

# Thabazimbi Local Municipality



## Draft Credit control and Debt collection By-Law 2018/2019

## INDEX

### CHAPTER 1:

DEFINITIONS.....	3
INTRODUCTION.....	5

### CHAPTER 2: MUNICIPAL SERVICES TO CUSTOMERS OTHER THAN INDIGENT CUSTOMERS

Part 1: Application for Municipal Services.....	6
Part 2: Applicable Charges.....	7
Part 3: Payment .....	8
Part 4: Accounts.....	10
Part 5: Queries, Complaints and Appeals .....	11
Part 6: Arrears.....	12
Part 7: Agreement for the Payment of Arrears in Instalments .....	13

### CHAPTER 3: PROVISION OF MUNICIPAL SERVICES TO INDIGENT 15

CHAPTER 4: UNAUTHORISED SERVICES.....	17
---------------------------------------	----

CHAPTER 5: OFFENCES .....	18
---------------------------	----

CHAPTER 5: Short tittle & commencement .....	18
--	----

## CHAPTER 1: DEFINITIONS

### 1. Definitions

For the purpose of these by-laws, any word or expressions to which a meaning has been assigned in the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) shall bear the same meaning in these by-laws and unless the context indicates otherwise and a word in any one gender shall be read as referring also, to the other two genders—

**“account”** means any account or accounts rendered for municipal services that have been provided;

**“Act”** means the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), as amended from time to time;

**“actual consumption”** means the measured consumption by a customer of a municipal service;

**“agreement”** means a contractual relationship between the municipality and a customer that arises, either as a result of the municipality’s approval of a written application for municipal services made in terms of section 2, including any subsequent variation that may be made to that agreement in conformity with these by-laws, or that is deemed to be an agreement by subsection (3) of that section;

**“applicable charges”** means the rate (including assessment rates), charges, tariffs or subsidies determined by the municipal council;

**“area of supply”** means any area within or partly within the area of jurisdiction of the municipality to which a municipal service is provided;

**“arrears”** means any amount that is due, owing and payable by a customer in respect of a municipal service that has not been paid on or before the due date;

**“authorised agent”** means—

(a) any person authorised by the municipal council to perform any act, function or duty in terms of, or to exercise any power under, these by-laws;

(b) any person to whom the municipal council has delegated responsibilities, duty or obligation in respect of providing revenue services; or

(c) any person appointed by the municipal council, in a written contract, as a service provider for the provision of revenue services or a municipal service to customers on its behalf, to the extent authorised by that contract;

**“average consumption”** means the average consumption by a customer of a municipal service during a specific period, which consumption is calculated by dividing by three the total measured consumption of that service by that customer over the preceding three months;

**“commercial customer”** means a customer other than a domestic customer and an indigent customer, including, but not limited to, a business or an industrial, governmental or an institutional customer;

**“connection”** means the point at which a customer gains access to municipal services;

**“customer”** means a person with whom the municipality has concluded, or is deemed to have concluded, an agreement for the provision of a municipal service;

**“defaulter”** means a customer who owes arrears to the municipality;

**“domestic customer”** means a customer who, primarily for residential purposes, occupies a dwelling, structure or premises;

**“due date”** means the date on which an amount payable in respect of an account becomes due, owing and payable by the customer, which date shall be not less than 21 days after the date on which the account has been sent to the customer by any of the ways contemplated in section 56;

**“emergency situation”** means a situation that would if allowed to continue, pose a substantial risk, threat, impediment or danger to the present or future financial viability or sustainability of the municipality, or to a specific municipal service;

**“estimated consumption”** means the consumption that a customer, whose consumption is not measured during a specific period, is deemed to have consumed, that is estimated by taking into account factors that are considered relevant by the municipality and which may include the consumption of municipal services by the totality of the users of a service within the area where the service is rendered by the municipality, at the appropriate level of service, for a specific time;

**“household”** means a family unit, that is determined by the municipality to be traditional by taking into account the number of persons in the unit, the relationship between the members of a household, their ages and any other factor that the municipality considers to be relevant;

**“illegal connection”** means a connection to any system through which a municipal service is provided that is not authorised or approved by the municipality;

**“indigent customer”** means a domestic customer who is qualified to be, and who is registered with the municipality as, an indigent in accordance with these by-laws;

