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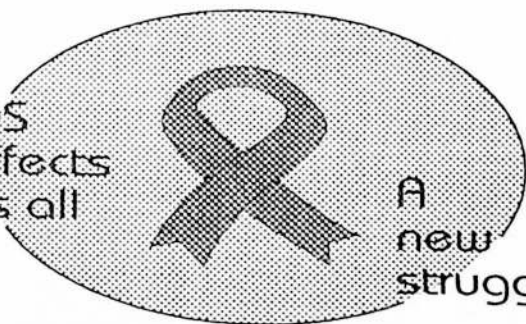
Vol. 12

BISHO/  
KING WILLIAM'S TOWN, 17 NOVEMBER 2005

**No. 1451**  
(Extraordinary)

**We all have the power to prevent AIDS**

AIDS  
affects  
us all



A  
new  
struggle

**AIDS  
HELPLINE**

**0800 012 322**

DEPARTMENT OF HEALTH

**Prevention is the cure**



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## LOCAL AUTHORITY NOTICES

**LOCAL AUTHORITY NOTICE 176**

**MUNICIPALITY OF LUKHANJI**

## INDIGENT SUPPORT BY-LAW

The Municipal Manager of Lukhanji Municipality hereby publishes in terms of Section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with Section 162 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) the Indigent Support By-Law, which shall come into operation on the date of publication hereof.

## PREAMBLE

**AND WHEREAS** National Government has a constitutional duty to provide an equitable share of nationally raised revenue to municipalities.

**AND WHEREAS** the aforesaid equitable share enables municipalities to provide basic services to poorer communities in an affordable manner and improve administrative capacity to ensure democratic governance at the local level.

**AND WHEREAS** Section 74 of the Local Government: Municipal Systems Act 2000 requires a Municipal Council to adopt and implement a Tariff Policy which must, inter alia, take into consideration the extent of subsidisation of tariffs for poor households.

The Council hereby publishes the following by-laws:

## Definitions

[1] For purposes of these by-laws:

**“Council”** means the Council of the Municipality of Lukhanji and includes any duly authorised political structure or office bearer as defined in the Local Government: Municipal Finance Management Act 56 of 2003 and/or any duly authorised official of the Council;

**“Destitute Indigent”** means an indigent household whose total household income is as determined by Council annually during the budget process

**“Gender”** any reference to the one gender shall include reference to the other

**“Household Income”** means all sources of income being formal and/or informal of nature including, but not restricted to, salaries, revenue generated, pensions, fixed deposits, investments, state subsidies and or grants, private financial support/contributions from outside the indigent household;



**"Indigent"** means an indigent household whose total household income is as determined by Council annually during the budget process

**"Indigent debtor"** means the head of an indigent household, inclusive of destitute indigents and indigents, being old age pensioners, the unemployed and households with a total monthly income as determined in the Indigent Support Policy:

- [a] who applies for the provision of services from the municipality; and
- [b] who makes application for indigent support in terms of these by-laws; and
- [c] who shall be regarded as the representative of all members of his/her household

**"Indigent Households"** shall include all individual residing at the residential premises of the indigent debtor, inclusive of destitute indigent and indigents, by whom and for which application is made, which premises has access to municipal services;

**"Indigent Support Policy"** means the policy for the provision of indigent subsidies to qualifying indigent debtors in terms of the Council's policy relating to the following:

- [a] Free basic electrify
- [b] Free basic water
- [c] Subsidised sewerage rates and refuse
- [d] Assisted arrear debt recovery programme

as determined by Council annually during the budget process, in line with National norm and guidelines;

**"Municipality"** means the Municipality of Lukhanji, a local municipality established in terms of Section 12 of the Local Government: Municipal Structures Act 1998;

**"Municipal Manager"** means the Municipal Manager of the Lukhanji Municipality or his/her nominee acting in terms of power delegated to him/her by the said Municipal Manager with the concurrence of the Council;



**“Poverty”** is defined with reference to poverty line i.e. if a household earns gross income lower than a set amount that household and its members are deemed to be living in poverty.

## Indigent Support Policy

- [2]** The Council shall adopt an Indigent Support Policy, which shall embody and provide procedures and guidelines for the subsidisation of basic services and tariff charges to indigent households in its municipal area.
- [3]** The object of the indigent Support Policy referred to in Section 2 shall be to ensure:

  - [a]** The provision of basic services to the community in a sustainable manner within the financial and administrative capacity of the Council; and
  - [b]** The provision of procedures and guidelines for the subsidisation of basic service charges to indigent households.

## Guiding Principles

- [4]** The following guiding principles shall be contained in the Indigent Support Policy referred to in Section 2:
- [a]** Relief will be provided by the Council to registered residential consumers of services who are declared destitute indigent and/or indigent by the Council but subject to the condition that such indigent consumers make a financial contribution towards the cost of the services provided by the Council to them on such basis determined by the Council.
  - [b]** The Council shall, wherever possible, ensure that any relief provided in terms of this bylaw and its policy is constitutional, practical, fair, equitable and justifiable in order to avoid the alienation of any group of households.
  - [c]** Differentiation between residential consumers shall, in accordance with the Bylaws, Policies and resolutions of the Council and legislation, be permitted.
  - [d]** Differentiation shall also be permitted in respect of the level of service provided to or to be provided to indigent households.
  - [e]** The application of the indigent support subsidy for minimum service levels should not result in the creation of a massive bureaucratic administration that would not be cost effective to implement.

