

EMAKHAZENI LOCAL MUNICIPALITY



DRAFT BYLAWS ON CREDIT MANAGEMENT

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1. Title

These by-laws are entitled the By-Laws on Credit Management.

2. Definitions

Unless it is clear that the context shows otherwise, in these by-laws –

“accounting officer” is the Municipal Manager of the Municipality;

“annual report” is the report that every municipality must prepare for each financial year;

“approved budget” is the annual budget approved by the Municipal Council;

“Auditor-General” is the person appointed in that position in terms of the Constitution and includes persons acting in that position, persons delegated to act by the Auditor-General and persons designated to perform a duty by the Auditor-General;

“basic municipal service” is a municipal service that is necessary to ensure an acceptable and reasonable quality of life and which, if it is not provided, will endanger public health or safety or the environment;

“chief financial officer” means the official designated by the Municipal Manager;

“council” means the Council of Emakhazeni established in terms of(name, number and date of legislation in terms of which it was established);

“councillor” is a member of the Council;

“debt” is a monetary obligation created by an agreement;

“fruitless and wasteful expenditure” is expenditure made in vain and that could have been avoided if reasonable care was exercised;

“Mayor” is the councilor elected as Mayor in terms of the Local Government: Municipal Structures Act 117 of 1998;

“MEC for Local Government” is the Member of the Executive Council responsible for local government in the province;

“month” is one of the 12 months of a calendar year;

“Municipality” is either the body referred to in Section 2 of the Local Government: Municipal Systems Act 32 of 2000, or the area determined in terms of the Local Government: Municipal Demarcation Act 27 of 1998;

“Municipal Manager” is the person appointed in terms of Section 82 of the Local Government: Municipal Structures Act 117 of 1998;

“National Treasury” is the body established in terms of Section 5 of the Public Finance Management Act 1 of 1999;

“official” is an employee of a Municipality or a person seconded to work as member of staff of a Municipality or a person contracted to work as member of staff of a Municipality other than an employee;

“political structure” is the council of a Municipality or any committee of a Municipality elected, appointed or designated in terms of the Local Government: Municipal Structures Act 117 of 1998;

“Provincial Treasury” is a treasurer established in terms of Section 17 of the Public Finance Management Act 1 of 1999;

“service delivery and budget implementation plan” is a detailed plan approved by the Mayor in terms of the Local Government: Municipal Finance Management Act 56 of 2003, for implementing the Municipality’s delivery of municipal services and its annual budget;

“supervisory authority” is a body constituted by Council to ensure compliance with these by-laws;

“**staff member**” is an employee of the Municipality, including the Municipal Manager;

3. **Objects**

The objects of these by-laws are to –

- (a) enable the Municipality to collect -
 - rates
 - fees
 - surcharges on fees
 - charges
 - tariffs
 - interest that accrued on money due in respect of any of the above and
 - collection charges,that are due to the Municipality, in a prompt and efficient way;
- (b) set realistic targets for the collection of money due to the Municipality, consistent with –
 - (i) generally accepted practices and ratios; and
 - (ii) the income estimates set out in the annual budget of the Municipality and taking into account an acceptable provision for bad debts;
- (c) ensure that all new consumers conclude a service agreement with the Municipality before services are rendered to them;

- (d) create an environment that induces consumers to pay for the services rendered to them;
- (e) enable the Municipality to take action against all forms of non-performance;
- (f) ensure that consumer management and credit management is cost-effective and efficient;
- (g) ensure that the rights and responsibilities of both the consumers and the Municipality are respected and protected; and
- (h) ensure that the Municipal Manager and the Chief Financial Officer are held responsible for the implementation of credit control measures and for reporting to the Council on all its relevant aspects.

4. Non-discrimination

4.1 These by-laws are applied in such a way as not to discriminate between persons on the grounds of race.

4.2 These by-laws are applied in such a way as to recognise all people's right to have their dignity, their privacy and their right to access to social assistance respected and protected.

5. Application of By-laws

These by-laws apply to all residents living in the jurisdiction of the Emakhazeni Municipality and who are consumers of municipal services, as well as to all businesses and government organizations situated in the Municipality and who consume municipal services, regardless of whether any of the consumers concluded a consumer's agreement with the Municipality or not.