**“infrastructure”** means the facilities, installations or devices required for the rendering of a municipal service, or for the functioning of a community including, but not limited to, facilities, installation or devices relating to water, power, electricity, transport, sewerage, gas and waste disposal;

**“interest”** means interests as may be prescribed by the Minister of Justice in terms of section 1 of the Prescribed Rate of Interest Act, 1975 (Act No 55 of 1975);

**“municipality”** means—

(a) the ... municipality, a local / district municipality established in terms of section 12 of the Structures Act, 1988 (Act No 117 of 1998) and its successors-in-title; or

(b) subject to the provisions of any other law and only if expressly or impliedly required or permitted by these by-law the municipal manager in respect of the performance of any function, or the exercise of any duty, obligation, or right in terms of these by-laws or any other law; or

(c) an authorised agent of the municipality;

**“municipal council”** means the municipal council as referred to in section 157(1) of the Constitution of the Republic of South Africa Act, 1996;

**“municipal manager”** means the person appointed by the by the municipal council as the municipal manager of the municipality in terms of section 82 of the Local Government Municipal Structures Act, 1998 (Act No 117 of 1998) and includes any person to whom the municipal manager has delegated a power, function or duty but only in respect of that delegated power, function or duty;

**“municipal services”** means, for purposes of these by-laws, services provided by a municipality, including refuse removal, water supply, sanitation, electricity services and rates or any one of the above;

**“occupier”** includes any person who occupies any, or any part of any, land, building, structure or premises without regard to the title under which he or she occupies it or them, and includes any person who, for someone else’s remuneration or reward, allows a lodger or tenant, or any other similar person, to use or occupy any, or any part of any, land, building, structure or premises;

**“owner”** means—

(a) the person in whose name the ownership of the premises is registered from time to time or his agent;

(b) where the registered owner of the premises is insolvent or dead, or for any reason lacks legal capacity, or is under any form of legal disability, that has the effect of preventing him from being able to perform a legal act on his own behalf, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;

(c) where the municipality is unable to determine the identity of the owner, a person who has a legal right in, or the benefit of the use of, any premises, building, or any part of a building, situated on them;

(d) where a lease has been entered into for a period of 30 (thirty) years or longer, or for the natural life of the lessee or any other person mentioned in the lease, or is renewable from time to time at the will of the lessee indefinitely or for a period or periods which, together with the first period of the lease, amounts to 30 years, the lessee or any other person to whom he has ceded his right title and interest under the lease, or any gratuitous successor to the lessee;

(e) in relation to—

(a) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No 95 of 1986), the developer or the body corporate in respect of the common property, or

(b) a section as defined in the Sectional Titles Act, 1986 (Act No 95 of 1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person; or

(c) a person occupying land under a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

**“person”** means any person, whether natural or juristic and includes, but is not limited to, any local government body or like authority, a company or close corporation incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

**“premises”** means any piece of land, 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 of 1927), or in terms of the Deeds Registries Act, 1937 (Act No 47 of 1937);
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No 95 of 1986); or
- (c) a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

**“public notice”** means publication in the media including one or more of the following:

- (a) publication of a notice, in the official languages determined by the municipal council—
- (a) in any local newspaper or newspapers circulating in the area of supply of the municipality;
- (b) in the newspaper or newspapers circulating in the area of supply of the municipality determined by the municipal council as a newspaper of record; or
- (c) on the official website of the municipality;
- (d) by means of radio broadcasts covering the area of supply of the municipality;
- (b) displaying a notice in or at any premises, office, library or pay-point of either the municipality, or of its authorised agent, to which the public has reasonable access; and
- (c) communication with customers through public meetings and ward committee meetings;

**“shared consumption”** means the consumption by a customer of a municipal service during a specific period, that is calculated by dividing the total metered consumption of that municipal service in the supply zone where the customer’s premises are situated for the same period by the number of customers within the supply zone, during that period;

**“subsidised service”** means—

- (a) a municipal service which is provided to a customer at an applicable rate which is less than the cost of actually providing the service and includes services provided to customers at no cost;
- (b) an area, determined by the municipality, within which all customers are provided with services from the same bulk supply connection; and
- (c) the receipt, use or consumption of any municipal service which is not in terms of an agreement, or authorised or approved by the municipality; and

**“unauthorised service”** means the receipt, use or consumption of any municipal service which is not in terms of an agreement with, or approved by, the municipality.

