;
- b) Query can be raised verbally or in writing at any of the Council's administrative offices;
- c) Customer to furnish in writing full personal particulars including acceptable means of identification, contact details and account number in respect of which amount owing is queried;
- d) Customer may be represented by a duly appointed nominee or agent, and such nominee or agent shall upon request produce sufficient proof of such appointment;
- e) Pending the outcome of query , customer may apply for temporary payment extension in terms of provisions of this policy;
- f) The customer shall, pending the resolution and outcome of the query, continue to make regular payments as per account statement;
- g. Should a customer not be satisfied with the outcome of the query, a customer may lodge an appeal in terms of section 62, as read with section 95(f), of the Local Government: Municipal Systems Act 32 of 2000.

7.3. DISPUTES

- a) A customer may lodge an appeal in terms of section 62, as read with section 95(f) of the Local Government: Municipal Systems Act 32 of 2000.
- b) Customer to furnish in writing full personal particulars including acceptable means of identification, contact details and account number in respect of which amount owing is disputed.
- c) Only dispute lodged by registered account holder will be considered.
- d) Customer may be represented by a duly appointed nominee or agent, and such nominee or agent shall upon request produce sufficient proof of such appointment.
- e) Should any written dispute arise as to the amount owing on the account in respect of all services by a customer, the customer shall, pending the resolution and outcome of that dispute, continue to make regular minimum payments based on the average charges for the preceding three months prior to the arising of the dispute, plus interest, until the resolution of that dispute.
- f) Should any written dispute arise as to the amount owing on part of the account or service by a customer, the customer shall, pending the resolution and outcome of that dispute, continue to make regular payments on services that are NOT in dispute PLUS the average charges for the preceding three months prior to the arising of the dispute in respect of remaining part of account or disputed service until the resolution of that dispute.

8. INTEREST CHARGES

Interest will be levied on all accounts not paid by due date at a rate prescribed by council from time to time and in accordance with section 97€ of the Municipal Systems Act 32 of 2000.

9. ACCOUNT DUE DATE

- a) Monthly account due date represents the date on which the customer's account becomes due and payable, the due date shall be on the 25th of each month and may change from time to time as determined by the Council.
- b) Account due date will be reflected on customer account statement.
- c) Only payments receipted through the Municipal financial system on or before account due date will be deemed to have been duly received.
- d) Payments by customers through 3rd party vendors, will only be deemed to have been received when receipted through the Municipal financial system.

10. CREDIT CONTROL

10.1. OBJECTIVE

10.1.1. To provide procedures and mechanisms to collect all monies due and payable to the Municipality arising out of the supply of services and annual levies, in order to ensure financial sustainability and delivery of municipal services in the interest of the community;

10.1.2. To limit risk levels by means of effective management tools.

10.1.3. To provide for restrictions, limitations, terminations.

10.2. SERVICE APPLICATION, AGREEMENTS, CUSTOMER SCREENING AND SECURITIES

10.2.1. All consumers (owners) of services will be required to sign an agreement governing the supply and cost municipal services. On default by a tenant, the owner will be the debtor of last resort and is responsible for payment unless where the Municipality is the owner of the property.

10.2.2. Applicants for Municipal services may be checked for credit worthiness, which may include checking information from banks, credit bureaus, other local authorities, trade creditors and employers.

10.2.3. The consumer applying for services must bring proof of ownership or consent from the owner, proof of residential address and physical address.

10.2.4. Where the applicant is a legal entity, being a company, close corporation, trust, etc.:

- a) Sureties must also be signed by the directors, members, trustees, etc.
- b) Must supply details of their director, members, partners or trustees and at least the main shareholder must in his/her personal capacity guarantee the payment of the applicant's Municipal account and in case of a trust, all the trustees in their personal capacity.

10.2.5. On the signing of the agreements, customers will be entitled to access the policy document, which are available on municipal website or on request at any Municipal office service center at a fee prescribed by the council from time to time.

10.2.6. On the signing of the agreement, customers will receive a copy of the agreement for their records.

10.2.7. The municipality reserves the right to refuse supplying services should such applicant owe monies to the Municipality until such debt is paid in full or an acceptable arrangement to settle has been made with the Municipality. Should the applicant prove to the Chief Financial Officer that he/she is unable to pay, the application will be dealt with in terms of the Municipality' indigent Policy and arrangements may be granted to exceptional cases.

10.2.8. The Municipality reserves the right to the application for services if any of the tenants or previous tenants or owner is in arrears or of a person who is closely

connected to a customer who has defaulted with account payments and who resides or is to reside on the same premises, until such debt is settled in full or accepted arrangement has been made. The Municipality may also reject the application for services of concern that is not a natural person should such concern be in arrears with any other municipal account for which it, or any member or director is responsible or partially responsible.

10.2.9. The Municipality will read the meters within the period stipulated in the agreement after notification of change of ownership or application for the supply of services and render an account within the normal cycle applicable to the property.

10.2.10. All new customers shall pay a deposit as determined from time to time the Municipality council which may be increased by the CFO in the event of non-payment. Councillors and officials of the Municipality are not exempted from paying security deposit.

10.2.11. Deposits can vary according to the credit worthiness or legal category of the applicant, subject to minimum requirement as outlined in this policy.

10.2.12. The Municipality will not pay any interest on deposits.

10.2.13. On the termination of the agreement the amount of the deposit, less any outstanding amount due to the Municipality, will be refunded to the consumer.

10.3. RIGHT OF ACCESS TO PREMISES

10.3.1. The owner and/ or occupier of property must allow an authorized representative of the municipality access at all reasonable hours to the property in order to read, inspect, install or repair any meter or service connection for reticulation, or to disconnect, stop or restrict, or reconnect, the provision of any municipal service as stipulated in section 101 of Municipal Systems Act, 32 of 2000.

10.3.2. The owner is responsible for the cost of relocating a meter if satisfactory access is not possible.

10.3.3. If a person fails to comply, the municipality or its authorized representative may: -

- a) By written notice require such person to restore access at his/her own expense within a specified period.
- b) Without prior notice restore access and recover the cost from such person if it is the opinion that the situation is a matter of urgency.

10.4 ENFORCEMENT MECHANISM

10.4.1. The municipality will issue a credible and understandable statement of account reflecting all services charge, units of water & electricity consumed (where applicable), due date and monies payable where the municipality fails to render the account subsection 7.1.2 of this policy shall apply.

10.4. 2. The municipality may print message on statement of account to remind customers to pay before or on due date to avoid interest charges and other credit control measures

10.4.3. The municipality may remind the customer to pay the account before or on due date by using and not limited to SMS, MMS, email and Telephone call

10.4.4. In the event of queries and disputes section 7.2 and 7.3 of this policy shall apply

10.4.5. The customer may apply /request payment extension in writing before the due date stating reasons for such request and proposed date payment.

10.4.6. The municipality shall have the right to discontinue or restrict the supply of services due late or non-payment of accounts relating to any consumer and or owner of property.

10.4.7. All debtors who are in areas for more than 60 days will have their water and electricity meters converted to prepaid at municipality's sole discretion.

10.5. PRE-PAYMENT SYSTEM

10.5.1 The municipality will use its pre-payment metering system to:-

- a) Link the provision of electricity by the municipality to a "pre- payment" system comprising, pre-payment of electricity units; and
- b) A payment in respect of arrears comprising all accrued municipal taxes and other levies, tariffs and charges in respect of services such as water, refuse removal sanitation and sewage.
- c) To load an auxiliary on the "pre-payment" system in order to allocate a portion of the rendered amount to the customers arrear account for other services.
- d) To enforce satisfactory arrangements with consumers in arrears by blocking access to pre-payment meters.
- e) 60/40% pre-payment debt recovery, the municipality may allocate 60% of payment to the arrears and 40% to the purchase of electricity to customer who purchases prepaid electricity with other services in arrears.

10.6. CONTRACTORS WHO TENDERED TO THE MUNICIPALITY

10.6.1. Supply Chain and Procurement Management policy and tender conditions of the municipality will include the following: -

- a) When inviting tenders for the provision of services or delivery of goods, potential contractors may submit tenders subject to a condition that consideration and evaluation thereof will necessitate that the tender obtain from the municipality a certificate or account stating that all relevant municipal accounts owing by the tenderer and/or its directors, owners or partners have been paid or that suitable arrangements (which include the right to set off in the event of non-compliance) have been made for payment of any arrears.
- b) No tender will be allocated to a person/contractor until a suitable arrangement for the repayment of arrears has been made. No further debt may accrue during contract period.
- c) Tender conditions will include a condition allowing the municipality to deduct any money owing to the municipality from contract payments.
- d) A tender will be required to declare all the municipal account numbers for which it is responsible and/or partially responsible.

11. DEBT COLLECTION

11.1. OBJECTIVE

11.1.1. To implement procedures which ensure the collection of debt, meeting of service targets and the prevention of escalation in arrear debt.

11.1.2. THE PRINCIPLE: The money owed to the Municipality for more than 30 days after due date would be classified as debt to be collected following the procedures as outlined in this section of the policy.

11.2. ACTIONS TO SECURE PAYMENTS

11.2.1. The Municipality and/or service provider may take the following actions in secure payments of arrears in respect of Municipal services.

11.2.2. The Municipality may issue a letter of demand on all accounts in arrears.

11.2.3. The Municipality or service provider may contact the customer telephonically and/or physically.

a) Council will endeavor, within the constraints of affordability, to make personal or telephonic contact with all arrear debtors to encourage their payments, and to inform them of their arrears state, other rights (if any) to conclude arrangements or to indigence subsidies, other related matters and will provide information on how and where to access such arrangements or subsidies.

b) Such contact is not a right for debtors to enjoy and disconnection of services and other collection proceedings may continue in the absence of such contact for whatever reason.

11.2.4. Council reserves the right to deny or restrict the sale of electricity or water to consumer and or the owners who are in arrears with their rates and or other service charge.