6. Metering of Services

6.1 The Municipality must have a metering system to determine the amount or the level of services consumed.

6.2 The Municipality may use one of two metering systems -

(a) The kind of meters used to take consumption readings monthly; or

(b) Pre-paid electricity meters.

6.3 Technology may be used to download the meter readings referred to in subsection 6.2(a) electronically.

6.4.1 In order to decrease her/his consumption, a consumer has the right to request the Municipality to –

(a) Install a pre-paid meter; or

(b) Disconnect metered services;

6.4.2 The consumer must pay the cost of the installation of a pre-paid meter or disconnection of metered services as referred to in subsections 6.4.1(a) and (b).

6.5 If a consumer is registered as indigent, the Municipality may, at its own cost, install a pre-paid meter.

7. Billing of Services

7.1 The Municipality must compile a statement in the form of an account, indicating –

(a) The quantity of services consumed over a specific period; and

(b) The related cost to the consumer,

and have the accounts delivered to its consumers.

7.2 The fact that a consumer does not receive an account, does not exempt that consumer from the obligation to pay the account by the due date.

8. Consumer Agreements

8.1 Consumers must conclude a service agreement with the Municipality before services can be rendered to them.

8.2 The requirements for a valid service agreement are as follows:

8.2.1 The consumer must produce valid identification;

8.2.2 The consumer must agree to an Information Trust Corporation (ITC) check on her/his credit record and, depending on the associated risk, a possible additional deposit may have to be paid;

8.2.3 The consumer must pay a service deposit, which is calculated on the basis of the maximum electricity consumption for two consecutive months, provided that the amount is not less than is prescribed in the electricity tariff;

8.2.4 The deposit is payable in cash and/or any other monetary form commonly accepted in business and may be paid off over a maximum period of six months;

8.2.5 If the estimated monthly electricity account is at least R1 500, a guarantee may be accepted instead of a deposit;

8.2.6 Government organizations and other designated consumers are exempt from paying a deposit;

8.2.7 If, at any time, the deposit is found to be inadequate, the Municipality may require the consumer to increase the deposit within 30 days and if the consumer fails to do so, the Municipality may, after hearing an appeal in terms of Section 62 of the Systems Act, terminate the supply of services;

- 8.2.8 The deposits of businesses and industrial consumers must be re-assessed three months after the initial deposit was paid;
- 8.2.9 The deposit does not earn interest with the Municipality;
- 8.2.10 The deposit will be repaid to the consumer within 60 days after the termination of the consumer's agreement;
- 8.2.11 Before the deposit is repaid to the consumer, the Municipality has the right to deduct any amounts due by the consumer to the Municipality;
- 8.2.3 If a consumer does not conclude a consumer's agreement with the Municipality, the Municipality must give written notice to that consumer to enter into an agreement, failing which the electricity supply may be terminated without further notice.

9. Payment Procedure

- 9.1 Consumers must pay their accounts before or on the 10th day of each month;
- 9.2 Interest is charged on all accounts that are in arrears for longer than 60 days;
- 9.3 Pre-paid electricity may only be sold to consumers if their accounts are paid up to date;
- 9.4.1 The Municipality may, with the consent of the consumer, enter into an agreement with that consumer's employer, to deduct from his/her salary :
- (a) Outstanding amounts due by that consumer to the Municipality, or;
 - (b) Regular monthly amounts as agreed upon.
- 9.4.2 The Municipality may provide special incentives for employers to enter into such an agreement and for employees to consent to such an agreement;

9.5 The Municipality allocates the payment received for services to those different services.

10. Debt Collection

If a consumer fails to pay her/his account by the due date, the following procedure will be followed with regard to the supply of water and electricity:

10.1 The services will not be suspended immediately, but the consumer will be notified with the following month's account that –

(a) The previous month's account is in arrears; and

(b) Interest will be charged on the arrear amount;

10.2 If an account remains outstanding for longer than 60 days, the services will be disconnected, *excluding* the provision of water;