## Introduction

The Thabazimbi Local Municipality introduces the following Credit Control and Debt Collection Procedures as by-laws to allow for fair and just collection of all monies due to the Municipality. This by-laws have been prepared to comply with the requirements set by the:

- Constitution of South Africa (Act 108 of 1996, Sections 156 and 229);
- Local Government Municipal Systems Act, 2000 (Act 32 of 2000);
- Local Government Property Rates Bill 2000;
- Local Government Ordinance, 1939 (Ordinance 17 of 1939);
- Standard Water Bylaws;
- Standard Electricity Bylaws; and
- The National Credit Control Guidelines (Issued by the Department of Constitutional Development).

To ensure compliance with the requirements of the above authorities and to act fairly and just towards all persons owing money to the Municipality, the Municipality shall comply with the following general principles in all cases, irrespective of the type of money due and payable to the Municipality:

## Chapter 2

### MUNICIPAL SERVICES TO CUSTOMERS OTHER THAN INDIGENT CUSTOMERS

#### Part 1 Application for Municipal Services

#### 2. Application for Services

- (a) A customer wishing to qualify as an indigent customer must apply for services in the manner set out in Chapter 4 below.
- (b) No person shall, subject to the provisions of subsection (3), receive or be provided with access to a municipal service unless the municipality has given its approval to an application that has been made to the municipality on the prescribed form attached as Annexure A to these by-laws.
- (c) If, at the commencement of these by-laws or at any other time, municipal services are provided and received and no written agreement exists in respect of such services, it shall, until the customer enters into an agreement in terms of subsection (2), be deemed that—
- (d) an agreement as envisaged by subsection (7) exists; and
- (e) the level of services rendered to that customer is at a level of services elected by him.
- (f) The municipality, when an application for the provision of municipal services has been made to it, must inform the applicant of the levels of services that are available and the applicable tariffs or charges then current, and, if it be known, the future tariffs or charges, associated with each level of service.
- (g) The municipality is obliged only to provide a level of service specifically requested by the applicant if the service is currently being provided and if the municipality has the resources and capacity to provide that level of service.
- (h) A customer may at any time apply for an alteration to the level of services that was elected in terms of an agreement, and, if she does so, the municipality may approve of the application if it has the capacity and resources to provide the requested level of service altering the level of services subject to the condition that the customer shall be liable, for the cost of effecting the alteration and, if it be feasible to calculate the cost, to pay it before the alteration commences.
- (i) An application for services that has been submitted by a customer and approved by the municipality shall constitute a written agreement between the municipality and the customer, and such agreement shall take effect on the date referred to or stipulated in the agreement.
- (2) The municipality must take reasonable steps to attempt to ensure that an illiterate person who wishes to complete an application form understand the document as well as the consequences of entering into the agreement, and must also advise him of the possibility of registering as an indigent customer.
- (3) The municipality, must, in addition to satisfying the requirements of subsection (8), assist an illiterate person in completing the application form.
- (4) Municipal services rendered to a customer are subject to the provisions of these by-laws, any other applicable by-laws and the conditions contained in the agreement.
- (5) The municipality may, subject to the provisions of any right to privacy and secrecy recognised by any law, undertake an investigation into the creditworthiness of customers, and may impose specific additional conditions, which are neither contained in these by-laws nor in the prescribed form, on that customer.
- (6) If the municipality:
- refuses an application for the provision of municipal services or a specific service or level of service;
  - is unable to render municipal services, or a specific service or level of service, by when the customer wants it; or
  - is unable to render municipal services, a specific service, or a specific level of service;
- It must, within 7 (seven) days of refusing the application or of becoming aware of its inability, inform the customer about the refusal or its inability, and must furnish the reasons for its refusal or inability and, if it is able to do so, inform the customer of when the municipal services, or a specific service, will be resumed.

### **3. Special Agreements for Municipal Services**

(1) The municipality may enter into a special agreement for the provision of municipal services with an applicant:

- (a) Within the area of supply, if the services applied for requires the imposition of conditions not contained in the prescribed form or these by-laws;
- (b) Receiving subsidised services; and
- (c) If the premises to receive such services are situated outside the area of supply, and if the municipality having jurisdiction over the premises has no objection to such a special agreement, and it shall be incumbent on the customer to advise the municipality having jurisdiction of such a special agreement.