- [f] A differentiation shall be made between those households who cannot afford to pay for basic services and those households who refuse to pay for such services.
- [g] The payment for services rendered should be affordable for the indigent.
- [h] The indigent support subsidy policy will apply during each financial year of Council.
- [i] Financial support to the indigent will be dependent upon the availability of funds to enable the Council to provide such support.
- [j] The Council shall, annually, review and amend the qualification criteria for indigent support provided by it if and when necessary.
- [k] The collective or joint gross income of members of indigent households will always be taken into account to determine the level of financial support to be granted to indigent households.
- [l] Indigent households must formally apply on the prescribed application form for indigent support and will qualify for such support according to prescribed criteria/principles to be laid down by the Council.
- [m] The household income must be correctly reflected on the application form requesting indigent support.
- [n] The applicant who signs the prescribed application form shall be regarded as the indigent debtor and the representative of the indigent household.
- [o] After the application form for indigent support has been completed by an indigent debtor it shall be assessed in terms of the policy.
- [p] All approved indigent debtors should be registered on the municipal Indigo database system.
- [q] The onus will be on the approved indigent debtor to inform the Council of any change in his status or personal household circumstances.
- [r] All indigent households should be re-evaluated after a period of six months or such period as the Council may determine to assess the provision of continued basic services and indigent support to them.

- [s] Disciplinary measures decided by the Council, should be imposed on indigent debtors who misuse the indigent support policy of the Council and/or provide incorrect information to the Municipality.
- [t] An approved community communications programme, embodying the principles of transparency and fairness, must be implemented in respect of the indigent support policy.
- [u] Skills Training and other education related programmes should be supported to develop the indigent to become self - sufficient and thereby reduce the rate of indigence.

#### **Qualification, Acceptance and Registration Criteria**

- [5] The qualification, acceptance and registration criteria for indigent support and the services qualifying for such support shall be determined by Council Policy as reviewed annually during the budget process.

#### **Provision of Indigent Support Subsidies**

- [6] Indigent Support Subsidies will be provided by the Council on the following basis:
  - [a] Relief will only be provided to those indigent households who apply and qualify therefor.
  - [b] The relief must be significant so as to relieve the recipient of an indigent subsidy from the financial hardship of paying fully for services received from the Municipality for a specific period.
  - [c] All registered indigents will be charged the determined subsidised tariff or charge for a service.
  - [d] The indigent will receive a monthly account, which will reflect the amount due and payable.
  - [e] The destitute indigent will only be billed on the system.
  - [f] The subsidised amount will be reflected against the indigent subsidy vote.
  - [g] Subject to annual resubmission by the applicant of the application to Council on the date as determined by Council.



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**Balance on Service Charges, Tariffs and Fees**

- [7] Council shall implement a procedure to assess and recover any arrear debt due by an indigent (excluding destitute indigents), after deduction of the indigent support subsidy, from him in accordance with the Credit Control Policy of the Council.

**Indigent Status**

- [8] The Council shall not amend, alter, withdraw, or suspend in terms of these by-laws and its policy the indigent households status without first having forwarded notification thereof to the said indigent household.

**Special Tariff for Services**

- [9] The Council may determine special tariffs for indigent households, subject to the availability of funds and compliance with prescribed criteria for municipal services and amenities

**Responsibilities of Municipal Manager**

- [10] It shall be the responsibility of the Municipal Manager to ensure:
- [a] To create, maintain and update a register of all debtors receiving indigent support subsidies from the Council in terms of these by-laws;
  - [b] To reflect the indigent status of debtors in the accounting records of the Municipality;
  - [c] To advise and keep indigent debtors informed of the approval, amendment, suspension or withdrawal of an application for indigent support in terms of these by-laws and the conditions under which such support will be granted, including the renewal of indigent support applications;
  - [d] To report any instances of misuse of the Council's Indigent Support Policy to the Council for attention in terms of these by-laws;
  - [e] To report at regular intervals as may be required by Council on the progress or otherwise of the implementation of the Council's Indigent Support Programme.
  - [f] To publish a copy of these by-laws, policy and any amendments thereto on the official website of the Municipality



### **Budgeting for Indigent Support**

- [11] The Council must annually budget for the total indigent subsidy to be granted to indigent debtors in terms of these by-laws. Such amount must, upon approval of the budget of the Council, be reflected against a separate vote in the name of indigent subsidy.

The total value of indigent subsidies for all subsidised services must be reflected against such indigent subsidy vote on a monthly basis.

### **Review and Amendment of Indigent Support Policy**

- [12] The Council has the discretionary power to amend any clause, stipulation or tariff embodied in its Indigent Support Policy in the interests of all the parties concerned at the annual budgetary review of Council policies in conjunction with the consideration of the annual budget of the Council.

The Indigent Support Policy adopted in terms of these by-laws shall be regarded as a budget-related policy and be reviewed on an annual basis by the Council during the annual budget review. Any amendment thereto shall be considered and adopted in conjunction with the adoption of the annual budget of the Council.