10.3 The account will then be debited with the cost of the disconnection and also the cost of a reconnection, if it takes place;

10.4 For the services to be restored, the consumer must pay the outstanding account in full, plus the costs of disconnection and reconnection mentioned in subsection 10.3;

10.5 If a consumer is unable to settle the outstanding amount on her/his account in full, it is possible to make an arrangement with the Municipality for settling of the outstanding amount in monthly installments over an extended period of time, subject to the following conditions –

(a) The period for payment in terms of the arrangement may be negotiated between the consumer and the Municipality and should strike a balance between the interests of both parties;

(b) The minimum monthly installment in terms of an arrangement is R50;

- (c) The first payment must be made within 30 days after the date of the arrangement;
 - (d) Only one arrangement per consumer *per annum* is allowed in the settling of arrear accounts;
 - (e) An acknowledgment of debt and a consent to judgment forms part of the agreement and as part of the arrangement, debit orders may be completed for the monthly repayment of arrears; and
 - (f) The Municipality does not charge interest on the arrear amount that are repayable in terms of the arrangement, provided that the arrangement is honored;
- 10.6 If this arrangement is dishonored, the services, with the exception of water, are discontinued and the full balance is payable immediately;
- 10.7 If the services are disconnected and there is no reaction from the consumer, representatives from the Municipality visit the premises after 14 days to see if the services are still discontinued. If the electricity is illegally reconnected, it is again disconnected, this time more tamperproof and at the cost of the consumer, alternatively, a prepaid meter is installed, also at the cost of the consumer;
- 10.8 A notice is also served on the consumer within 14 days from the date that the arrangement was dishonored, to inform him/her that a restriction will be placed on the consumption of water;
- 10.9 If, after the Municipality took the steps referred to in subsections 10.2, 10.3 and 10.4 and the outstanding amount is still not paid or the consumer does not honor an arrangement made in terms of subsection 10.5, the Municipality may take legal action;
- 10.10 In terms of this legal action, a letter of final demand is delivered to the debtor, for which the debtor must bear the cost;

- 10.11 If there is no response to the letter of demand within 14 days, the account is handed over to attorneys or debt collectors, who will take further legal action;
- 10.12 The consumer is still obliged to pay her/his current accounts to the Municipality;
- 10.13 When a consumer's account is handed over to debt collectors or attorneys, no further interest accrues on the outstanding amount older than 90 days;
- 10.14 When an account is handed over to attorneys or debt collectors for legal action, the debtor concludes arrangements for repayment with them and no longer with the Municipality;
- 10.15 If a debtor makes diligent payments as agreed upon with the attorney or debt collectors, the supply of electricity may be restored on appeal made to the supervisory authority;
- 10.16 If a repayment agreement with an attorney or debt collector referred to in subsection 10.14 is breached, services are disconnected again and legal action instituted for the collection of the arrears;
- 10.17 The legal action referred to in subsection 10.16 is held in abeyance if all repayments are done as well as the unpaid current accounts;
- 10.18 A consumer has the right to request extension for the payment of a current account, due to exceptional circumstances and it may only be granted for one month's account and then only until the end of that particular month;
- 10.19 As far as businesses are concerned, they will also be notified that their accounts are in arrears, but no arrangements for payment of outstanding amounts are made with them and once their accounts are 60 days in arrears, all services, except water, are suspended immediately;

10.20 If a consumer pays her/his account with a cheque or debit order and it is returned marked "Refer to Drawer", the full balance is payable immediately;

10.21 The supply of electricity to a consumer referred to in subsection 10.20 is disconnected until the full amount is paid, this time in the form of cash, or a bank guaranteed cheque and the consumer is liable for the bank costs;

10.22 If a consumer referred to in subsection 10.20 paid with a cheque, no further cheques are accepted from her/him, unless they are bank guaranteed;

10.23 A consumer may not nominate money paid by her/him to cover specific services, and the Municipality allocates money received from consumers as follows:

- Sundry debtors, including arrangements for payment of arrears
- Assessment Rates
- Refuse
- Interest
- Electricity
- VAT
- Deposit Charges
- Rental Housing
- Erf Installments
- Government House Installments
- Legal costs