### **4. Termination of Agreements for Municipal Services**

- (1) A customer may terminate an agreement for municipal services by giving at least 7 (Seven) days written notice to the municipality.
- (2) The municipality may terminate an agreement for municipal services by giving at least 7 (seven) days written notice to a customer where:
  - (a) Municipal services were not utilised for a consecutive period of 2 (two) months and without an arrangement having been made by the customer; or
  - (b) Premises have been vacated by the customer, who owns or has occupied them, and no arrangement for the continuation of the agreement has been made with the municipality.
- (3) The owner shall remain liable for all arrears and applicable charges that are payable for municipal services rendered prior to the termination of an agreement.

### **5. Property Developments**

(1) A property developer must, as soon as an infrastructure is able to render a municipal service or services to an area which is the subject of development, adequately and promptly inform the municipality, within a reasonable time, of the nature and extent of the service or services to be provided and of the measuring devices that will be used.

(2) A property developer who fails to comply with the provisions of subsection (1) shall be liable for the payment of all the applicable charges that would have been payable by customers in respect of municipal services that have been used or consumed.

(3) A property developer must apply for bulk contribution for both water and electricity.

## **Part 2: Applicable Charges**

### **6. Applicable Charges for Municipal Services**

(1) All applicable charges payable in respect of municipal services, (including but not limited to the payment of connection charges, fixed charges or any additional charges) must be set by the municipal council in accordance with:

- (a) Its Tariff policy;
  - (b) The by-laws; and
  - (c) Any regulations made in terms of national or provincial legislation.
- (2) Applicable charges may vary for different categories of customers, users of services, types and levels of services, quantities of services, infrastructural requirements and geographic areas.

### **7. Availability Charges for Municipal Services**

(1) The municipal council must, in addition to the tariffs or charges prescribed for municipal services actually provided, levy a monthly fixed charge, an annual fixed charge or a single and final fixed charge where municipal services are available, irrespective of whether or not the services are, or are not, used.

## **8. Subsidised Services**

(1) A municipal council must implement subsidies, by public notice, to the extent to which it can afford to do so without detriment to the sustainability of municipal services that are being rendered by it within its area of jurisdiction, for what, in its opinion, is a basic level of service for a particular municipal service.

(2) The municipal council must in implementing subsidies differentiate between types of domestic customers, types and levels of services, quantities of services, geographical areas and socio-economic areas.

(3) A public notice in terms of subsection (1) must contain at least the following details applicable to a specific subsidy:

- (a) the domestic customers who will benefit from the subsidy;
- (b) the type, level and quantity of a municipal service that will be subsidised;
- (c) the area within which the subsidy will apply;
- (d) the rate (indicating the level of subsidy);
- (e) the method of implementing the subsidy; and
- (f) any special terms and conditions that will apply to the subsidy.

(4) If a domestic customer's consumption or use of a municipal service is:

- less than the portion of a service that has been subsidised, the unused portion will not accrue to the customer and will not entitle the customer to a payment or a rebate in respect of the unused portion; and
- in excess of the subsidised portion of the service, the customer will be obliged to pay for excess consumption at the applicable rate.

(5) A subsidy implemented in terms of subsection (1) may at any time, after reasonable public notice, be withdrawn or altered in the sole discretion of the municipal council.

(6) Commercial customers shall not qualify for subsidised services.

(7) Subsidised services shall be funded from the portion of revenue that is raised nationally and allocated to the municipality and if such funding is insufficient the services may be funded from revenue raised by means of rates, fees and charges for municipal services.

## **9. Recovery of Additional Costs**

(1) The municipality by-laws shall in addition to any charge, tariff, levy or payment of any kind referred to in these by-laws, recover from the customer any costs incurred by it in implementing these by-laws, including but not limited to:

- (a) all legal costs, including attorney and client costs incurred in the recovery of arrears which shall be debited against the customer as arrears in his account; and
- (b) the costs incurred in demanding payment from the customer and for reminding the customer, by means of telephone, fax, e-mail, letter or otherwise that payment is due.

## **Part 3 Payment**

### **10. Payment of Deposit**

(1) A municipal council may require a customer to pay a deposit that has been determined by it and may determine that different deposits be paid by different categories of customers, users of services and debtors as well as for different services and standards of service.