### **Offences**

- [13] Any indigent household who-

- [a] Obstructs or hinders the Council in the exercise of its powers or performance of functions or duties under these by-laws.
- [b] Uses or interferes with Council equipment or consumption of services supplied.
- [c] Tampers or breaks any seal on any meter installed, or with the water restrictor system installed or on any equipment belonging to the Council, or for any reason as determined by the Chief Financial Officer causes interference with the service provision and the service used.
- [d] Furnishes misleading information knowing it to be false or misleading.
- [e] Contravenes or fails to comply with a provision of these by-laws.

shall be guilty of an offence and be liable upon conviction to a fine or to imprisonment for a period not exceeding three months or both such a fine and

imprisonment and, in addition, may be charged for usage, as estimated by the Chief Financial Officer based on average usage during the previous six months or as may be determined by resolution of the Council from time to time;

#### **Notices and Documents**

**[14]**

- [a]** A notice or document issued by the Council in terms of these by-law shall be deemed to be duly issued if signed by an employee duly authorized by the Council.
- [b]** If a notice is to be served on a person in terms of these by-laws, such service shall be effected by:
  - [i]** Delivering the notice to him personally
  - [ii]** By delivering the notice at his residence or to a person apparently not less than sixteen years of age and apparently residing or employed there;
  - [iii]** If he has nominated an address for legal purposes, by delivering the notice to such an address; or
  - [iv]** By registered or certified post addressed to his last known address.
  - [v]** If service cannot be effected in terms of the aforesaid subsections by affixing it to the principal door of entry to the premises, or displaying it on a conspicuous place on the land

#### **Authentication of Documents**

**[15]**

- [a]** Every order, notice or other document requiring authentication by the Council shall be sufficiently authenticated, if signed by the Municipal Manager or by a duly authorized employee of the Council;
- [b]** Delivery of a copy of the document shall be deemed to be delivery of the original.

#### **Responsibility of Compliance with these By-Laws**

- [16]** The indigent debtor is responsible for ensuring compliance with these by-laws in respect of all or any matters relating to the indigent support

granted. The indigent debtor is responsible for compliance with these by-laws and policy in respect of matter relating to the use of any water, electricity, sanitation installation and other services provided by Council.

### **Availability of By-Laws**

[17]

- [a] A copy of these by-laws shall be included in the municipalities Municipal Code as required in terms of section 15 of the Municipal Systems Act, No 32 of 2000 and shall be displayed on the official website of the municipality
- [b] A copy of these by-laws shall be available for inspection at the municipal offices at all reasonable times.
- [c] A copy of the by-laws may be obtained against payment of a prescribed fee from the Council.

### **Appeals Against Decisions Of The Council**

- [18] An indigent household application, which has been declined may appeal against such decision which appeal procedure shall be laid down within the policy

### **Short Title And Commencement**

[19]

- [a] This By-Law is called the Indigent Support by-law of the Lukhanji Municipality
- [b] The commencement of this by-law shall be on date of promulgation

### **Conflict Of By- Laws**

- [20] If there is any conflict between these by-laws and any other by-law of the Council, the Credit Control and Debt Collection by-law will prevail if applicable failing which these by-laws will prevail. These by-laws must be read in conjunction with the Credit Control and Debt Collection by-law.

**Repeal Of Council Indigent Support By-Laws**

- [21] The provisions of any by-law or by-laws relating to the provision of indigent support subsidies to qualifying indigent debtors by the Council of any Council now comprising an administrative unit of the Council are hereby repealed



**LOCAL AUTHORITY NOTICE 177****MUNICIPALITY OF LUKHANJI****CREDIT CONTROL AND DEBT COLLECTION  
BY-LAW**

The Municipal Manager of Lukhanji Municipality hereby publishes in terms of Section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with Section 162 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) the Lukhanji Credit Control and Debt Collecting By-Law, which shall come into operation on the date of publication hereof.

**[1] DEFINITIONS**

**"Arrangement"** means a written agreement entered into between the Council and the debtor where specific repayment parameters are agreed to.

**"Chief Financial Officer"** means a person appointed by the Council to manage, inter alia, the Council's financial administration and debt collection of the Council's debtors and includes any person acting in this position.

**"Consumer"** in relation to premises means:

- [i]** any occupier thereof or any other person with whom the Municipality has contracted to supply or is actually supplying electricity thereat; or
- [ii]** if such premises are not occupied, any person who has a valid existing agreement with the Municipality for the supply of electricity to such premises; or
- [iii]** if there is no such person or occupier, the owner of the premises;

**"Council"** means the municipal council, as referred to in section 157 of the Constitution of the Republic of South Africa Act 108 of 1996, of the Lukhanji Municipality established by part 7 of provincial notice 80, dated 27 September 2000;

**"Credit Control"** means all the functions relating to the collection of monies owed by ratepayers and the users of municipal services.

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**“Customer”** means any occupier of any premises to which the Council has agreed to supply or is actually supplying services, or if there is no occupier, then the owner of the premises and includes any debtor of the Municipality.