- Money not allocated;
- Sewerage
- Water

10.24 The same debt collection procedures as set out above, apply to accounts on properties that are not metered;

10.25 As part of the payment campaign, ward councillors are furnished monthly with a list of the people in their wards who do not pay their consumer accounts, in order that the councillors may assist in recovering the outstanding amounts;

11. Indigent Consumers

11.1 A Municipality shall, within the confines of its capacity and its financial means, conduct a socio-economic study of its jurisdiction in order to categorize its constituency;

11.2 Indigent consumers has the right to be provided for in this policy, subject to the Municipality's human resource capacity and its financial means;

11.3 In relation to indigent consumers, the Municipality shall, within the confines of its human resource capacity and financial means –

- (a) Provide free kilolitres of water per month;
- (b) Grant indigent status to those households who qualify in terms of the criteria;
- (c) Install pre-paid meters to those households who qualify as indigent; and
- (d) Provide free education to indigent consumers on how to repair water leaks.

11.4 The criteria for a consumer to be granted indigent status are –

- (a) She/he must be a resident of the Municipality and must show a valid South African identity document;
- (b) She/he must submit a Governmental Grant Form and must re-apply every 12 months to have the indigent status re-confirmed; and
- (c) Her/his household's total gross monthly income may not exceed *two* state old aged pensions;

11.5 The procedure for a consumer to be granted indigent status is as follows –

- (a) The applicant's identification is verified;
- (b) A screening and monitoring committee conducts an interview with the applicant to assess the application in accordance with the Gauteng Local Government Association (GALA) questionnaire;
- (c) The screening and monitoring committee has as its members the following office-bearers:
 - (i) The Accounting Officer, who also acts as Chairperson;
 - (ii) The Director of Finance; and
 - (iii) Two Officials from the Directorate of Finance;
- (d) The supervisory authority oversees and monitors the assessment;

11.6 In the period it takes to grant approval to an application for indigency, the applicant remains subject to the normal sanctions for non-payment;

11.7 All applications for indigent status received on or before the 15th of each month and which are approved, receives the grant in the same month;

11.8 Once a consumer is registered as indigent, a pre-paid meter may be installed for her/him, at the cost of the Municipality;

11.9 When indigent status is granted to a consumer, the subsidy is implemented as follows -

- (a) Provision of free kilolitres of water per month;
- (b) Provision of free kilowatts of electricity consumption per month;
- (c) The consumer pays the lowest tariff on the sliding scale for sewerage services, depending on the size of the property;
- (d) The consumer pays the full charge for refuse removal; and
- (e) The consumer pays the full charge for property rates;

11.10 When indigent status is granted to a consumer, she/he remains liable for all consumption in excess of the subsidised amount;

11.11 If a consumer who was granted indigent status, does not pay her/his account for consumption in excess of the subsidised amount, the same sanctions as for other consumers as set out in section 10 above, applies;

11.12 If a consumer is granted indigent status and she/he tampers with, or damages the pre-paid meter, the normal sanctions apply;

11.13 If a person was granted indigent status and abuses the system and proof of this is submitted, that person is not considered indigent for the purposes of this policy for a period of six months after the proof was submitted.

12. Appeals Procedure

12.1 A consumer whose rights are affected by a decision taken by –

- (a) A political structure;
- (b) A political office-bearer;
- (c) A councillor; or
- (d) A staff member

of a Municipality in terms of a power or duty delegated to it/them, may appeal against that decision;

12.2 The appeal is lodged by giving written notice of the appeal and the reasons to the Municipal Manager within 21 days after the date of notification of the decision;

12.3 If the decision against which the appeal is lodged, was taken by –

(a) A staff member other than the Municipal Manager, then the Municipal Manager is the appeal authority;

(b) The Municipal Manager, then the Executive Committee or Executive Mayor is the appeal authority and if the Municipality does not have an Executive Committee or Executive Mayor, the Council is the appeal authority;

(c) A political structure or political office-bearer or a councillor, then the Council is the appeal authority, if the Council comprises less than 15 councillors and if the Council comprises more than 14 councillors, then a committee of councillors appointed by the Council and who were not involved in the decision is the appeal authority;