(2) A deposit may not exceed 3 (three) times the monetary value (including rates and taxes derived from rendering the service) of any service for which a client has applied.

(3) A serviced referred to in subsection (2) means a service that has been rendered to a customer's premises; and the monthly monetary value of a service is calculated by taking the total monetary value of the 3 (three) most recent months of service that have been rendered to him and dividing it by 3 (three).

(4) The municipal council must specify acceptable forms of deposits, which may include:

- (a) cash;
- (b) bank guaranteed cheques; and

(5) A deposit determined by the Municipal Council must be paid by a customer when he applies for a municipal service and no service will be rendered until it has been paid.

## ANNEXURE 5

(6) The municipality may annually review a deposit paid in terms of subsection (5) and depending on the outcome of the review:

(a) require that an additional amount of money be deposited by the customer if the deposit is less than the most recent deposit determined by the municipal council; or

(b) refund to the customer whatever amount of money that may be held by the municipality as a deposit which is in excess of the most recent deposit determined by the municipal council.

(7) If a customer is in arrears, the municipality may require the customer to:

(a) pay a deposit if that customer has not previously been required to pay a deposit, if the municipal council has determined a deposit; and

(b) pay an additional deposit where the deposit paid by that customer is less than the most recent deposit determined by the municipal council.

(8) A deposit, or any part of a deposit, is neither a payment, nor a part payment, of an account but if an account is in arrear, the deposit will be used in payment, or part payment, of the arrears.

(9) No interest shall be payable by the municipality on any deposit, or part of a deposit, held by it.

(10) A deposit, is refundable to the customer on settlement of all arrears on the termination of the agreement but if any arrears are still due, they will be deducted from it.

(11) A deposit shall be forfeited to the municipality if it has not been claimed by the customer within 12 (twelve) months of the termination of the agreement.

### **11. Methods for Determining Amounts Due and Payable**

(1) A municipality must endeavour to meter all municipal services that are capable of being metered, if it has the financial and human resources, to do so and, also, to read all metered services on a regular basis, but if a service is not measured, a municipality may, subsection determine what is due and payable by a customer for municipal services by calculating the shared consumption; or, if that is not possible, by means of an estimated consumption.

(2) If a metered service is metered, it cannot be read because of financial and human resource constraints, or circumstances beyond of the control of the municipality, and the customer is charged for an average consumption, the account following a reading of the metered consumption must state the difference between the actual consumption and the average consumption, and reflect the resultant credit or debit adjustment.

(3) Where in the opinion of the municipality it is not reasonably possible or cost effective to meter all customer connections, or to read all metered customer connections, within a determined area, the municipal council may determine the amount due and payable by a customer for municipal services in the manner set out in subsection (1).

(4) Where water supply services are provided by a communal water-services work, the amount that customers must pay for gaining access to, and utilizing, water from the communal water services work, will be based on the shared or estimated consumption of water supplied to that water services work.

(5) The municipality must inform customers about the method used in determining what is due and payable in respect of municipal services in their consumption or supply zones.

### **12. Payment for Municipal Services Provided**

(1) A customer shall be responsible for the payment of all municipal services rendered to him/her from the commencement date of the agreement until her account has been paid in full and the municipality shall be entitled to recover all payments due to it.

(2) If a customer uses a municipal service for a use other than that for which it is rendered by the municipality in terms of an agreement, and if it is charged at a lower than the usual applicable charge, the municipality may alter the amount to be charged and recover from the customer the difference between the altered charge and the amount that has been paid by the customer.

(3) If amendments to the applicable charge become operative on a date between when measurements are made for rendering an account for the applicable charges:

(a) it shall be deemed that the same quantity of municipal services was provided for each period of twenty-four hours during the interval between the measurements; and

(b) any fixed charge shall be calculated on a pro rata basis in accordance with the charge that applied immediately before such amendment and such amended applicable charge.

### 13. Full and Final Settlement of an Amount

The customer must fill in the disconnection form 7 days prior the disconnection date of the service for our meter readers to go and take final readings. The municipality will then capture the last readings to give the customer final account. Where an account is not settled in full, any lesser amount tendered to, and accepted by, the municipality shall not be a full and final settlement of such an account despite the fact that the payment was tendered, in full and final settlement, unless the municipal manager or the manager of the municipality's authorised agent, expressly accepts it in writing as being in full and final settlement of the account in question.