**“Defaulter”** means any person owing the Council arrear monies in respect of taxes and/or service charges.

**“Gender”** any reference to the one gender shall include reference to the other

**“Municipality”** means the Municipality of Lukhanji, a local municipality established in terms of Section 12 of the Local Government: Municipal Structures Act 1998;

**“Municipal Manager”** means the person appointed as Municipal Manager by the municipal council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 [Act 117 of 1998] as amended and includes a person acting in this position.

**“Occupier”** means any person who occupies any premises or part thereof, without regard to the title under which he or she so occupies.

**“Owner”** means

- [a] The person in whom from time to time is vested the legal title to premises;
- [b] In a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative.
- [c] In a case where the council is unable to determine the identity of such person, a person who is entitled to the benefit of such premises with a building thereon;
- [d] In the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof
- [e] In relation to –
  - [i] A piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act 1986, (Act 95 of 1986), and without restricting the above the developer or the body corporate in respect of the common property, or

- [ii] A section as defined in such Act, the person in whose name such a section is registered under a sectional title deed and includes the lawfully appointed agent of such a person
- [f] any legal person including but not limited to:
  - [i] A company registered in terms of the Companies Act, 1973 (Act 61 of 1973), a Trust, a Closed Corporation registered in terms of the Closed Corporations Act, 1984 (Act 69 of 1984) and a Voluntary Association.
  - [ii] Any Department of State.
  - [iii] Any Council or Board established in terms of any legislation applicable to the Republic of South Africa.
  - [iv] Any Embassy or other foreign entity.

**"Premises"** includes any piece of land, the external surface boundaries of which are delineated on:

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

**"Tampering"** Means any unauthorised interference with Council's supply, seals and metering equipment to cause damage to Council's property and to evade payment for services.

**[2] Other terms**

All other terms used in this by-law shall, unless the context otherwise requires, have the meaning assigned thereto in the Electricity Act, 1987 [Act 41 of 1987], as amended.

**[3] Headings and titles**

The headings and titles in this by-law shall not affect the construction thereof.

#### **[4.] GENERAL PROVISIONS**

##### **[4.1] Service of notice**

- [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]; or
  - [e]** if that person's address and agent or representative in the Republic is unknown, when it had been posted in a conspicuous place on the property or premises, if any, to which it relates.
- [2]** When any notice or other document must be authorised or served on the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.
- [3]** Any legal process is effectively and sufficiently served on the Municipality when it is delivered to the Municipal Manager of the Municipality or a person in attendance at the Municipal Manager's office.

##### **[4.2] Compliance with notices**

Any person on whom a notice duly issued or given under this by-law is served shall, within the time specified in such notice, comply with its terms.





**[5.] POWER OF COUNCIL TO RECOVER COSTS****[5.1] Dishonoured payments**

Where any payment made to the Council is later dishonoured by the bank, the Council may levy such costs and administration fees as may be reasonable and enforceable in terms of prevailing legislation.

**[5.2] Legal Fees**

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

**[5.3] Cost to remind debtor of arrears**

Any cost incurred in demanding payment from the debtor or reminding the debtor, by means of telephone, fax, e-mail, letter or otherwise, that his payments are due, may be levied against the account of the debtor.

**[5.4] Disconnection fees**

Where any service is discontinued as a result of non-compliance with these by-laws by the debtor, the Council shall be entitled to levy and recover the standard disconnection fee as determined by it from time to time from such debtor.

**[5.5] Accounts**

The Council may –

- [a]** Consolidate any separate accounts of persons liable for payments to the municipality;
- [b]** Credit a payment by such a person against any account of that person; and
- [c]** Implement any of the debt collection and credit control measures provided for in these by-laws and policy in relation to any arrears on any of the accounts of such a person.

**[6] SERVICE AGREEMENT AND TERMINATION OF SERVICES**

- [6.1]** No supply of services shall be given unless and until application has been made by a customer on the prescribed form and a service agreement has been entered into between such customer and the Municipality and a deposit as security equal to an amount as determined by the Council from time to time has been paid in full by such a customer.
- [6.2]** Termination of the services agreement must be in writing to the other party of the intention to do so.

**[7] DISPUTE REGARDING AMOUNT OWING**

- [7.1]** In the event of any dispute arising as to the amount owing by an owner or occupier in respect of municipal services, such owner or occupier shall, notwithstanding such dispute, proceed to make regular minimum payments based on the calculation of the average municipal account for the preceding three months prior to the arising of the dispute, any adjustment in the time value of money as well as the annual amendments of tariffs of the Council.
- [7.2]** The amount referred to in sub-section [1] shall be determined by the Chief Financial Officer and be conveyed by notice to the relevant owner or occupier.

**[8] ARREARS COLLECTION****CREDIT CONTROL POLICY**

- [8.1]** The Council shall have a written policy on credit control and debt collection which shall be termed the Credit Control Policy and which may provide for -
- [a]** Credit control procedures and mechanisms;
  - [b]** Debt collection procedures and mechanisms;
  - [c]** Provision for indigent debtors;
  - [d]** Interest on arrears;
  - [e]** Extensions of time for payment of accounts, including arrangements for payment;



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- [f] Termination of services or the restriction of the provision of services when payments are in arrears;
- [g] The provision of new services;
- [h] An agreement between a debtor's employer and the Council to deduct amounts from the debtor's salary or wage;
- [i] Any other matter, which is incidental to credit control and debt collection;
- [j] The sale in execution of any property.