11.2.5. 60/40% prepayment debt recovery, the municipality may allocate 60% to arrears and 40% of the purchase of electricity to customer who purchases prepaid electricity with other services in arrears or allow the customer to purchase 40% of the amount paid.

11.2.6. If a person is indigent a prepaid electricity meter and a flow limiter water meter may be installed free of charge.

11.2.7. Then deposit of any defaulter will be adjusted and brought into line with relevant policies of Council (Consumer Deposit Policy) and this deposit may be charged into the account.

11.3. THE POWER TO RESTRICT OR DISCONTINUE SUPPLY OF MUNICIPAL SERVICES.

11.3.1. The Council or Duly appointed agent may terminate and/ or restrict the supply of water, electricity or in the case of pre-paid electricity withhold the selling of electricity in terms of the prescribed disconnection procedures, or discontinue any other service to any premises associated with the customer, whenever a customer of any service.

11.3.2. After the expiry of the period for payment in terms of the final demand/ final notice referred to in section 11.2.1.1. Fails to make full payment on the due date or fails to make acceptable arrangements for the repayment of any amount for municipal services, property rates or taxes or other amounts due in terms of this policy.

11.3.3. No proof of registration as an indigent was furnished within the period for in the final demand/ final notice referred to in section.

11.3.4. No payment was received in accordance with an agreement for payment of arrears.

11.3.5. Fails to comply with a condition of supply imposed by the council.

11.3.6. Obstructs the efficient supply of electricity, water or any other municipal services to another customer.

11.3.7. Supplies such municipal service to a consumer/ owner who is not entitled thereto or permits such service to continue.

11.3.8. Causes a situation, which in the opinion of the council is dangerous, or a contravention of relevant legislation.

11.3.9. In any way bridges the supply or illegally reconnect previously disconnected municipal services;

a) The Council shall hand deliver, per mail or per electronic means available to the physical address of property or most recent recorded address or electronic contact address and/or number of such customer, a discontinuation notice informing such consumer-

- (i) That the provision of the service will be or has been discontinued on the date stated on the discontinuation notice;
 - (ii) Of the steps which can be taken to have the service reconnected;
 - (iii) Of the minimum amount payable to restore service.
- b) The right of the Council or any duly appointed agent to restrict or discontinue water and electricity to any premises, owner of property, tenant on property, customer or occupant of property, shall be subject to the relevant legislature.

11.4. RECONNECTION OF SERVICES

11.4.1. Upon paying the full amount owed or the conclusion of acceptable arrangements as prescribed in terms of section 11.6 of this policy the service will be reconnected and soon as conveniently possible.

11.4.2. The cost of the restriction or disconnection and reconnection will be determined by tariffs approved by Council and will be determined by tariffs approved by Council and will be payable by the consumer.

11.5. DEBT FOR WHICH AN ARRANGEMENTS CAN BE DONE

11.5.1. Arrangements for the payment of outstanding debt can be made according to the procedure described hereunder.

11.6. CONCLUSION OF AGREEMENT

11.6.1. If a customer cannot pay his/her account with the Municipality then the Municipality may enter an extended term of payment no exceeding 12 months, stipulating that the debt will be paid together with the monthly and/or annual accounts, with the customer.

11.6.2. The customer must"-

- a) Complete a new application form;
- b) Sign an acknowledgement of debt;
- c) Sign a consent to judgement;
- d) Sign an emolument or stop order if he/she is in employment;
- e) Submit proof of income on the prescribed form;
- f) Pay the current portion of the account in cash;
- g) Pay an adjusted security deposit equal to the sum of two times average consumption during the preceding 12 months 12 months; (conditional)
- h) Sign an acknowledgement that, if the arrangements being negotiated are later defaulted on, that no further arrangements will be possible and that disconnection of water and electricity will follow immediately will follow immediately, as will legal proceedings;
- i) Acknowledge liability of all costs incurred; and
- j) Annually, no later than 28 February, submit new proof of income.

11.7. ARRANGEMENTS THAT CAN BE ENTERED INTO.

11.7.1.Domestic Customers:

- a) First (1st) default is financial year:
 - (i) 50% or minimum of 10% on exceptional circumstances of the outstanding amount plus cost of the credit control actions together with the current account is payable immediately.
 - (ii) The balance is payable over a minimum period of twelve months.
 - (iii) First offence in 5 years- no deposit increase will be applicable.

(iv) Consumer deposits may be adjusted to sum of two time's average consumption during the preceding 12 months or at least be adjusted to the minimum deposit required in terms of the approved Tariff Schedule whichever is the highest.

b) On second(2nd) default in one financial year the Municipality May Demand:

(i) Full arrears amount plus the costs of credit control actions, together with the current account.

(ii) Deny arrangements or provide monthly extensions.

(iii) Consumer deposits may be adjusted to sum of three time's average consumption during the preceding 12 months or at least adjusted to the minimum deposit required in terms of the Tariff Schedule whichever the highest.

c) Third (3rd) default in one financial year:

(i) Services may be discontinued or restricted and the account will be handed over legal proceedings.

11.7.2. Business and other Institutions:

a) First (1st) default in financial year:-

(i) 60% of the outstanding amount plus cost of the credit control actions may be required.

(ii) The balance is payable over a maximum period of six months.

(iii) First offence in 5 years- no deposit increase will be applicable.

(iv) Consumer deposits may be adjusted to the sum of three times average consumption during the preceding 12 months or at least be adjusted to the minimum deposit required in terms of the approved tariff Schedule whichever the highest.

b) Second(2nd) default in financial year:-

- (i) Full outstanding amount plus cost of credit control actions may be required.
 - (ii) No arrangements may be allowed.
 - (iii) Consumer deposits may be adjusted to the sum of four time's average consumption during the preceding 12 months or at least be adjusted to the minimum deposit required in terms of the approved Tariff Schedule whichever the highest.
- c) Third (3rd) default in financial year:-
- (i) Services may be discontinued or restricted and the account will be handed over legal proceedings.

11.7.3. Government Departments.

- a) Default.
 - (i) Services will be discontinued or restricted.
 - (ii) Report same to National Treasury where applicable (section 64 (3) MFMA).

11.7.4. Owners Accounts.

- a) The owner's accounts without services will be handed over to the debt collectors to instigate legal proceedings. The owner's accounts in arrears may be consolidated in terms of section 102 of the Municipal System Act in order to affect credit control and debt collection.

11.8. DEBT COLLECTION PROCEDURE

11.8.1. Council may handover accounts that are 90 days and old in arrears after all internal processes has been exhausted and there is no positive respond.

11.8.2. The handover will be done through creation of child account linked to the main account. The child account will be closed when it is paid up or balance cleared. The

debt collector will not be responsible for collection on the debt on the main account where child account is created.

11.8.3. Annual accounts: should accounts remain unsettled three (3) months after it became due and payable, notice will be given to the owner/ consumer that the amount owed should be settled within fourteen (14) days of which it would be handed over for collection.

11.8.4. Should there be no reaction on the notice's accounts are forthwith handed over for collection, which may include legal proceedings.

11.8.5. All debtors regarding houses in rental, selling and self-build schemes, without any capital debt, which are still registered in the name of the municipality should be notified in writing that if satisfactory arrangement for transfer of the property into his/her name are not made within one (1) month, the property concerned will be put up for sale by Council at a public auction.

11.8.6. Upon handing over of accounts for collection, details of employers and work addresses of the debtors should be made available to the attorneys as far as possible for the purposes of garnishee orders.

11.8.7. Attorneys should report to Council monthly on the progress made and the aspect regarding each debtor.

11.9. INDIGENT

11.9.1. Consumers that meet council's indigent criteria must be identified advised to apply and be supported.

11.9.2. All consumers (including occupiers) qualify as indigent and who accumulated any arrear debt after any relief has been granted will repay that debt as follows: -

a) By instalments over 12 months, in addition to monthly service charges, with immediate payment of the cost of the credit control action taken.

b) There are no limitations on debtors at any time to pay bigger amounts towards outstanding debt, than prescribed above.

11.10. THEFT AND FRAUD

11.10.1. Any person (natural or juristic) found to be illegally connected or reconnected to municipal services, tampering with meters, the reticulation network or any other supply equipment or committing any unauthorized act associated with the supply of municipal services, as well as theft of damage to Council property, will be prosecuted and/or liable for costs at the prescribed tariffs as determined from time to time.

11.10.2. The Municipality has the right to obtain authorization from the Magistrate for the imposition of fines for the offences.

11.10.3. The Municipality may terminate and/or remove the supply of services to a customer should such conduct as outlined above, be detected and certified.

11.10.4. The total bill owing, including penalties, assessment of unauthorized consumption and discontinuation and reconnection fees, and increased deposits as determined by Council if applicable, will be due and payable before any reconnection can be sanctioned.

11.10.5. Council will maintain monitoring systems and teams in order to identify and monitor customers who are undertaking such illegal actions.

11.10.6. Council reserves the right to lay criminal charges and/ or take any other legal action against both vandals and thieves.

11.10.7. Any person failing to provide information or providing false information on his application for or other document pertaining to the supply of services to the Municipality may face immediate disconnection of services.

11.11. INCENTIVES

14.1.1 Incentives and disincentives may be used in collection procedure as approved by council.

11.12. LEGAL PROCESS (USE OF ATTORNEYS/USE OF CREDIT BUREAUS)

11.12.1. The Municipality may, when a debtor is in arrears, commence legal process against that debtor, which process could involve final demands, summons, court trials, judgements, garnishee orders and, as last resort, sales in execution of property.

11.12.2. The municipality will exercise strict control over this process to ensure accuracy and legality within it and will require regular reports on progress from staff responsible for the process or outside parties, be they attorneys or any other collection agents appointed by council.

11.12.3. The Municipality will establish procedures and codes of conduct with such outside parties. In the case of employed debtors, garnishee orders are preferred to sales in execution, but both are part of the Municipality's system of debt collection procedures.

11.12.4. All steps in the credit control procedure will be recorded for the Municipality's records and for the information of the debtor.