### 14. Responsibility for Amounts due and Payable

(1) Subject to subsection (2) and notwithstanding any other provision in this by-law, an owner of premises shall be liable for the payment of any amount that is due and payable to the municipality by a customer for the preceding years, if the municipality, after having taken reasonable steps to recover from a customer any amount due and payable by the customer could not do so, the municipality will sell the property to recover the amount due.

(2) If the municipality, after having taken all reasonable steps to recover money from the customer through credit control and debts collection process the customer will be subjected to the process of blacklisting (ITC listing credit bureau)

(3) The municipality will charge annual penalties on the land that is not developed (vacant Land) within two (2) years from the date of registration of new ownership. The penalties will be calculated using the ruling Consumer Price Index Rate at the beginning of the Municipal Financial Year i.e 6.3% x property value (as per the current valuation roll). The annual penalty is over and above the normal monthly charges on assessment rates and taxes.

(4) The municipality is the license holder for water provision in Thabazimbi, any customer who wishes to have a borehole must apply at the municipal officer, failure to do so the municipality will penalize the customer.

(5) If, at the commencement of these by-laws or at any other time, municipal services are rendered and received by any person at the premises, and if no written agreement exists in respect of those services, the owner of the premises shall be deemed to have agreed to the provisions of subsection (1) until the customer enters into an agreement with the municipality in terms of section 2 and the application form for the services is signed by the owner.

### 15. Dishonoured Payments

(1) Where any payment made to the municipality by negotiable instrument is later dishonoured by the bank, the municipality:

- (a) may debit the customer's account with the bank charges incurred in respect of dishonoured negotiable instruments;
- (b) shall regard such an event as default on payment.

## Part 4 Accounts

### 16. Accounts

(1) Accounts must be rendered monthly to customers at the customer's last recorded address.

(2) Where in the opinion of the municipality it is not reasonably possible or cost effective to render accounts to consumers who consume only subsidised services, the municipal council may, notwithstanding subsection (1), decide not to render accounts to those consumers.

(3) Failure by the customer to receive or accept an account does not relieve a customer of the obligation to pay any amount that may be due and payable.

(4) The municipality must, if it is reasonably possible to do so, issue a duplicate account to a customer on request. Accounts must be paid not later than the last date for payment specified in it.

(5) Accounts for municipal services must reflect at least the:

- (a) services rendered;
- (b) consumption of metered services or the average, shared or estimated consumption;
- (c) period addressed in the account;
- (d) applicable charges;
- (e) subsidies;

- (f) amount due (excluding the value added tax payable)
- (g) value added tax;
- (h) adjustment, if any, to metered consumption which has been previously estimated;
- (i) arrears;
- (j) interest payable on any arrears;
- (k) final date for payment; and
- (l) methods, places and approved agents where payment may be made; and
- (2) state that:
  - (a) the customer and the municipality may enter into an agreement at the municipal offices in terms of which the customer will be permitted to pay arrears in instalments;
  - (b) if no such agreement is entered into, the municipality will limit or disconnect the services, after sending a final demand notice in terms of sections 24 and 26 to the customer;
  - (c) legal action may be instituted against any customer for the recovery of any amount more than 60 (sixty) days in arrears;
  - (d) a claim for arrears may be ceded to a debt collector for collection; and
  - (e) proof of registration, as an indigent customer, in terms of the municipality's indigent policy, which may form part of the municipality's credit control and debt collection policy, must be handed in at the offices of the municipality before the final date for payment.

## **Part 5 Queries, Complaints and Appeals**

### **17. Queries or Complaints in Respect of Account**

- (1) A customer may lodge a query, complaint or objection relating to the accuracy of any amount stated to be due and payable by him for a specific municipal service in an account that has been rendered to him.
- (2) A query, complaint or objection must be lodged with the municipality in writing before the due date of payment of the account.
- (3) The municipality must assist an illiterate or similarly disadvantaged customer in lodging a query, complaint or objection and must take reasonable steps to ensure that it is reflected correctly in writing.
- (4) A query, complaint or objection must be accompanied by a payment calculated by taking the average consumption by the customer of the service and subtracting the amount that has been questioned, complained about or objected to.
- (5) The municipality must record the query, complaint or objection and provide the customer with a reference number to identify where it has been recorded.
- (6) The municipality:
  - shall investigate or cause the query, complaint or objection to be investigated within 14 (fourteen) days after the query or complaint was registered; and
  - must inform the customer, in writing, of its finding within 14 (fourteen) days after the query, complaint or objection was registered.
  -