[8.2] In determining its policy, the Council may differentiate between categories of persons, customers, debtors and owners as it may deem appropriate provided such differentiation does not amount to unfair discrimination

**[9] POWER TO RESTRICT OR DISCONNECT SUPPLY OF SERVICES**

[9.1] Subject to the requirements of Section 4 (3) of the Water Services Act, 1997 and Section 11 of the Electricity Act, 1987, Council may restrict or disconnect the supply of water and electricity whenever a user of any such service:

- [a] Is required to convert to a metering system preferred by the Council;
- [b] Fails to make full payment on the due date or fails to make an acceptable arrangement for the repayment of any amount for services;
- [c] Fails to comply with a condition of supply imposed by the Council;
- [d] Obstructs the efficient supply of water, electricity or any other municipal services to another customer;
- [e] Supplies such municipal service to a customer who is not entitled thereto or permits such a service to continue;
- [f] Tampers with any municipal supply meter or bypasses any metering equipment in order to obtain an un-metered service;
- [g] Causes a situation in the reasonable opinion of the Council is dangerous or a contravention of relevant legislation;



- [h]** Is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act 24 of 1936 or any other applicable law;
  - [i]** Is subject to an administration order granted in terms of section 74 of the Magistrates Court Act, 1944 (Act 32 of 1944).
- [9.2]** Before disconnecting the water supply to a property, the Council must ensure that:

- [a] A defaulter is provided with:
  - [i] 7 (seven) days' notice of the Council's intention to disconnect the water supply;
  - [ii] reasonable opportunity to make representations to the Council as to why the disconnection should not be effected;
- [b] any intended disconnection will not conflict with the defaulter's right to free basic water services.

- [9.3]** The provisions of sub-section [9.2] shall not apply where:
- [a] other consumers will be prejudiced;
  - [b] an emergency situation exists; or
  - [c] the defaulter has interfered with a restricted or disconnected water supply."

**[10] SALES IN EXECUTION**

- [10.1]** The Council may only sell a property in execution in terms of a policy determined by it from time to time.

**[11] POWER OF ENTRY AND INSPECTION**

- [11.1]** A duly authorized representative of the Council may for any purpose related to the implementation or enforcement of these by-laws, at all reasonable times or in an emergency at any time, enter premises, request information and carry out such inspection and examination as he or she

may deem necessary, and for purposes of installing or repairing any meter or service connection reticulation, or to disconnect, stop or restrict the provision of any service.

**[11.2]** If the Council considers it necessary that work be performed to enable an employee to perform a function referred to in sub-section 5.1 properly and effectively, it may -

- [a]** By written notice require the owner or occupier of the premises at his own expense to do specific work within a specified period; or
- [b]** If in its opinion the situation is a matter of urgency, without prior notice do such work or cause it to be done at the expense of the owner.

**[11.3]** If the work referred to in sub-section 5.2 [b] above is carried out for the sole purpose of establishing whether a contravention of these by-laws has been committed and no such contravention has taken place, the Council shall bear the expense connected therewith together with the expense of restoring the premises to its former condition.

**[12] ARRANGEMENTS TO PAY OUTSTANDING AND DUE AMOUNTS IN CONSECUTIVE INSTALMENTS**

**[12.1]** A debtor may enter into a written agreement with the Council to repay any outstanding and due amount to the Council under the following conditions as determined by the Credit Control Policy of the Council:

- [a]** The outstanding balance, costs and any interest thereon in regular and consecutive monthly instalments;
- [b]** The written agreement being signed on behalf of the Council by a duly authorized officer.

**[13] RECONNECTION OF SERVICES**

The Financial Officer shall authorize the reconnection of services or the reinstatement of service delivery after satisfactory payment and/ or arrangements for payment has or have been made by the debtor in accordance with the Council's Credit Control Policy.

**[14] ASSESSMENT RATES****[14.1] Amount due for assessment rates**

- [b]** All properties within the boundaries of the Lukhanji Municipality are to be valued in terms of the legislation, applicable to the valuation of properties for the purpose of levying property rates.
- [c]** All assessment rates due by property owners are payable by the fixed date as determined by Council.
- [d]** Joint owners of property shall be jointly and severally liable for payment of assessment rates
- [e]** Assessment rates may be paid as an annual single amount, or in equal payments or payments of varying amounts as determined by the Council.
- [f]** Payment of assessment rates may not be deferred beyond the fixed date by reason of an objection to the valuation roll.

**[14.2] Claim on rental for assessment rates in arrears**

The Council may apply to the appropriate Court for the attachment of any rental due in respect of rateable property in order to cover in part or in full any amount outstanding in respect of assessment rates for a period longer than three months after the fixed date.

**[14.3] Liability of Company Directors for assessment rates**

Where a company, closed corporation, trust or a body corporate, in terms of the Sectional Tiles Act, 1986 or any other legal entity is responsible for the payment of any arrear amount to the Council, the liability of such entity shall be extended personally to the directors, trustees or members thereof jointly and severally as the case may be.