11.12.5. All costs of this process will be for the account of the debtor.

11.12.6. Individual debtor accounts are protected and are not the subject of public information. However, the Municipality may release debtor information to credit bureaus and the property owner in respect of his/her lessee(s). This release will be in writing or by electric means will be covered in the agreement with customers.

11.12.7. The Municipality may consider the cost effectiveness of the legal process and will receive reports on relevant-on-relevant matters and report to the Executive mayor.

11.12.8. Upon recommendation from the Municipal Manager, Council may consider the use of agents and innovative debt collection methods and products. Cost effectiveness, the willingness of agents to work under appropriate codes of conduct and the success of such agents and products will be part of such agreement Council might conclude with such agents and products will be part of the agreement council might conclude with such agents or service providers.

11.12.9. Customers will be informed of the powers and duties of such agents and their responsibilities, including their responsibility to observe agreed codes of conduct.

11.12.10. Any agreement concluded with an agent or product vendor shall include a clause whereby breaches of the code of conduct by the agent or vendor will constitute termination of the contract.

11.12.11. If after the due date an amount due for rates is unpaid by the owner of the property, the municipality may recover the amount in whole or in part from the tenant or occupier of the property, after it has served written notice on the tenant or occupier. The Municipality may recover the outstanding amount despite any contractual obligation to the contrary on the tenant or occupier.

11.12.12 If after the due date an amount due for rates is unpaid by the owner of the property the Municipality may recover the amount, in whole or part, from the agent of the owner, if this is more convenient for the Municipality after it has served written notice on the agent. The agent must on request from the Municipality provide a statement reflecting all payments made to the agent for the owner during a period determined by determined by the Municipality.

11.13. COST COLLECTION

All cost of legal processes including interest, penalties, service discontinuation costs and legal costs associated with credit control and debt collection wherever applicable

are for the account of the debtor and should reflect at least the cost of the particular action.

11.14. CLEARANCE CERTIFICATE

11.14.1. In terms of section 118(3) of the Act an amount due for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property.

11.14.2. All payments will be allocated to the registered seller's municipal accounts and all refunds will be made to such seller unless advised otherwise.

11.14.3. No interest shall be paid in respect of these payments.

11.14.4. The Municipality will only issue a clearance certificate once a completed prescribed application from the conveyer has been received.

11.14.5. where any residential or non- residential debtor has entered an arrangement with the Municipality in respect of the arrears on a property, the prescribed certificate as referred to in section 118 of the Systems Act, will not be issued until such time as the full outstanding amount have been paid. Should the certificate be issued on payments for three months preceding the date of clearance, the outstanding balance will be due and against the property or any owner thereof with or without their knowledge on transfer.

11.14.6. Accordingly, all such municipal debts shall be payable by the owner of such property without prejudice to any claim which the municipality may have against any other person.

11.14.7. On application for clearance any arrangements, acknowledgement of debt shall be cancelled, and all debts on the property shall become due, owing and payable.

11.14.8. The payments of clearance certificate must be made in cash or by irrevocable bank guaranteed cheque, or attorney's trust cheque, there shall be no funds on cancellation of sale, and the certificate shall be valid for a period 60 days from date of issue.

11.14.9. Certificate may be issued on production of an undertaking or bank guarantee certifying payment on registration.

11.15 IRRECOVERABLE DEBT

11.15.1. Debt will only be considered as irrecoverable if it complies with the following criteria: -

- a) All reasonable notifications and cost-effective legal avenues have been exhausted to recover a specific outstanding amount; or
- b) Any amount equal to or less than R1 000-00, or as determined by Council from time to time, will be considered too small, after having followed basic checks, to time to time, will be considered too small, after having followed basic checks, to warrant further endeavors to collect it; or
- c) The cost to recover the debt does not warrant the further action; or
- d) The amount outstanding is the residue after payment of a dividend I the rand from an insolvent estate; or
- i) There is a danger of a contribution; or
- ii) No dividend will accrue to creditors; or
- e) A deceased estate has no liquid assets to cover the outstanding amount following the final distribution of the estate; or
- f) Where the estate has not been reported to the Master and there are no assets of value to attach; or

- g) It has been proven that the debt has prescribed.
- h) The debtor is untraceable or cannot be identified to proceed with further action;
or
- i) The debtor has emigrated leaving no assets of value to cost effectively recover Councils' claim; or
- j) It is not possible to prove to prove the debt outstanding; or
- k) A court has ruled that the claim is not recoverable; or
- l) The outstanding amount is due to an irreconcilable administrative error by the Municipality.

11.16. ABANDONMENT OF CLAIMS

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

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

- a) The insolvency of the debtor, whose estate ha insufficient funds.
- b) A balance being too small to recover, for economic reasons considering the cost of recovery.
- c) Where Council deems that a debtor or group of debtors are unable to pay for services rendered.

11.16.3. The Municipality will maintain audit trails in such an instance and document the reasons for the abandonment of the action or claim in respect of the debt.

12. SHORT TITLE.

This by-law will be called Credit control and debt collection by-law of Greater Letaba Local Municipality.

CHAPTER 3

WASTE MANAGEMENT BY – LAW

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Greater Letaba Local Municipality, enacts as follows: -

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1. INTERPRETATION

In this by-law, unless the contents otherwise indicates –

- **“approved”** in the context of bins, bin liners, containers, receptacles and wrappers, means approved by the municipality or a licensee for the collection and storage of waste;
- **“Authorized official:** means an official who has been authorized by the municipality to perform and exercise any or all of the functions and powers specified in and subject to the provisions of this By-law;
- **“Bin”** means an approved receptacle for the storage of less than 1.5 cubic meters of waste, which may be supplied by the municipality to property in terms of this By-law;
- **“building waste”** means all waste produced during the construction, alteration, repair or demolition of any structure, and includes building rubble, earth, vegetation and rock displaced during such construction, alteration, repair or demolition;
- **“bulky waste”** means waste which by virtue of its mass, shape, size or quantity is inconvenient to remove in the routine door – to – door municipal service, as specified in section 22;
- **“commercial services”** means any service, excluding municipal services, relating or connected to accumulating, collecting, managing, recycling, sorting, storing, trading, transporting, disposing, buying or selling of waste or any other manner of handling waste;
- **“commercial waste”** means solid waste generated on property used for non-residential purposes such as office buildings, stores, markets, theatres, hotels, warehouses, industrial operations and manufacturing processes, and which are

occupied by wholesale, retail, institutional, or service establishments, and includes waste generated by office workers or employees of the establishments;

- **“Container”** means an approved receptacle having a capacity greater than 1, 5 cubic meters for the temporary storage of waste in terms of this By-law;
- **“Council”** means the Council of the Greater Letaba Local Municipality;
- **“DEAT”** means the Department of Environmental Affairs and Tourism;
- **“Domestic waste”** means waste such as dust, ash, rubbish or other refuse arising or incidental to the normal occupation of property used –
 - (a) For residential purposes, such as a dwelling house or flat, hotel or boarding house; and
 - (b) For purposes of public worship, including a hall or other building used for religious purposes,

But does not include any other category of waste, liquid matter or night soil;

- **“DWAF”** means the National Department of Water Affairs and Forestry;
- **“Firm”** includes any juristic person or any association of persons established or operating in the Republic of South Africa;
- **“garden waste”** means waste generated as a result of normal domestic gardening activities, including grass cuttings, leaves, plants, flowers and other similar small and light organic matter, but does not include tree branches with a diameter thicker than 40 mm at any point of its length, or any other category of waste or waste generated as a result of garden service activities;
- **“garden service”** means the provision of gardening services including the cutting of grass, pruning of trees or any other horticultural activity including landscaping, to any domestic, business, commercial or industrial property;

- **“Household bin”** means an approved receptacle for the storage of 240 liters of domestic waste, which may be supplied by the municipality to property in terms of this By-law;
- **“hazardous waste”** means waste containing or contaminated by poison, a corrosive agent a flammable substance having an open flash-point of less than 90 degrees C, an explosive, radioactive material, a chemical or any other waste that has the potential even in low concentrations to have a significant adverse effect on public health or the environment because of its inherent toxicological, chemical and physical characteristics;
- **“industrial waste”** means waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include any other category of waste such as building waste or domestic waste;
- **“Level of service”** means the frequency of municipal service and the type of service point;
- **“Litter”** means any object or matter which is discarded by a person in any place except in an approved receptacle provided for that purpose or a waste disposal or processing facility;
- **“Local community”** in relation to municipality means that body of persons comprising –
 - (a) The residents of the Greater Letaba Local Municipality
 - (b) The rates payers within the Greater Letaba Local Municipality
 - (c) The private sector, any civic organization, non-governmental organization, labor organization or body which is involved in local affairs within the municipal area; and

(d) a visitor or another person residing outside of the Greater Letaba Local Municipality who , because of his or her presence in the municipality, makes use of services or facilities provided by the municipality;

- **“municipality”** means the Greater Letaba Local Municipality and includes any political structure, political office bearer, councillor, duly authorized agent thereof or any employee thereof acting in any connection with this By-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

- **“municipal services”** means a service relating to the collection of waste, provided exclusively by Greater Letaba Local Municipality in accordance with the provisions of the Municipal Systems Act, 2000 (Act32 of 200) and this By-law;

- **“nuisance”** means any injury, harm, damage, inconvenience or annoyance to any person which is caused in any way whatsoever by the improper handling or management of waste, including but not limited to, the storage, placement, collection, transport or disposal of waste or by littering;

- **“Occupier”** means any person in actual occupation of property or part thereof without regard to the title under which he or she occupies, and includes-

(a) any person in actual occupation of such property;

(b) any person legally entitled to occupy such property;

(c) in the case of such property being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants whether on the person’s own account or as agent for any person entitled thereto or interested therein;

(d) any person having the charge of or management of property, and includes the agent of any such person when is absent from the Republic of South Africa or his or her whereabouts are unknown; or

(e) the owner of such property;

- **“Owner”** means-

(a) a person in whom the legal title to a property is vested;

(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 property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;