### **18. Appeals against Findings of Municipality in Respect of Queries or Complaints**

- (1) A customer may appeal in writing against a finding of the municipality in terms of section 21.
- (2) An appeal in terms of subsection (1) must be made in writing and lodged with the municipality manager within 21 (twenty-one) days after the customer became aware of the finding referred to in section 21 and must:
  - set out the reasons for the appeal; and
  - be accompanied by a deposit, as determined by the municipal council, if the municipality requires a deposit to be made.
- (3) The municipality may, on appeal by a customer instruct him, to pay the full amount appealed against.
- (4) The customer is liable for all other amounts, other than that appealed against, falling due and payable during the adjudication of the appeal.
- (5) An appeal must be decided by the municipality within 21 (twenty-one) days after an appeal was lodged and the customer must be informed of the outcome in writing, as soon as is reasonably possible, afterwards.
- (6) If the municipality decides to reject the query, or complaint or objection, the customer must pay any amounts found to be due and payable in terms of the decision within 14 (fourteen) days of being informed of the outcome of the appeal.

- (7) The municipality may condone the late lodging of appeals or other procedural irregularities.
- (8) If it is alleged in an appeal that a measuring device is inaccurate, the device must be subjected to a standard industry test as determined by the municipality, to establish its accuracy and the customer must be informed of the estimated cost of such a test prior to such test being undertaken.
- (9) If the outcome of any test shows that a measuring device is—
- (a) within a prescribed range of accuracy, the customer will be liable for the costs of the test and any other amounts outstanding, and those costs will be debited in the customer's account;
  - (b) is outside a prescribed range of accuracy, the municipality will be liable for the costs of such test and the customer must be informed of the amount of any credit to which he is entitled as a consequence of any inaccuracy.
- (10) A deposit referred to in subsection (2)(b), shall be—
- (a) retained by the municipality if the measuring device is found not to be defective; or
  - (b) refunded to the applicant to the extent that it exceeds the amount payable in respect of quantity determined in accordance with subsection 11(b), if the measuring device is found in terms of that subsection to be defective.
- (11) In addition to subsections (9) and (10) the municipality must if the measuring device is found defective—
- (a) repair the measuring device or install another device in good working order, without charge to the customer, unless the cost of doing so is recoverable from the customer in terms of this or any other by-laws of the municipality; and
  - (b) determine the quantity of municipal services for which the customer will be charged in lieu of the quantity measured by the defective measuring device by taking as a basis for such determination, and as the municipality may decide—
    - (c) the quantity representing the average monthly consumption of the customer during the three months preceding the month in respect of which the measurement is disputed and adjusting that quantity in accordance with the degree of error found in the reading of the defective meter or measuring device;
    - (d) the average consumption of the customer during the succeeding three metered periods after the defective meter or measuring device has been repaired or replaced; or
    - (e) the consumption of services on the premises recorded for the corresponding period in the previous year.

## **Part 5 Arrears**

### **19. Consolidated Arrears**

- (1) If one account is rendered for more than one municipal service provided, all arrears due and payable by a customer constitute 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 following order:
- (a) towards payment of the current account;
  - (b) towards payment of arrears;
  - (c) towards payment of interest; and
  - (d) towards costs incurred in taking relevant action to collect amounts due and payable.

### **20. Arrears**

- (1) If a customer fails to pay the account on or before the due date, a final demand notice may be hand delivered or sent by registered post to the most recent recorded address of the customer within 2 (two) working days of the arrears having accrued.
- (2) Failure to deliver or to send a final demand notice within 2 (two) working days does not relieve a customer from paying arrears.

### **21. Interest**

- (1) Interest will be levied on arrears.
- (2) The municipal council must differentiate between types of domestic customers, types and levels of services, quantities of services, geographical areas and socio-economic areas in levying interest on arrears.