**[14.4] Disposed of Council's property and payment of assessment rates**

- [a]** The purchaser of Council property is liable for the payment of assessment rates on the property from the date such property was sold to the purchaser.

- [b] In the event of the Council repossessing the aforesaid property, any outstanding and due amount in respect of assessment rates shall be recovered from the Purchaser.

#### **[14.5] Restrain on transfer of property**

- [a] A registrar of deeds or other registration officer of immovable property may not register the transfer of property except on production to that registration officer of a prescribed certificate:
  - (i) issued by the municipality in which that property is situated; and
  - (ii) which certifies that all amounts due in connection with that property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate have been fully paid.
- [b] In the case of the transfer of immovable property by a trustee of an insolvent estate, the provisions of this section are subject to section 89 of the Insolvency Act, 1936 (Act No. 24 of 1936).
- [c] 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.

#### **[14.6] Assessment rates payable on municipal property**

- [a] The lessee of municipal property shall be responsible for payment of any general assessment rates payable on such property for the duration of the lease.
- [b] The Chief Financial Officer may elect to include the assessment rates in respect of a property in the rental payable by the lessee.

#### **[15] RELAXATION, WAIVER AND DIFFERENTIATION**

- [15.1] The Council may differentiate between different categories of ratepayers, users of services, customers, debtors, taxes, services, service standards and other matters provided such differentiation does not amount to unfair discrimination.



## [16] REPORTING OF DEFAULTERS

## [17] OFFENCES

- [a] Any person who contravenes any provisions of this by-law shall be guilty of an offence.
- [b] Fails to give the access required by an employee in terms of these by-laws;
- [c] Obstructs or hinders an employee in the exercise of his or her powers or performance of functions or duties under these by-laws;
- [d] Uses or interferes with Council equipment or consumption of services supplied;
- [e] Tamper or breaks any seal on a meter or on any equipment belonging to the Council, or for any reason as determined by the Chief Financial Officer causes a meter not to properly register the service used;
- [f] Fails or refuses to give an employee such information as he or she may reasonably require for the purpose of exercising his or her power or functions under these by-laws or gives such an officer false or misleading information knowing it to be false or misleading,
- [g] Any person who continues to commit an offence after notice has been served on him to cease committing such offence or after he has been convicted of such offence shall be guilty of a continuing offence.

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- [h]** Contravenes or fails to comply with a provision of these by-laws.

shall be guilty of an offence and be liable to imprisonment for a period not exceeding six months or both such a fine and imprisonment and, in addition, may be charged for usage, as estimated by the Chief Financial Officer based on average usage during the previous 6 months or as may be determined by resolution of the Council from time to time;

- [i]** Every person committing a breach of the provisions of this by-law shall be liable to recompense the Municipality for any loss or damage suffered or sustained by it in consequence of such breach.

**[18] CONFLICT OF BY LAWS**

If there is any conflict between these by-laws and any other by-law of the Council, these by-laws will prevail.

**[19] REPEAL OF COUNCIL CREDIT CONTROL**

The provisions of any by-law or by-laws relating to the control of credit and the collection of debt by the Council of any Council now comprising an administrative unit of the Council are hereby repealed

**LOCAL AUTHORITY NOTICE 178****MUNICIPALITY OF LUKHANJI****BY-LAW RELATING TO THE PREVENTION OF TAMPERING WITH  
ELECTRICAL INSTALLATIONS AND/OR THE IMPROPER AND/OR  
UNAUTHORISED USE OF SUCH INSTALLATIONS**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Law Relating to the Prevention of Tampering with Electrical Installations and/or the Improper and/or Unauthorised Use of such Installations which by-law shall come into operation on the date of publication thereof.

**[1] DEFINITIONS**

**"Consumer"** in relation to premises means:

- [i] any occupier thereof or any other person with whom the Municipality has contracted to supply or is actually supplying electricity thereat; or
- [ii] if such premises are not occupied, any person who has a valid existing agreement with the Municipality for the supply of electricity to such premises; or
- [iii] if there is no such person or occupier, the owner of the premises;

**"Credit meter"** means a meter where an account is issued subsequent to the consumption of electricity;

**"Electrical installation"** includes any apparatus, main, meter, service connection, service protective device, metering device, network, cabling, token and/or equipment associated with or connected to an electricity supply to premises.

**"Gender"** any reference to the one gender shall include reference to the other

**"Law"** means any applicable law, proclamation, ordinance, act of parliament or enactment having force of law;

**"Meter"** means a device which records the demand and/or the electrical energy consumed and includes conventional and prepayment meters;

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**"Municipality"** means the Municipality of Lukhanji, a local municipality established in terms of Section 12 of the Local Government: Municipal Structures Act 1998;

**"Occupier"** in relation to any premises means-

- [a] any person in actual occupation of such premises;
- [b] any person legally entitled to occupy such premises;
- [c] in the case of such premises being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants, whether on his own account or as agent for an person entitled thereto or interested therein; or
- [d] any person in control of such premises or responsible for the management thereof, and includes the agent of any such person when he is absent from the Republic of South Africa or his whereabouts are unknown;