12.4 The Municipal Manager must promptly submit the appeal to the appropriate appeal authority as set out in subsection 12.3;

12.5 The appeal authority must consider the appeal and may confirm or vary or revoke the decision that was taken, but it may not detract from any rights that accrued as a result of the decision; and

12.6 An appeal authority must start with an appeal within six weeks and take a decision within a reasonable period.

13. Incentive Schemes

In order to create a culture of payment for services, the Municipality introduces the following incentives:

13.1 A monthly draw is held for all consumers whose accounts have been paid up to date for at least 6 months and the winning consumer's account will be credited with **R xxx**;

13.2 If a consumer's current account as well as all arrears not older than 6 months, are fully paid, % of all other debt is written off.

14. Clearance Certificates

Property within the jurisdiction of the Municipality may not be transferred until the Municipality produces a clearance certificate, confirming that all amounts due to the Municipality in connection with that property during the 2 years before the date of application for the certificate, is fully paid.

15. Responsibility for Credit Management

15.1 The Mayor of the Municipality or Executive Committee -

- (a) Must provide political guidance over the fiscal and financial affairs of the Municipality;
- (b) May monitor and oversee the exercise of responsibilities assigned to the Accounting Officer and the Chief Financial Officer, but may not interfere in the discharge of these responsibilities;
- (c) Must take all reasonable steps to ensure that the Municipality delivers on its Constitutional and statutory mandate within the limits of the approved budget;

- (d) Must, within 30 days of the end of each quarter, prepare and submit a report to the Council on budget implementation and the Municipality's state of financial affairs;
- (e) Must provide general political guidance over the priorities for the budget's preparation;
- (f) Coordinate the annual revision of the Integrated Development Plan and the preparation of the budget;
- (g) Must ensure that he/she approves the Municipality's service delivery and budget implementation plan within 28 days after the approval of the budget;
- (h) Must ensure that the performance agreements of the Municipal Manager and senior management are linked to the performance objectives and to the service delivery and budget implementation plan;
- (i) Must ensure that the revenue and expenditure projections for each month and the service delivery targets and performance indicators for each quarter, as set out in the service delivery and budget implementation plan, are made public within 14 days after its approval;
- (j) Must ensure that the performance agreements of the Municipal Manager and senior management are made public within 14 days after approval of the service delivery and budget implementation plan;
- (k) May set up a facility for residents to report abuse of the indigency provisions, theft, illegal connections of services, damaging of and tampering with instruments installed to deliver services to the community, coupled with –
 - (i) A reward for such information; and
 - (ii) Protection of the identity of the person/s reporting such incidents.

15.2 The Municipal Manager –

- (a) Is the accounting officer of the Municipality;

- (b) Must act with integrity, honesty, fidelity and in the Municipality's best interests in managing its financial affairs;
- (c) Must disclose all material facts which are available and which might influence decisions or actions of the Mayor or Council;
- (d) Must seek, within the sphere of her/his influence, to prevent any prejudice to the financial interests of the Municipality;
- (e) May not act in a way that is inconsistent with duties assigned to accounting officers in terms of national legislation;
- (f) May not abuse the position of privilege or of confidential information obtained for personal gain or to improperly benefit another person;
- (g) Must take all reasonable steps to ensure that the Municipality has effective revenue collection systems and a proper credit control and debt collection policy;
- (h) Must ensure that revenue due to the Municipality is calculated on a monthly basis;
- (i) Must ensure that accounts for municipal tax and charges for municipal services are prepared on a monthly basis or a shorter period, where monthly accounts are uneconomical;
- (j) Must ensure that all money received, is deposited in the Municipality's primary bank account;
- (k) Must ensure that the Municipality has and maintains a management, accounting and information system which:
 - (i) Recognizes revenue when it is earned;
 - (ii) Accounts for debtors; and
 - (iii) Accounts for receipts of revenue;