(c) in the case where the municipality is unable to determine the identity of the person in whom a legal title is vested, the person who is entitled to the benefit of such property or a building thereon;

(d) in the case of property 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 Title Act, 1986 (Act No.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 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 Companies Act, 1973 (Act 61 of 1973), Trust inervivos, Trust morits causa, a Closed Corporation registered in terms of the Closed Corporation's 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;
 - (g) a lessee of municipal property, who will be deemed to be the owner for the purposes of rendering a municipal account;
- **“Pollution”** means any change in the environment caused by-
 - (a) substances; or
 - (b) radioactive or other waves; or
 - (c) noise, odors, dust or heat, emitted from any activity, including the storage or treatment of waste or substance, construction and the provision of services, weather engaged in by any person or an or organ of state, where that change has an adverse effect on human health or well- being or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;
 - **‘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;

- **“Prescribed fee”** means a fee determined by the municipality in terms of the Municipal Systems Act, 2000 (Act 32 of 2000), or any other applicable legislation;
- **“public place”** includes any public building, public road, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park, enclosed space vested in the municipality, and any road, place or thoroughfare however created which is in the undisturbed use of the public or which the public has the right to use or the right to use or the right to access;
- **“Public road”** means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access and includes-
 - (a) the verge of any such road, street or thoroughfare.
 - (b) any bridge, ferry, or drift traversed by any such road, street or thoroughfare; and
 - (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;
- **“Resident”** means, in relation to the municipality, a person who is ordinarily resident in the municipal area;
- **“Solid waste”** means waste of a solid nature generated by a person or business
- **“Structures Act”** means the Local Government: Municipality Structures Act, 1998 (Act 117 of 1998);
- **“Systems Act”** means the Local Government: Municipality Systems Act, 2000 (Act 32 of 2000);

- **“Tariff”** means the user charge for the provision of municipal services, determined and promulgated by the municipality in terms of the Systems Act, 200;
- **“Waste”** means an undesirable or superfluous by-product, emission, residue or remainder of any process or activity, any matter, gaseous, liquid or soiled or any combination thereof, which-
 - (a) is discarded by any person; or
 - (b) is accumulated and stored by any person with the purpose of eventually discarding it with or without prior treatment connected with the discarding thereof; or
 - (c) is stored by any person with the purpose of recycling, re-using or extracting a usable product from such matter, excluding –
 - I) water used for industrial purpose or any effluent produced by or resulting from such use which is discharged in compliance with the provisions of section 7 (2) of the Water Service Act, 1997 (Act 108 of 1997);
 - II) any matter discharged into a septic tank or French drain sewerage system and any water or effluent contemplated by section 7 (2) of the Water Service Act, 1997 (Act 108 of 1997);
 - III) building rubble used for filling or levelling purposes;
 - IV) any radio-active substance discarded in compliance with the provisions of the Nuclear Energy Act , 1999 (Act No. 46 of 1999);
 - V) any minerals or works as defined in section 1 of the Minerals and petroleum Resources Development, 2002, (Act No. 28 of 2002); and
 - VI) Ash produced by or resulting from activities at an undertaking from the generation of electricity under the provisions of Electricity Act, 1987 (Act No. 41 of 1987).

- **“Waste collector”** means a person who is registered under the provisions of this By-law as a waste collector;
 - **“waste disposal or processing facility”** means any facility or site which receives waste for disposal thereof, and which is operated in terms of a permit obtained from DEAT or any other competent authority or where such a facility is an incinerator, registration or such permission as is required by law, and includes waste transfer and recycling stations;
 - **“Waste generator”** means any person or firm that generates or produces waste;
 - **“Waste management services”** means services that relate to any one or more of the waste require him or her to provide at his or her own expense such number of special receptacles as are specified in the notice, and the he or she must comply with the notice.
- (4) Where any refuse receptacle provided on property is-
- (a) Of a size likely to hinder the efficient removal of refuse therefore by the employees of the municipality;
 - (b) Insufficient for the recap
- **“Waste management services”** means services that relate to any one or more of the waste management activities;
 - **“Waste oil”** means mineral or synthetic oil which is contaminated, spoiled or otherwise unfit for its original purpose; and
 - **“Waste transfer” and recycling station”** means a waste handling facility that receives and temporarily stores garden and bulky waste or any waste recyclable waste, or a combination of garden, bulky and recyclable waste.

2. Application principles and objectives

2.1. This By-law applies to all areas under the control of the Greater Letaba Local Municipality and is limited to regulate the generation, storage and collection of solid, non-hazardous waste.

2.2. The municipality, aware of the Constitutional right of every person to an environment that is not harmful to his or her health or well-being adopts this by-law with the aim of protecting and promoting the health and well-being of all people in the Greater Letaba Local Municipality, District area, providing, in conjunction with applicable laws, a legal and administrative framework within which the municipality can develop and manage its obligations.

2.3. In the implementation and enforcement of this by-law, the municipality may take into consideration the realities of the Greater Letaba Local Municipality area, the difference customs, cultures, circumstances, geographical areas, kinds of property levels of development and conventions and the municipality may use the devices provided for in this by-law, including the application of different norms, standards and guidelines, the granting of exemptions and the utilisation of liaison forums as contemplated in section 37 of this by-law.

3. PROVISIONS OF SERVICES

3. 1. Duties and powers of municipality

3.1.1. The municipality as a primary service provider in the municipal area has a duty to the local community to progressively ensure efficient, affordable, economical and sustainable access to waste management services in its area or a part of its area.

3.1.2. This duty is subject to

(a) the duty of member of the local community as users of the municipality's waste management services or any other person making use of the municipality's waste management services to pay, for the provision of the services, the prescribed charges, which must be priced in accordance with any nationally prescribed norms and standards of rates and tariffs; and

(b) The right of the municipality to differentiate between geographical areas when providing types of waste management services, without compromising on service equity in line with the Constitution.

3.1.3. The municipality must as far as is reasonably possible and subject to the provisions of this By-law provide, at a cost to users of the services prescribed by the municipality-

(a) For the collection of waste on a regular basis, except waste in its area, which is situated at a place which is so isolated or inaccessible that the cost of collecting it would be unreasonably high; and

(b) Access to facilities for the recovery and disposal of waste.

3.1.4. The municipality must notify all users of its waste management services of any decisions taken in terms of this by-law.

3.2. Charges and fees

3.2.1. The municipality may fix the charges payable to it for the removal of waste from property of the disposal of waste at a disposal site under the control of the municipality.

3.2.2. Should a person fail to pay the fee on the date determined by the municipality, the municipality may apply the debt collection procedures provided for in its existing Customer Care and Revenue Management By-laws.

4. WASTE MANAGEMENT

PART 1: Categories of waste

4.1. Categories of waste

4.1.1. For the purposes of this By-law, waste is categorised as either-

(a) General waste, which consists of one or more of the following:

(i) Paper;

(ii) Metals;

(iii) Glass; (iv)Plastic;

(v) Organic materials, which includes building waste; or

(b) Hazardous waste; as described in the DWAF Minimum Requirements documents of more recent guidelines.

4.1.2. Within these two categories, waste is categorised according to its source namely:

a) domestic

b) Commercial; or

c) industrial.

Part 2: General provisions relating to non-hazardous waste

4.2. Provisions of receptacle for storage of waste

4.2.1. The owner of property must provide on such property at his or her own expense a sufficient number of portable, covered receptacles of a size and design approved by the municipality for the reception of the maximum quantity of waste that is likely to accumulate on the property during any period of seven days.

4.2.2. The municipality reserves the right to determine the size and types of receptacles to be used.

4.2.3. The municipality may, where special receptacles are necessary, prescribe special receptacles for the reception and storage of such types of refuse as it may specify and may by written notice to be served on the owner of property require him or her to provide at his or her own expense such number of special receptacles as are specified in the notice, and the he or she must comply with the notice.

4.2.4. Where any refuse receptacle provided on property is-

- (a) Of a size likely to hinder the efficient removal of refuse therefrom by the employees of the municipality;
- (b) Insufficient for the reception of all refuse which is to be removed from such property by the municipality;
- (c) Dilapidated; or
- (d) Likely to cause a nuisance, the municipality may serve a written notice on the owner of the property requiring him or her to provide-
 - (i) Such number of receptacles; or
 - (ii) racks or other means of storing receptacles or packages or bundles of waste within a period stated therein, being not less than 14 days from date of service of such notice, provided that the municipality may in the notice require or authorise the provision of receptacles of such different sizes or design as may be specified where the prescribed standard receptacles would not be practical.

4.2.5. No person may dispose of any refuse by placing it anywhere else than in a receptacle or other container provided or approved by the municipality.

4.2.6. Where a receptacle is supplied free of charge, or at a tariff determined by the municipality, such receptacle remains the property of the municipality and the owner of the property-

- (a) is liable to the municipality for the loss or damage to such receptacle; and
- (b) Must keep the said receptacle in a clean and sanitary condition.

4.2.7. The owner or occupier of the property must ensure that any waste which is blown off the property by wind is promptly retrieved.

4.2.8. Every receptacle containing waste, except plastic bags, which is to be collected, must have clearly marked on it the name and telephone number of the person or company in control of the receptacle.

4.2.9. A person who contravenes a provision of subsection (1), (5), (6)(b), (7) or (8), or who fails to comply with a notice served in terms of subsection (3) or (4) commits an offence.

4.3. Location of receptacle

4.3.1. The owner of property must provide adequate space on the property where a receptacle for the purpose of depositing waste, or packages or bundles of refuse required to be packed or bundled in terms of this By-law are kept, and the place must-

- (a) Comply with requirements imposed by the municipality by notice to the owner where applicable;
- (b) Be constructed in accordance with the requirements of any applicable building regulations;
- (c) Be so located that the receptacle or racks are not visible from a street or public place;

- (d) Where applicable, be so located as to permit convenient access to and egress from such place for waste collection vehicle; and
- (e) Be in a location convenient for the occupants of the property so as to discourage littering or the unhealthy accumulation of waste.