**"Owner"** in relation to premises means the person in whom is vested the legal title thereto; provided that-

- [a] in the case of immovable property-
  - [i] leased for a period of not less than 30 years, whether the lease is registered or not, the lessee thereof, or
  - [ii] beneficially occupied under a servitude or right analogous thereto, the occupier thereof;
- [b] if the owner as hereinbefore defined-
  - [i] is deceased or insolvent, has assigned his estate for the benefit of his creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be, or
  - [ii] is absent from the Republic of South Africa, or if his address is unknown to the Municipality, any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property; and



- [iii] if the Municipality is unable to determine who such person is, the person who is entitled to the beneficial use of such property,

shall be deemed to be the owner thereof, to the exclusion of the person in whom is vested the legal title thereto;

**"Premises"** means any land or any building or structure above or below ground level and includes any vehicle, aircraft or vessel;

**"Prepayment meter"** means a meter that can be programmed to allow the flow of the pre-purchased amounts of energy in an electrical circuit;

**"Service connection"** means all cables and equipment required to connect the supply mains to the electrical installation of the consumer at the point of supply;

**"Service protective device"** means any fuse or circuit breaker installed for the purpose of protecting the Municipality's equipment from overloads or faults occurring on the installation or on the internal service connection;

**"Tariff"** means the Municipality's tariff of charges for the supply of electricity and includes any fee, charge, levy and surcharge; and

**"Tampering"** Means any unauthorised interference with Council's supply, seals and metering equipment to cause damage to Council's property and to evade payment for services.

**"Token"** means the essential element of a prepayment metering system used to transfer information from a point of sale for electricity credit to a prepayment meter and vice versa;

## [2] OTHER TERMS

All other terms used in this by-law shall, unless the context otherwise requires, have the meaning assigned thereto in the Electricity Act, 1987 [Act 41 of 1987], as amended.

## [3] HEADINGS AND TITLES

The headings and titles in this by-law shall not affect the construction thereof.

**[4] PROVISIONS OF ELECTRICITY SERVICES**

Only the Municipality shall supply or contract for the supply of electricity within the jurisdiction of the Municipality.

**[5] SEALS OF THE MUNICIPALITY**

The meter, service protective devices and all apparatus belonging to the Municipality shall be sealed or locked by a duly authorised official of the Municipality, and no person not being an Official of the Municipality duly authorised thereto shall in any manner or for any reason whatsoever remove, break, deface, or tamper or interfere with such seals or locks.

**[6] SUPPLY BY AGREEMENT**

No person shall use or be entitled to use an electricity supply from the Municipality unless or until such person shall have entered into an agreement in writing with the Municipality for such supply, and such agreement together with the provisions of this by-law shall in all respects govern such supply. If a person uses an electricity supply without entering into an agreement he shall be liable for the cost of electricity used at a tariff determined by the Municipality.

**[7] IMPROPER USE**

- [1]** If a consumer uses electricity for any purpose or deals with electricity in any manner which, in the reasonable opinion of the Municipality, interferes improperly or dangerously with the efficient supply of electricity to any other consumer, then the Municipality may disconnect the said supply.
- [2]** Where the interference does not constitute an immediate danger to any consumer, the Municipality must furnish the consumer with a written and/or electronic (sms, e-mail) notice, requesting him or her to terminate the interference within 14 (fourteen) days of receipt, before disconnecting the supply of electricity provided that no written notice is required where such interference constitutes an immediate danger to any consumer, including the consumer responsible for the interference.
- [3]** The supply of electricity shall be restored in terms of the Council policy as soon as possible after the cause for the disconnection has been permanently remedied or removed.
- [4]** A prescribed fee shall be paid by the consumer for the disconnection and reconnection together with any other payment due in terms of the Council's Debt Collection and Credit Control

Policy before the electricity supply may be restored, unless it can be shown that the consumer did not use or deal with electricity in an improper or unsafe manner, as envisaged in terms of sub-section [1].

**[8] TAMPERING WITH SERVICE CONNECTION OR SUPPLY MAINS**

- [1]** No person shall in any manner or for any reason whatsoever tamper or interfere with any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of the Municipality.
- [2]** If, in the reasonable opinion of the Municipality, a consumer has contravened sub-section [1.], then the Municipality may disconnect the supply of electricity immediately.
- [3]** The Municipality, where the interference does not constitute an immediate danger to the consumer, must furnish a consumer with a written and /or electronic (sms, e-mail) notice, requesting him or her to terminate the contravention within 14 (fourteen) days of receipt, before disconnecting the supply of electricity, provided that no written notice is required where such contravention constitutes an immediate danger to any consumer, including the consumer responsible for the contravention.
- [4]** The consumer responsible for the said contravention shall be liable for all fees and charges levied by the Municipality from time to time for such disconnection.
- [5]** Where a consumer has contravened sub-section [1.] and such contravention has resulted in a meter recording less than the true consumption, the Municipality shall have the right to recover from the consumer the full cost of the estimated consumption as assessed by the Municipality and in accordance with the applicable tariff of charges determined by the Municipality from time to time.
- [6]** This section does not derogate from the right of the Municipality to institute criminal proceedings in accordance with any law against a consumer who has contravened sub-section [1].