- (l) Must ensure that the Municipality has and maintains a system of internal control in respect of debtors and revenue;
- (m) Must ensure that the Generally Accepted Municipal Accounting Practices (GAMAP) are adhered to;
- (n) Must ensure that the Municipality charges interest on arrears, except where the Council has granted exemptions in accordance with its budget-related policies and within a prescribed framework;
- (o) Must ensure that all revenue received by the Municipality, including revenue received by any collecting agency on its behalf, is reconciled on a weekly basis;
- (p) Must immediately inform National Treasury of any payments due by any organ of state in respect of municipal tax or services, if such payments are regularly in arrears for periods of more than 30 days;
- (q) Must ensure that any funds collected by the Municipality on behalf of another organ of state is transferred to that organ at least on a weekly basis and that such funds are not used for municipal expenditure;
- (r) Must ensure that the Municipality has and maintains a system of internal control in respect of creditors and payments;
- (s) Must ensure that the Municipality's available working capital is managed effectively and economically in terms of the prescribed cash management and investment framework;
- (t) Must ensure that all financial accounts are closed at the end of each month and reconciled with its records;
- (u) Must ensure that the spending of funds is in accordance with the budget and is reduced as necessary when revenue is anticipated to be less than projected in the budget or in the service delivery and budget implementation plan;

- (v) Must ensure that revenue and expenditure are properly monitored;
- (w) Must, when necessary, prepare an adjustment budget and submit it to the Mayor for consideration and tabling in Council;
- (x) Must, within 14 days after approval of the annual budget, submit to the Mayor:
 - (i) A draft service delivery and budget implementation plan for the budget year; and
 - (ii) Draft annual performance agreements for him/herself and all senior managers;
- (y) Must, by no later than 10 working days after month end, submit to the Mayor and Provincial Treasury a statement in prescribed format on the state of the Municipality's budget, month to month and month to year, reflecting -
 - (i) Actual revenue per revenue source;
 - (ii) Actual borrowings;
 - (iii) Actual expenditure per vote;
 - (iv) Actual capital expenditure per vote;
 - (v) The amount of any allocations received;
 - (vi) Actual expenditure on those allocations;
 - (vii) When necessary, an explanation of:
 1. Any material variances from the Municipality's projected revenue by source, and from the Municipality's expenditure projections per vote;
 2. Any material variances from the service delivery and budget implementation plan; and
 3. Any remedial or corrective steps taken or to be taken to ensure that projected revenue and expenditure remains within budget;

(z) Must provide a statement which must include a projection of relevant revenue and expenditure for the rest of the financial year, and any revision from initial projections;

(aa) Must submit to National Treasury, Provincial Treasury, the Department for Local Government in the Province or the Auditor-General such information, returns, documents, explanations and motivations as may be prescribed or required;

(bb) Must, if she/he is unable to comply with any of the responsibilities in terms of national municipal financial legislation, promptly report the inability, together with reasons, to the Mayor and the Provincial Treasury;

(cc) Must place on the Municipality's website, the following documents:

- (i) The annual and adjustment budgets and all budget-related documents;
- (ii) All budget-related policies;
- (iii) The annual report;
- (iv) Her/his own performance agreement as well as those of senior management;
- (v) All service delivery agreements;
- (vi) All long-term borrowing contracts;
- (vii) All supply-chain management contracts above a prescribed value;
- (viii) An information statement containing a list of assets over a prescribed value that have been disposed of during the previous quarter;
- (ix) Contracts having future budgetary implications;
- (x) Public-Private Partnership agreements; and
- (xi) All quarterly reports tabled in the Council in terms of this policy; and

(dd) Must place all such documents on the website not later than 5 working days after its tabling in the Council or on the date on which it must be made public, whichever occurs first.

15.3 The Chief Financial Officer -

- (a) Is administratively in charge of the budget and the treasury office;
- (b) Must advise the Municipal Manager on the exercise of powers and duties assigned to him;
- (c) Must assist the Municipal Manager in the administration of the bank accounts and in the preparation and implementation of the Municipality's Budget;
- (d) Must advise senior managers and other senior officials in the exercise of powers and duties assigned to them in terms of national municipal financial legislation; and
- (e) Must perform such budgeting, accounting, analyses, financial reporting, cash management, debt management, supply-chain management, financial management, review and other duties as may be delegated by the Municipal Manager to her/him.