4.3.2. In the case of multi-storey buildings the municipality may approve the installation of refuse chutes, subject to the submission and approval of the plans for such installation.

4.3.3. The owner of the property must place or cause the receptacle to be placed in the space provided and must at all times keep it there, save that-

- (a) in case of buildings in the process of being erected, or existing buildings, the building plans of which have been approved prior to the coming into operation of this By-law, or
- (b) In the event of the municipality being unable to collect and remove waste from the space provided, the owner or occupier may place the receptacle at a place stipulated by the municipality

4.3.4. A person who contravenes a provision of subsection (1) or (3) commits an offence

4.3.5. Standards which receptacles must meet

The municipality may-

- (a) provide plastic bags or bins, which must meet the standards set by national or provincial legislation; and
- (b) Authorize the use of bins and lids constructed of rubber or other material where the design and construction meet the standards set by national or provincial legislation.

4.4. Maintenance of receptacle

4.4.1. The owner or occupier of property must place the receptacle in which waste or packages or bundles of refuse are required to be packed or bundled in terms of this By-law, in the space provided and must-

- (a) At all times keep it there;
- (b) Take reasonable steps to ensure that a sufficient number of receptacles is provided on the property for the discarding of waste; and
- (c) Ensure that the receptacle is-
 - (i) At all times maintained in good order and repair and in a clean and hygiene condition;
 - (ii) At all times suitably weighted and anchored so that it cannot be inadvertently overturned;
 - (iii) At all times is waterproof and animal proof;
 - (iv) Emptied and cleansed periodically so that its contents do not become a nuisance or provide grounds for complaint;
 - (v) kept closed; and
 - (vi) protected against unauthorised disturbance or interference at all times;

4.4.2. A person who contravenes a provision of substance (1) commits an offence.

4.5. Contents of receptacle

4.5.1. No material, including any liquid, which by reason of its mass or other characteristics is likely to render a receptacle unreasonably difficult for employees of the municipality to handle or carry, may be placed in a receptacle.

4.5.2. Organic waste such as food scraps and similar waste likely to rapidly decompose and cause a nuisance, must before being deposited in the receptacles, be sealed in a bag which is disposable and water-tight.

4.5.3. A receptacle provided by the municipality may not be used for any purpose other than the storage of waste.

4.5.4. No person may-

- (a) Light a fire in a receptacle;
- (b) Deposit in a receptacle burning or glowing coal, ashes or other burning material;
or
- (c) Deposit in a receptacle any material that is likely to-
 - (i) cause damage to the receptacle ;
 - (ii) Cause injury to the municipality's employees while carrying out their duties; or

Hinder or delay work by the municipality's employees undertaken in terms of this By-law.

4.5.5. Waste oil must be stored in leak-proof metal, plastic or concrete containers, which are not subject to fire or accidental spillage, and the storage or disposal of waste oil in earth pits or upon the surface of any plot, street or public area is prohibited.

4.5.6. A person who contravenes a provision of this section commits an offence.

4.6. Collection of waste.

4.6.1. The municipality may, having regard to the avoidance of nuisance and the convenience of collection of waste, indicate a position within or outside the property where the receptacle must be placed for the collection and

removal of the waste, and the receptacle must then be placed in that position at the times and for such period as the municipality may require.

4.6.2. The municipality will collect all waste placed in portable receptacles referred to in section 6 from all property upon which a compulsory domestic refuse removal tariff or charge is levied and as frequently as may be determined by the municipality.

4.6.3. The municipality will only collect waste placed in a receptacle or other container approved by it or which is bundled or packaged in a manner approved by the municipality.

4.6.4. Where the collection of a particular kind of waste is not regarded by the municipality as a municipal service in terms of this by-law, the owner of the waste must arrange for the collection and transport of the waste, as often as may be necessary to prevent undue accumulation or any nuisance arising therefrom, to a waste disposal or processing site under the control of the municipality, or to such other place as may be approved by the municipality.

4.6.5. The municipality may stipulate separate times on which particular categories of waste are to be collected.

4.6.6. The municipality may-

- (a) Cause collections to be made at regular periods daily or otherwise, and may alter dates of collection;
- (b) Increase the number of collections as it may become necessary or desirable; and
- (c) Make additional collections should it be desirable.

4.6.7. In the event of any additional collection being required by the owner of property, the collection will be subject to the approval of the municipality and each additional collection must be paid for the owner of property from which the waste is collected at the fixed tariff.

4.6.8. A person requiring commercial services must ensure that the waste collector is registered with the Municipality to collect and dispose of the category of waste, and such person must take reasonable steps to ensure that the relevant waste is collected and disposed of in terms of this By-law.

4.6.9. A person who contravenes a provision of subsection (1), (4) or (8) commits an offence.

4.7. Access to property

4.7.1. Exempt where otherwise approved by the municipality, taking into account physical accessibility, an owner must-

- (a) Provide access from the nearest public road to the waste storage area on property, which access must be independent and unimpeded;
- (b) Provide access from the nearest public road to the waste storage area on property, which access may not lead through any aperture less than 1 metre wide and 2, 5 metres high;
- (c) Ensure that access to waste storage area and all parts of the access thereto is on the same level as the road, and
- (d) Ensure that the waste storage area and all parts of the access thereto is not more than 18 metres from the entrance to the property from which the collection of waste is made.

4.7.2. A person who contravenes a provision of subsection (1) commits an offence.

4.8. Right of entry

4.8.1. Any duly authorised employee of the municipality is entitled to enter, during normal working hours, property in respect of which the municipality's waste management services are rendered-

- (a) For collecting and overseeing the collection of waste;
- (b) For inspecting or replacing receptacles, containers or bundles;
- (c) for inspecting the means of access to the property in general or the place where refuse receptacle or containers are kept so as to ensure that they are accessible and convenient for the collectors; and
- (d) Generally for ensuring that the provisions of this By-law are complied with.

4.8.2. An owner or occupier of property may not-

- (a) Refuse access to the property to an authorised employee of the municipality in the performance on his or her duties;
- (b) Abstract or impede such employee in the performance of his or her duties; or
- (c) Omit or refuse to give to an employee of the municipality any information lawfully required for the proper discharge of the employee of the municipality any information lawfully required for the proper discharge of the employee's duties, or supply false information.

4.8.3. A person who contravenes a provision of subsection (2) commits an offence.

4.9. Inaccessible property

4.9.1. The owner or occupier of property whom the municipality has notified that the property is dangerous for removal of refuse because of-

- (a) The existence on the property of a vicious animal; or
- (b) any other reason which renders the property dangerous, must, on the day on which waste is collected from the property, place for collection all receptacles or other containers, packages or bundles of waste outside the property at a time and for a period as specified in the notice.

4.9.2. A person who contravenes a provision of subsection (1) commits an offence.

4.10. Interference with receptacle

4.10.1. No person other than a person employed by the municipality in connection with the municipality's waste management services may, where a receptacle placed in a street or public place for the purpose of its contents being removed by the municipality, sort over, interfere with or disturb the contents of the receptacle.

4.10.2. A person who contravenes a provision of subsection (1) commits an offence.

4.11. Transport waste

4.11.1. A person removing or conveying waste along any public place in or through an owned or managed by the municipality-

- (a) Must ensure that the receptacle, vehicle or conveyance in which the waste is carried is of a type and design approved by the municipality;
- (b) Must ensure that receptacle, vehicle or conveyance has a body or adequate size and construction for the type of waste being transported;
- (c) Must remove or convey the waste in such a manner as will prevent any nuisance resulting therefrom or the contents or materials therein;
- (d) Must maintain the receptacle, vehicle or conveyance in a clean, sanitary and roadworthy condition at all times;
- (e) may not cause or permit any waste being transferred to become detached, leak or fall from the receptacle, vehicle or conveyance transporting it, except at a waste disposal facility; and
- (f) Must ensure that the waste is deposited at a waste disposal facility that is permitted to accept such waste.

4.11.2. A person who contravenes a provision of subsection (1) commits an offence

Part 3: Specific provisions relating to domestic waste

4.12. Specific provisions relating to generation, storage, collection and transport of domestic waste.

4.12.1. The owner or occupier of property used for residential purposes or for purposes of public worship from which waste is to be collected must-

- (a) except where the municipality has upon written application confirmed in writing that a person is physically incapable or otherwise incapable of complying with the notice, place the receptacle or bag on the pavement in front of the property, provided that the municipality may, having regard to the avoidance of nuisance and the convenience of collection of waste, indicate a position within or outside the property where the receptacle must be placed.
- (b) Place the receptacle or bag on the pavement in front of the property before the time and the day of the week specified by the municipality;
- (c) Ensure that the receptacle or bag is undamaged and properly closed so as to prevent the dispersal of its contents; and
- (d) Ensure that an emptied receptacle is removed within a reasonable time, and that the immediate area around the spot where the receptacle bag was placed, is free from waste that may have been spilled before collection.

4.12.2. If an owner or occupier intends to transfer waste to a disposal site, the provisions of section 16, where applicable, apply.

4.12.3. An owner or occupier of property may not deposit or allow to be deposited in any receptacle for domestic refuse any waste other than domestic waste.

4.12.4. A person who contravenes a provision of subsection (1) or (3) commits an offence and may in addition to any penalty to which he or she may be liable, be required to pay the requisite fee for the collection of other waste.

Part 4: Specific provisions relating to industrial and commercial waste

4.13. Collection of waste

4.13.1. The owner or occupier of property on which industrial or commercial waste is generated must ensure that-

- (a) The container in which the waste is stored not be kept in a public place except as required for collection;
- (b) Such waste is kept in a secure, designed refuse area on the property; and
- (c) The waste is collected by a registered waste collector within a reasonable time after the generation of the waste.