**[9] PREVENTION OF TAMPERING WITH SERVICE CONNECTION OR SUPPLY MAINS**

If the Municipality decides that it is necessary or desirable to take special precautions in order to prevent tampering with any portion of the supply mains, service connection or service protective device or meter or

metering equipment, the consumer shall either supply and install the necessary protection or pay the costs involved where such protection is supplied by the Municipality.

**[10] UNAUTHORISED CONNECTIONS**

No person other than a person specifically authorised thereto by the Municipality in writing shall directly or indirectly connect, attempt to connect or cause or permit to be connected any electrical installation or part thereof to the supply mains or service connection of the Municipality.

**[11] UNAUTHORISED RECONNECTIONS**

[1] No person other than a person specifically authorised thereto by the Municipality in writing shall reconnect, attempt to reconnect or cause or permit to be reconnected to the supply mains or service connection any electrical installation or installations which has or have been disconnected by the Municipality.

[2] Where the supply of electricity that has previously been disconnected is found to have been reconnected, the consumer using the supply of electricity shall be liable for all charges for electricity consumed between the date of disconnection and the date the electricity supply was found to be reconnected and any other charges raised in this regard. Furthermore, the Municipality reserves the right to remove part or all of the supply equipment until such time as payment has been received in full. In addition, the consumer will be responsible for all the costs associated with the reinstatement of such supply equipment.

[3] This section does not derogate from the right of the municipality to institute criminal proceedings in accordance with any law against a consumer and/or any person who has contravened sub-section [1]

**[12] RIGHT OF ADMITTANCE TO INSPECT, TEST AND/OR DO MAINTENANCE WORK**

[1] The Municipality shall, through its employees, contractors and their assistants and advisers, have access to or over any property for the purposes of:

- [a] doing anything authorised or required to be done by the Municipality under this by-law or any other law;
- [b] inspecting and examining any service mains and anything connected therewith;



- [13] REFUSAL OR FAILURE TO GIVE INFORMATION**

No person shall refuse or fail to give such information as may be reasonably required of him by any duly authorised official of the Municipality or render any false information to any such official regarding any electrical installation work completed or contemplated or any unauthorised use of or tampering with any electrical installation.

**[14] REFUSAL OF ADMITTANCE**

No person shall wilfully hinder, obstruct, interfere with or refuse admittance to any duly authorised official of the Municipality in the

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performance of his duty under this by-law or of any duty connected therewith or relating thereto.

**[15] RIGHT TO DISCONNECT OR REMOVE SUPPLY**

- [1]** Subject to the application of the Credit Control and Debt Collection By-law, the Municipality shall have the right to disconnect the supply of electricity to any premises whenever a consumer fails to make full payment on the due date or fails to make an acceptable arrangement for the repayment of any amount for such services.
- [2]** The supply of electricity and the associated electrical installation may be removed from any premises when:
  - [a]** an electrical installation has been illegally reconnected on such premises after having been disconnected by the Municipality; or,
  - [b]** in the reasonable opinion of the Municipality, the electrical installation has been tampered with for the purposes of preventing the accurate registration of consumption.

**[16] NON-LIABILITY OF THE MUNICIPALITY**

The Municipality shall not be liable for any loss or damage, direct or consequential, suffered or sustained by a consumer as a result of or arising from the cessation, interruption or any other abnormality of the supply of electricity, unless caused by negligence on the part of the Municipality.

**[17] PRIMA FACIE EVIDENCE**

A certificate under the hand of the Municipal Manger reflecting the amount due and payable to the Council shall upon mere production thereof be accepted by any court of law as prima facie evidence of the indebtedness reflected therein.

**[18] SERVICE OF NOTICE**

- [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]; or
  - [e] if that person's address and agent or representative in the Republic is unknown, when it had been posted in a conspicuous place on the property or premises, if any, to which it relates.
- [2] When any notice or other document must be authorised or served on the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.
- [3] Any legal process is effectively and sufficiently served on the Municipality when it is delivered to the Municipal Manager of the Municipality or a person in attendance at the Municipal Manager's office.

#### [19] COMPLIANCE WITH NOTICES

Any person on whom a notice duly issued or given under this by-law is served shall, within the time specified in such notice, comply with its terms.

#### [20] PENALTIES AND OFFENCES

- [1] Any person who contravenes any provisions of this by-law shall be guilty of an offence.
- [2] Any person who continues to commit an offence after notice has been served on him to cease committing such offence or after he has been convicted of such offence shall be guilty of a continuing offence.

- [3] Uses or interferes with Council equipment or consumption of services supplied;
- [4] Tamperers or breaks any seal on a meter or on any equipment belonging to the Council, or for any reason as determined by the Chief Financial Officer causes a meter not to properly register the service used;
- [5] Any person convicted of an offence under this by-law shall be liable to a fine or imprisonment for a period not exceed six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and, in the case of a continuing offence, to an additional fine not exceeding four hundred rands or additional imprisonment for a period not exceeding ten days 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.
- [6] Every person committing a breach of the provisions of this by-law shall be liable to recompense the Municipality for any loss or damage suffered or sustained by it in consequence of such breach.

#### **[21] CONFLICT OF BY LAWS**

If there is any conflict between these by-laws and any other by-law of the Council, these by-laws will prevail.

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