16. Financial Reporting

(a) Annual Report

The Municipality must prepare and adopt an annual report for each financial year and this report must include:

- (i) An assessment by the Municipal Manager of any arrears on municipal taxes and service charges;
- (ii) An assessment by the Municipal Manager of the Municipality's performance against the performance objectives for revenue collection from each revenue source and for each vote in the Municipality's approved budget for the relevant financial year; and

- (iii) Particulars of any corrective action taken or to be taken in response to issues raised in the Auditor-General's report.

(b) Financial Recovery Plan

The Municipal Manager may propose to Council a financial recovery plan, if the need arises, aimed at securing the Municipality's ability to meet its obligations to provide basic services or its financial commitments. Such a plan -

- (i) Must identify the financial problems of the Municipality;
- (ii) Must be designed to place the Municipality in a sound and sustainable financial position as soon as possible;
- (iii) Must state the principal strategic objectives of the plan and how to achieve them;
- (iv) Must set out a remedial strategy for addressing the causes of the Municipality's financial problems, which should include steps to reduce unnecessary expenditure and increase the collection of revenue;
- (v) Must identify the human and financial resources needed to assist in resolving the problems;
- (vi) Must provide details of the anticipated time-frame for the financial recovery, and milestones to be achieved;
- (vii) Must identify the actions necessary for the implementation of the plan, separating steps to be taken by the Municipality and those to be taken by other parties;
- (viii) May provide for the liquidation of specific assets, excluding those needed for the provision of the minimum level of basic municipal services;
- (ix) May provide for debt restructuring or debt relief in terms of national municipal financial legislation;

- (x) May provide for special measures to prevent unauthorised, irregular, fruitless, wasteful expenditure and other losses;
- (xi) May identify any actual or potential revenue sources;
- (xii) May suggest for adoption by the Council –
 - (1) Spending limits and revenue targets;
 - (2) Budget parameters for a specified period or until stated conditions have been met; and
 - (3) Specific revenue raising measures that are necessary for financial recovery.

The recovery plan must first be approved by the Member of the Executive Council for Local Government in the Province, with or without amendments, prior to its implementation.

(c) Internal Audit Unit

The Municipality must establish an Internal Audit Unit, either internally or by way of outsourcing and this unit must –

- (i) Prepare a risk-based audit plan and an internal audit program for each financial year;
- (ii) Advise the Municipal Manager and report to the Audit Committee on the implementation of the Internal Audit Plan and matters relating to:
 - (1) Internal audits;
 - (2) Internal controls;
 - (3) Accounting procedures and practices;
 - (4) Risk and risk management;
 - (5) Performance management;

(6) Loss control;

(7) Compliance with all applicable financial legislation.

(d) Financial Misconduct

(i) The Municipal Manager commits an act of financial misconduct if he/she -

(1) Contravenes this policy;

(2) Fails to comply with a duty imposed by this policy;

(3) Makes or permits or instruct another official of the Municipality to make an unauthorised, irregular or fruitless and wasteful expenditure; and

(4) Provides incorrect or misleading information in any document which in terms of this policy must be submitted to the elected leadership of the Municipality, the Auditor-General, the Provincial Treasury, the National Treasury, other organs of state or made public.

(ii) A member of senior management or other official of the Municipality exercising financial management responsibilities and to whom a power or duty was delegated, commits an act of financial misconduct if he/she deliberately or negligently fails to carry out the delegated duty or commits any of the acts as set out in (1) to (4) above;

17. Offences and Penalties

If a person -

(a) Contravenes any of the provisions of these by-laws;

(b) Contravenes any conditions attached to a decision taken in terms of these by-laws;

(c) Fails to comply with the terms of a notice served on her/him in terms of these by-laws; or

she/he is guilty of an offence for which the penalties are provided for in the Local Government Ordinance 1939 (Ordinance 17 of 1939).

18. Repeal of By-laws

..... (title of current by-laws) published in terms of (number and date of Provincial Gazette) is hereby repealed with effect from the date of promulgation of these by-laws.

DRAFT