4.13.2. A person who contravenes a provision of subsection (1) commits an offence.

4.14. Compaction of waste

4.14.1. Where-

- (a) The quantity of waste generated on property requires daily removal or more than the equivalent of eight 240-litre bins; and
- (b) the major portion of the waste is compactable, the municipality may require from the owner or occupier to compact that portion of the waste that is compactable, and the owner or occupier must compact any volume of the waste and place it into a receptacle or wrapper approved by the municipality, subject thereto that-
 - (i) The capacity of the wrapper does not exceed 85 litres; and
 - (ii) The mass of the wrapper and contents does not exceed 35 kilograms.

4.14.2. After the waste has been compacted and put into the wrapper as contemplated in subsection (1), it must be placed in the approved receptacle and must be stored so as to prevent damaged to the wrapper or any nuisance arising until collected.

4.14.3. A person who fails to comply with a requirement by the municipality in terms of subsection (1) or who contravenes a provision of subsection (2) commits an offence.

Part 5: Specific provisions relating to other types of waste

4.15. Garden waste

4.15.1. The owner or occupier of property on which garden waste is generated but not composed must ensure that the waste is collected and disposed of at a waste transfer and recycling station or waste disposal site within a reasonable time after the generation thereof.

4.15.2. The municipality may by notice limit the amount of garden waste collected by the municipality from households in conjunction with the normal collection of domestic waste.

4.15.3. An owner or occupier may compost garden waste on the property, provided that such composting does not cause a nuisance and provided further that the quantity of the compost does not exceed the quantity that could be required for gardening purposes on the property where it is composted.

4.15.4. Any person or a waste collector may remove garden waste, provided that once such waste has been collected from the property on which I was generated, it is disposed of at a waste disposal site.

4.15.5. A person who fails to comply with a requirement by the municipality in terms of subsection 4.15.1. or subsection 4.15.2. or who contravenes a provision of subsection 4.15.3. commits an offense.

4.16. Building waste

4.16.1. The owner or occupier of property on which building waste is generated must ensure that-

- (a) Until disposal, all building waste, is kept on the property on which the waste was generated; or
- (b) in a container, approved by the municipality, that may be used for the storage, collection or disposal of building waste, which container may, subject to the provisions of any other law, be kept on the verge adjoining the property on which the waste was generated; or
- (c) Pursuant to any instructions from the municipality, any structure necessary to contain the building waste is constructed; and
- (d) That such building waste be removed within 14 days from completion of the construction in respect of which such waste was generated.

4.16.2. The owner or occupier of property on which building waste is generated may himself or herself dispose of the waste or must ensure that the waste is collected and disposed of by a waste collector registered with the municipality.

4.16.3. A building waste must be disposed at a waste disposal at a waste disposal facility designed for that purpose by the municipality, unless the municipality has given written consent for the building waste to be used for the purpose of land reclamation or for recycling.

4.16.4. A person who contravenes a provision of this section commits an offence.

4.17. Bulky waste

4.17.1. The following is treated as bulky waste:

- (a) An article of non-hazardous waste which does not fit, or cannot be fitted into-

(i) A receptacle for domestic waste provided, a cylindrical container 750 millimetres in diameter and 1 metre in length.

4.17.2. The owner or occupier of property on which bulky waste is generated must ensure that the waste is collected and disposed within a reasonable time after the generation thereof at a waste transfer and recycling station or waste disposal site.

4.17.3. A person who contravenes a provision of subsection (2) commits an offence.

Part 6: Littering and dumping

4.18. Littering

4.18.1. No person may-

(a) discard, place or leave waste on any municipal land, a public road or a public place other than in a receptacle provided or approved by the municipality for the discarding of waste by the public;

(b) Disturb anything in, or remove anything from any receptacle which has been placed for the purposes of collecting waste; or

(c) Sweep any waste into a gutter, onto a road reserve or onto any other public place.

4.18.2. An owner or occupier of the property must monitor the property for acts of littering by another person and must forth with report such act of littering to the municipality.

4.18.3. A person who contravenes a provision of this section commits an offence.

4.19. Dumping

4.19.1. No person may –

(a) except with the permission of the owner or of the person or authority having control thereof dump, accumulate, place, deposit, leave or cause or allow to be dumped, accumulated, placed, deposited or left may waste whatsoever, whether for gain or otherwise, on or in-

(i) A public road.

(ii) A public place:

(iii) any drain, watercourse, flood prone areas, tidal or other water in or abutting on any such road, highway, street lane, public footway or pavement, roadside or other open space to which the public have access; or (iv) Private or municipal land.

4.19.2. Should a person perform any of the acts referred to in subsection (1), the municipality may by written notice require-

(a) The person directly or indirectly or responsible for dumping accumulating, placing, depositing, or leaving the waste;

(b) The owner of the waste, whether he is responsible for dumping accumulating, placing, depositing, or leaving the waste; or

(c) The owner of the property on which waste was dumped, accumulated, placed, deposited, or left, whether he or he is responsible; therefore, to remove the waste within the period stated in the notice.

4.19.3. If a person fails to comply with the requirements of a written notice, the municipality may dispose of, destroy, or remove the waste and may recover the cost of doing so from the person or persons to whom the notice was issued.

4.19.4. If waste has been deposited in or on any unoccupied land in contravention of subsection (1) and it is necessary that the waste be forthwith removed or other steps be taken to eliminate or reduce the consequences of the deposit, the municipality may remove the waste from the land or take other steps to eliminate or reduce the

consequences of the deposit or, as the case may require, to remove the waste and take those steps, and is entitled to recover the cost incurred by it in removing the waste or taking the steps or both and in disposing of the waste

(a) From the owner of the land, unless he or she proves that he or she neither made nor knowingly caused nor knowingly permitted the deposit of the waste; and

(b) From any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste.

4.19.5. Any waste removed by the municipality belongs to the municipality and may be dealt with accordingly.

4.19.6. A person who contravenes a provision of subsection 4.19.1. or who fails to comply with a notice issued in terms of subsection (2) commits an offence

Part 7: Prohibited conduct at dumping sites

4.20. Access to disposal site

4.20.1. Only a person wishing to dump waste who has paid the prescribe fees or who is in possession of written permission issued by the municipality which permits him or her to dump such waste at a disposal site and a person who has obtained the written consent of the municipality to recycle any materials or objects on such a site, is entitled to enter the disposal site or to be on the site.

4.20.2. Notwithstanding anything to the contrary contained in the by-law, any employee of the municipality or anybody acting on behalf of the municipality and duly authorised thereto, may enter a disposal site at any time in exercising his or her duties.

4.20.3. A person making use of the disposal site or entering the disposal site, do so at his or her own risk and the municipality accepts no responsibility for the safety of such person, or any damages or losses sustained by such person.

4.20.4. A person who enters a disposal site or who is found on such a site in contravention of the provisions of the section commits an offence.

4.21. Off- loading of waste

4.21.1. A person who wishes to dump waste at a disposal site, must off-load such waste at such a place within the borders of the disposal site and in such a manner as the attendant may direct.

4.21.2. The municipality may-

- (a) Set aside any part of disposal site where only waste of a particular kind may be dumped or deposited.
- (b) Limit the type or size of a vehicle from which waste may be dumped or deposited at any disposal site.
- (c) Limit the quantity of waste in general or the quantity of a particular type of waste which may be dumped or deposited at any disposal site.
- (d) Determine the days when and hours during which dumping may take place at any disposal site.

4.21.3. Any requirement imposed in terms of this by-law must be indicated to the public by means of an appropriate notice erected at the entrance of the disposal site concerned and any instruction issued by an official of the municipality in charge of access control at the dumping site must be complied with.

4.21.4. The municipality reserves the right not to permit the dumping of toxic or offensive waste at a disposal site.

4.21.5. A person who contravenes any of the provisions of this section commits an offence.

4.22. Ownership of waste

4.22.1. Waste dumped at a disposal site, becomes the property of the municipality and no person who is not duly authorised by the municipality to do so may remove or interfere with such waste.

4.22.2. A person who contravenes subsection (1) commits an offence.

Part 8: Burning of waste

4.23. Burning of waste.

4.23.1. No person may burn waste except at-

- (a) An authorised incinerator operated by the municipality; or
- (b) A place designed by the municipality for such purpose.

4.23.2. A person who contravenes a provision of subsection (1) commits an offence.

5. LICENCES AND CONTRACTS

5.1. Waste transporter registration

5.1.1. No person may provide a commercial service as a transporter of waste for disposal within an area owned by or under control of the municipality unless the person has first registered with the municipality as a waste collector.

5.1.2. A person who wishes to register as a transporter of waste must, subject to the provisions of section 30, submit the required application form and, where applicable, substantiating documentation of the municipality for consideration

5.1.3. The municipality may, for the purposes of considering an application, require additional information.

5.1.4. After consideration of the application for registration, the municipality must-

- (a) Approve the application subject to such conditions it may deem necessary, and issue proof of registration; or
- (b) Reject the application and supply reasons for the rejection.

5.2. Registration

5.2.1. A person who wishes to register as a transporter of waste must provide the municipality with the following information at least 14 days before initiating a service:

- (a) His or her name, residential and portal address, if a company or close corporation, its registration number, names of its directors or members and the address of its registered head office;
- (b) A description of the nature of the waste management services provided or intended to be provided;
- (c) A specification of the scope of the service including-
 - (i) The number of clients served or intended to be served at the time of registration;
 - (ii) The geographical area of operation; and
 - (iii) The disposal facilities owned or intended to be utilised for the disposal of waste collected.

5.2.2. A person making use of the services of a transport of waste must satisfy himself or herself that the contractor is registered with the municipality as the transporter of waste and that such transporter of waste may collect and dispose of the category of waste that the person intends to dispose of.

5.3. Duties of registered transporter of waste

5.3.1. A registered waste transporter may to-

- (a) Operate in contravention of this By-law;

(b) Fail or refuse to give information, or give false or misleading information when required to do in terms of this By-laws;

(c) Dispose of waste otherwise than by disposing of it at a waste disposal site which has been permitted for the disposal of that category of waste.

5.3.2. Where a person has been registered, and –

(a) Such person acquires a firm providing commercial services;

(b) Such person merges with another person or firm providing commercial services;

(c) There is a change in ownership of the enterprise;

(d) There is a change in the juristic nature of the enterprise;

(e) There is a change in nature of the commercial services it provides;

(f) Such person intends to cease providing such services; or

(g) Such person is involved in winding-up proceedings; he or she must immediately notify the municipality of that occurrence and, save in the circumstances set out in subsection (f) or (g), must re-register.

5.3.3. A registered transporter of waste must-

(a) When issued with a weighbridge receipt, keep such weighbridge receipt for 12 months as proof of safe disposal of the waste that has been collected; and

(b) Provide his or her commercial clients with a receipt of the amounts and types of waste that have been collected for subsequent waste treatment or disposal.

5.3.4. A person who contravenes any of the provisions of this section commits an offence, and such person may be deregistered as a transporter of waste.

5.4. Supervision or registered waste transporters

5.4.1. An authorized official of the municipality-

- (a) May inspect the activities of a registered waste transporter and is entitled to enter the workplace of the transporter for this purpose;
- (b) may request to view the transporters weighbridge receipts for the previous 12-month period as proof of safe disposal; and
- (c) Must keep a register recording each inspection that has been undertaken.

5.4.1. If a registered transporter fails to comply with the provisions of section 31 at three inspections over a period of two years, the authorised official may recommend that the municipality deregister such transporter of waste, provided that the consecutive inspections occur at not less than four-month intervals.

6. COMPLIANCE AND ENFORCEMENT

6.1. Notice of compliance and representations

6.1.1. If a person is contravening a provision of this By-law, an official may in writing issue a compliance notice and serve it on the person concerned to take remedial measures.

6.1.2. A notice must state-

- (a) The name and residential and postal address, if either or both of these be known, of the affected person;
- (b) the nature of the contravention, nuisance, harm to human health or damage to the environment that the affected person is causing or is likely to cause;
- (c) in sufficient detail to enable compliance with the notice, the measures required to forestall or remedy the nuisance, harm to human health or damage to the environment;
- (d) that the person must within a specified time period take measures to comply with the notice, to diligently continue with the measures, and to complete the measures before a specific date; and

(e) that failure to comply with the requirements of the notice within the period contemplated in paragraph (d) is an offence; and that written representations may, within the time period stipulated under paragraph (d), be made to the municipality at a specified place.

6.1.3. If a person fails to comply within the stipulated time period with the requirements stipulated in the notice-

(a) the municipality may perform the steps required in the notice, and should the municipality incur any costs as a result of performing such steps, it may recover any reasonable costs irrespective if criminal proceedings have been or not been instituted against a person; and

(b) The person commits an offence.

6.1.4. A person may within the period contemplated in subsection 6.1.2. (e) make representations, in the form of a sworn statement or affirmation to the municipality at the place specified in the notice.

6.1.5. Representations not lodged within the period will not be considered, except where the person has shown good cause, and the municipality condones the late lodging of the representations.

6.1.6. The municipality must consider the representations and any response thereto by an authorized official or any other person if there be such a response.

6.1.7. The municipality may, on its own volition, conduct any further investigations to verify the facts in necessary, and the results on the investigation must be made available to the person, who must be given an opportunity of making a further response if he or she so wishes, and the municipality must also consider the further response.

6.1.8. The municipality must, after consideration of the representations and response, if there be such a response, make an order in writing and serve a copy of it on the person.

6.1.9. The order contemplated in subsection (8) must-

- (a) set out the findings of the municipality;
- (b) Confirm, alter or set aside in whole or in part, the notice of compliance; and
- (c) Specify a period within which the person must comply with the notice/order made by the municipality.

6.1.10. If the notice of compliance is confirmed, in whole or in part, or is altered but not set aside, the municipality will inform the person that he or she-

- (a) Must discharge the obligations set out in the notice; or
- (b) May elect to be tried in court.

6.1.11. If the person elects to be tried in court, he or she must within seven calendar days, notify the municipality of his or her intention and on receipt on the notification by the municipality.

6.1.12. If the person does not elect to be tried in court, he or she must, within the prescribed manner and time discharge his or her obligations under the notice.

6.2. Costs

6.2.1. Should a person fail to take the measures required of him or her by written notice, the municipality may, subject to subsection (4) recover all costs incurred as a result of it acting in terms of section 33 (3) (a) from that person and any or all of the following persons-

- (a) Any person who is or was responsible for, or who directly or indirectly contributed to the pollution or degradation occurred, or that owner's successor in title;
- (c) The person in control of the land or any person who has or had a right to use the land at the time when-

- (i) The activity or the process is or was performed or undertaken; or
- (ii) The situation came about;
- (d) any person who negligently failed to prevent-
 - (i) the activity or the process being performed or undertaken; or
 - (ii) the situation from coming about.

6.2.2. The municipality may furthermore, in respect of the recovery of costs, claim proportionally from any other person who benefited from the measure undertaken by the municipality.

6.2.3. The costs claimed must be reasonable and may include, without being limited to, labour, administrative and overhead costs.

6.2.4. If more than one person is liable for costs incurred, the liability must be apportioned among the persons concerned according to the degree to which each was responsible for the harm to the environment resulting from their respective failures to take the required measures.

7. ADMINISTRATIVE AND OTHER MATTERS

7.1. Authentication and service of order, notice or another document.

7.1.1. Any notice or other document that is served on a person in terms of this By- law, is regarded as having been served-

- (a) when it has been delivered to that person personally;
- (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;

(c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgement of the posting thereof from the postal service is obtained;

(d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a),(b) or (c);

(e) if that person's address and agent or representative in the Republic is unknown when it has been posted in a conspicuous place on the property, if any, to which it relates; or

(f) In the event of a body corporate, when it has been delivered at the registered office of the business property of such body corporate.

7.1.2. Service of a copy shall be deemed to be service of the original.

7.1.3. Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipality manager or a person in attendance at the municipal manager's office.

7.2. Appeal

7.2.1. A person whose rights are affected by a decision delegated by the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

7.3. Exemptions

7.3.1. Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.

7.3.2. The municipality may-

- (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
- (b) alter or cancel any exemption or condition in an exemption; or
- (c) refuse to grant an exemption.

7.3.3. In order to consider an application in terms of sub-section (1), the municipality may obtain the input or comments of the owners or occupants of surrounding property.

7.3.4. An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under section (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.

7.3.5. If any condition of an exemption is not complied with, the exemption lapses immediately.

7.4. Penalties

A person who has committed an offence in terms of this by-law is liable upon conviction to a fine or imprisonment, or either such fine or imprisonment or both such fine and such imprisonment and, in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and, a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

7.5. Repeal

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matter provided for in this By-law.

7.6. Short title and commencement

7.6.1. This By-law may be cited as the Grater Letaba Local Municipality waste management By-law.

7.6.2. This By-law comes into operation on the date of publication thereof in the Provincial Gazette,

CHAPTER 4

MUNICIPAL PROPERT RATES BY – LAW

The Municipal Manager of Greater Letaba Local Municipality acting in terms of s13 (a) of the Local Government: Municipal Systems Act, 2000 (No. 32 of 2000) hereby publishes the Municipality Property Rates By-Law for the Municipality as approved by Council as set out hereunder.

PREAMBLE

WHEREAS section 229(1) of the Constitution authorizes a municipality to impose rates on property and surcharge on fees for the services provided by or on behalf of the Municipality;

AND WHEREAS section 3 of the Municipal Property Rates Act Of 2004 provides that a Municipality must adopt a policy consistent with this Act on the levying of rates on ratable property within the Municipality,

AND WHEREAS section 6 of the Municipal Property Rates Act of 2004 requires a Municipality to adopt by-law to give effect to the implementation of its property rates policy; the by-laws may differentiate between the different categories of properties and different categories of owners of properties liable for the payment of rates;

NOW THEREFORE BE IT ENACTED by the council of the Greater Letaba Local Municipality as follows:

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1. DEFINITIONS

For the purposes 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 unless the context indicates otherwise-

“Municipality” means the Greater Letaba Local Municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

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

“Accommodation” means accommodation in an accommodation establishment, a room, dwelling house or second dwelling unit, self- catering apartment or free standing building let to transient guests consisting of three or more lettable units;

“Act” means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004) and any amendment thereof;

“Annually” means once every financial year;

“Business and commercial property” means-

- a) Property used for the activity of buying, selling or trading in commodities or services and includes any office or other accommodation on the same property, the use of which is incidental to such activity; or
- b) Property on which the administration of the business of private or public entities take place;

“Category” means-

- a) In relation to a property, means a category of properties determined in terms of section 8(2) of the Act;

b) In relation to the owners of property, means a category of owners determined in terms of section 15 (2) of the Act;

“Farm property or small holding used for agricultural purpose”- means property that is used primarily used agricultural purpose, for the cultivation of soils for purposes of planting and gathering in of crops; forestry in the context of the planting or growing of trees in a managed and structured fashion; the rearing of livestock and the propagation and harvesting of fish, excludes the use of a property for the purposes of eco-tourism; and in the respect of property on which game is reared, trade or hunted, it excludes any portion that is used for commercial or business purposes. In this definition such properties could also be included within the urban edge of town;

“Farm property or small holding used for business and commercial purpose”-

- a) Property used for the activity of buying, selling or trading in commodities or services and includes any office or other accommodation on the same property, the use of which is incidental to such activity; or
- b) Property on which the administration of the business of private or public entities take place;
- c) Game farm where a variety of wild animals are kept or bred often with facilities for visitors to observe or hunt the animals.

“Farm property or small holding mainly used for residential”- predominantly/ main used for residential purpose and not used for agricultural or commercial purpose.

“Farm property or smallholding that is vacant land”- Farm land without any improvements thereon, which is not used for residential, commercial, agriculture purpose.

“Financial Year”- the period starting from 1 July in a year to 30 June the following year;

“Industrial property” -means property used for construction, repair, trade or manufacturing, production, assembly or processing of finished or partially finished products from raw materials or fabricated parts on such a large scale that capital and labour are significantly involved, and includes any office or other accommodation on the same property, the use of which is incidental of such activity;

“Local community”- in relation to the Municipality-

a) Means that body of persons comprising-

- (i) The residents of the Municipality;
- (ii) The rate payers of the Municipality;
- (iii) Any civic organizations and non-governmental, private sector or labour organizations 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
- (v) Includes, more specifically, the poor and other deprived sections of such body of persons.

“Local Municipality”- 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;

“Multiple purposes” – in relation to a property, means the use of a property for more than one purpose as intended in section 9 of the Act;

“Municipal Property” – is property registered or established in the name on the Greater Letaba Local Municipality;

“Municipality”-

- a) As a corporate entity means a Municipality as described in section 2 of the Municipal Systems Act, 2000 (Act No. 32 of 2000); and
- b) As a geographical area, means a municipal are demarcated in terms of the Local Government: Municipal Demarcation Act. 1998(Act No. 27 of 1998);

“Owner” –

- a) In relation to a property referred to in paragraph (a) of the definition of “property”, means a person in whose name the right 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 the “property” means a person in whose name the right is registered of 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 in the Act of the term “publicly controlled” provided that a person mentioned below may for the purposes of this Act be regarded by municipality as the owner of a property.

“Permitted use” – in respect of a property means the limited purposes for which a property may be used in terms of the following-

- a) Any restrictions imposed by-
 - (i) A condition of title; or

- (ii) A provision of a town planning or land use scheme; or
- (lii) Any legislation applicable to any specific property or properties; or
- b) Any alleviation of any such restrictions;

“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 in terms of legislation; or
- d) Public services infrastructure;

“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, if still used dominantly for residential purposes;
- b) Is a unit registered in terms of the Sectional Title Act and is used predominantly for residential purposes;
- c) Is owned by a share-block company and is used predominantly for residential purposes;
- d) Is a residence used for residential purposes situated on a property used for educational purposes;

- e) Is property which is included as residential in valuation list in terms of section 48(2)(b) of the Act;
- f) Are retirement schemes and life right schemes used predominantly (60% or more) for residential purposes;

“State owned property” – Property that is owned by the state and which is for government use.

“Vacant property” – means any land without any improvements thereon (empty stands), hotels, hostels, old-age homes and accommodation establishments, irrespective of their zoning or intended use, have been specifically excluded from this property category;

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

2. PURPOSE

The purpose of this by-law is to give effect to the implementation of the municipal rates policy as provided for in section 6 read together with section 3 of the Local Government: Municipal Property Rates Act of 2004.

This By-law applies in respect of all property in the municipality’s area of jurisdiction.

3. GUIDING PRINCIPLES IN LEVYING PROPERTY RATES

The municipality in levying property rates shall be guided by the following principles:

Affordability, equity, poverty alleviation, socio-economic development, financial stability and cost efficiency

4. CONSULTATION PROCESS

4.1. Before Council commands a new valuation in terms of the Act, a consultation process involving all interest grounds will be undertaken during which the purpose and method of valuation will be explained.

4.2. Before the Municipality accepts the rates by-law the municipality manager must follow a process of public participation, as envisioned in chapter 4 of the Municipal Systems Act, and comply with the following requirements:

5. CATEGORIES OF PROPERTY

5.1. Categories of rateable property for purposes of levying differential rates in terms of section 8(2) may be determined as follows:

- a) Residential properties,
- b) Business and commercial properties,
- c) Industrial properties,
- d) Municipal properties (rateable),
- e) State owned properties,
- f) Public service infrastructure
- g) Agricultural,
- h) Agricultural vacant land,
- i) Non-permitted use,
- j) Multiple use properties
- k) Vacant land, and
- l) State owned land, and

m) Any other properties within the municipality.

6. CATEGORIES OF OWNERS

6.1. Owners of the properties as outlined in section 2 above are liable for the payment of rates as provided for in section 6(2)(b) of the Act as determined by valuation and supplementary valuation roll of the municipality.

6.2. Greater Letaba Local Municipality has determined in its rates policy the following categories of owners of properties:

6.2.1. Those owners who qualify and who are registered as indigent in terms of the adopted indigent policy of the Municipality;

6.2.2. Owners of properties situated within an area affected by:

a) A disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 of 2002); or

b) Any serious adverse social or economic conditions.

6.2.3. Owners of properties situated in “privately owned townships” serviced by the owner;

6.2.4. Owners of agricultural properties as referred to in clause 9.1.3 of this policy;

6.2.5. Owners of farm properties that are used for residential purposes;

6.2.6. Owners of farm properties that are used for industrial, commercial and business purposes;

6.2.7. Owner of small holdings used for residential purposes;

6.2.8. Owners of smallholdings used for industrial, commercial and business purposes;
and

6.2.9. Owners of developed properties not yet sold and transferred;

6.2.10. Owners of properties used for commercial purposes;

6.2.11. Owners of Public Benefit Organisation;

6.2.12. Beneficiaries of Land Reform.

7. EXEMPTIONS

7.1. The following categories of owners are determined for the purposes of granting exemptions, reductions and rebates:

7.1.1. Those owners who qualify and who are registered as indigents in terms of the adopted indigent policy of the municipality;

7.1.2. Owners of property situated within an area affected by a disaster within the meaning of the Disaster Management Act, 2002 (Act No. 57 Of 2002); or

7.1.3. Serious adverse social or economic conditions;

7.1.4. Owners of residential properties with a market value below the amount as determined annually by the municipality in its budget;

7.1.5. Owners temporarily without income;

7.1.6. Owners who are dependent on pensions or social grant for their livelihood; and

7.1.7. Any other owners as outlined in section 15 to 18 of the Act.

8. DIFFERENTIAL RATING

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

8.1.1. The nature of the property including its sensitivity to rating

8.1.2. The promotion of social and economic development of the municipality

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

9. ACCOUNTS TO BE FURNISHED

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

9.1.1. The amount due for rates payable,

9.1.2. The date on or before which the month is payable,

9.1.3. How the amount was calculated,

9.1.4. The market value of the property, and

9.1.5. Rebates, exemptions, reductions, reductions or phasing-in, if applicable.

9.2. A person liable for payment of rates remains liable for such payments, whether or not such person has received a written account from the municipality. If the person concerned has not received a written account, necessary enquiries must be made with the municipality.

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

10. METHOD AND TIME OF PAYMENT

10.1. Residents may apply to pay their rates annually and such a request must be submitted to the Finance Directorate in writing, and must be payable by a predetermined date of each year.

10.2. Monthly rate instalments must be paid on or before the due date reflected on the monthly accounts.

11. SPECIAL RATING AREAS

11.1. 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.

11.2. The following matters shall be attended to in consultation with the committee whenever special rating is being considered:

11.2.1. Proposed boundaries of the special rating area;

11.2.2. 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;

11.2.3. Proposed improvements clearly indicating the estimated costs of each individual improvements;

11.2.4. Proposed financing of the improvements or projects;

11.2.5. Priority of projects if more than one;

11.2.6. Social economic factors of the relevant community;

11.2.7. Different categories of property;

11.2.8. The amount of the proposed special rating;

11.2.9. Details regarding the implementation of the special rating; and

11.2.10. The additional income that will be generated by means of this special rating.

11.3. In determining the special rates, the municipality shall differentiate between different categories as referred to in section 3.

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

12. LIABILITY FOR RATES

12.1. The owner of the property is the person liable for the payment of the rates levy on the property, as determined in section 24 of the Act.

12.2. Joint owners of a property shall be jointly and severally liable for the payments of the rates levied on the property.

12.3. In the case where an agricultural property is owned by more than one owner in undivided shares and these undivided shares were allowed before the commencement date of the subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970), the Municipal Council shall hold any joint owner liable for all the rates levied in respect of the Agricultural property concerned or hold any owner liable for that portion of rates levied on the property that the represents that joint owner's undivided share in property.

12.4. Rates levied on property in sectional title schemes, shall be payable by the owner of each unit. The Municipal Council may, depending on the circumstances, have an agreement with the body corporate to the collect rates on its behalf as its agents.

12.5. Rates levied on property in sectional title schemes, where the body corporate is the owner of any specific sectional title unit, shall be payable by the Body Corporate.

12.6. If any amount due for rates is unpaid by the owner of the property, the municipality may recover the amount from the tenant or occupier of the property, the amount due for rates may also be recovered from the agent of the owner as set out in section 29 of the Act.

12.7. In the event that a company, a closed corporation or body corporate in terms of the Sectional Title Act, 1986 (Act No. 95 of 1986) is the owner of the property, the

payment of property rates is the joint responsibility of the directors and members of the legal person.

12.8. Property rates will be recovered monthly.

12.9. If a property owner, who is responsible for the payment of property rates in terms of this policy, fails to pay such rates in the prescribed manner, it will be recovered from him or her in accordance with the provision of the Credit Control, Debt Collection and indigent policy of the municipality.

12.10. Arrears rates shall be recovered from tenants, occupiers and agent of the owner, in terms of section 28 and 29 of the Act.

12.11. Where the rates 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 approximately adjusted for the 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 current valuation.

12.12. In addition, where the error occurred because of the 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 a maximum rate permitted by prevailing legislation.

12.13. Where the rates levied on a property are based on a supplementary valuation made in terms of section 78(1) of the Municipality Rates Act, 2004 such rate will be payable from the date contemplated in section 78(4) of the Municipality Property rates Act 2004.

13. GENERAL VALUATION

13.1. The municipality will undertake a general valuation of all rateable properties in its area of jurisdiction and a valuation roll will be compiled for five years as per amended Property Rates Act.

13.2. The Municipality will undertake supplementary valuations on an ongoing basis and prepare a valuation roll once during each financial year.

13.3. The municipality will in accordance with section 79 of the Municipality Property Rates Act, make amendments regularly to the particulars on the valuation roll.

14. REPEAL

15. SHORT TITTLE AND COMMENCEMENT

This by-law is called Greater Letaba Local Municipality Property Rates By- Laws and shall be effective on the date of publication in the provincial gazette.