## **22. Final Demand Notice**

(1) The final demand notice must contain the following statements:

- (a) the amount in arrears and any interest payable;
- (b) that the customer may conclude an agreement with the municipality for payment of the arrears in instalments within 7 (seven) working days of the date of the final demand notice;
- (c) that if no such agreement is entered into within the stated period that specified municipal services will be limited or disconnected in accordance with section 27;
- (d) that legal action may be instituted against any customer for the recovery of any amount 40 (forty) days in arrears;
- (e) that the account may be handed over to a debt collector for collection; and
- (f) that proof of registration, as an indigent customer, in terms of these by-laws must be handed in at the offices of the municipality before the final date of the final demand notice.

(2) The municipality must, subject to section 27, in deciding whether a municipal service is to be specified for limitation or disconnection in terms of subsection (1)(c) consider—

- (a) what potential socio-economic and health implications the limitation or disconnection may have on the customer; and
- (b) a domestic customer's right of access to basic municipal services as identified in the municipal council's credit control and debt collection policy.

## **23. Limitation or Disconnection of Municipal Services**

(1) The municipality may, immediately on the expiry of the 7 (seven) working day period allowed for payment in terms of the final demand notice limit or disconnect the municipal services specified in subsection 26(1)(c) provided that a domestic customer's access to basic water supply services and sanitation services may not be disconnected.

(2) The municipality may only limit a domestic customer's access to basic water supply services by:

- (a) reducing water pressure; or
- (b) limiting the availability of water to a specified period or periods during a day; or
- (c) disconnecting in-house and yard connections and making an alternative water supply services available to the domestic consumer, which alternative service may consist of a basic water supply service as prescribed by the Minister of Water Affairs and Forestry in terms of the Water Services Act, 1997 (Act No 108 of 1997).

(3) The costs associated with the limitation or disconnection of municipal services shall be at the cost of the customer and shall be included in the arrears amount due and payable by the customer.

## **24. Accounts 60 (Sixty) Days in Arrears**

(1) Where an account rendered to a customer remains outstanding for more than 60 (sixty) days the municipality may:

- (a) institute legal action against a customer for the recovery of the arrears; or
- (b) cede the customer's account to a debt collector for collection.

(2) A customer will be liable for recoverable administration fees, costs incurred in taking action for the recovery of arrears and any penalties, including the payment of a higher deposit, as may be determined by the municipal council from time to time.

## **25. General**

(1) No action taken in terms of this section because of non-payment will be suspended or withdrawn, unless the arrears, any interest, recoverable administration fees, additional charges, costs incurred in taking relevant action and any penalties, including the payment of a higher deposit, payable have been paid in full.

(2) The municipality will not be liable for any loss or damage suffered by a customer owing to municipal services having been limited or disconnected.

## **Parts 7 Agreement for the Payment of Arrears in Instalments**

### **26. Agreements**

(1) The following agreements for the payment of arrears in instalments may be entered into:

## ANNEXURE 5

- (a) an acknowledgement of debt;
  - (b) a consent to judgment; or
  - (c) an emolument attachment order.
- (2) Only a consumer with positive proof of identity or a person authorised, in writing, by that consumer, or, if a consumer is illiterate, a person authorised by a consumer personally in the presence of an officer appointed by the authority for that purpose, will be allowed to enter into an agreement for the payment of arrears in instalments.
- (3) No customer will be allowed to enter into an agreement for the payment of arrears in instalments where that customer failed to honour a previous agreement for the payment of arrears in instalments, unless the municipality, in its sole discretion, permits the customer to do so.
- (4) A copy of the agreement must be made available to the customer.
- (5) An agreement for the payment of arrears in instalments must not be entered into unless and until a customer has paid his current account.

### **27. Additional Costs, Partial Settlement and Instalments**

- (1) The costs associated with entering into agreements for the payment of arrears in instalments and the limitation or disconnection of municipal services in accordance with section 27 shall be included in the arrears amount due and payable by the customer.
- (2) The municipality must, in determining the amount payable by the customer on entering into an agreement for the payment of arrears in instalments and the instalments payable in respect of any arrear amounts take the following factors into account:
- (a) the credit record of the customer;
  - (b) the amount in arrear;
  - (c) the level of consumption of municipal services;
  - (d) the level of service provided to the customer;
  - (e) previous breaches of agreements (if there be any) for the payment of arrears in instalments; and
  - (f) any other relevant factors.
- (3) If a customer on entering into an agreement for the payment of arrears in instalments, proves to the municipality that he is unable to pay the amount referred to in section 30(5) the municipality may, after taking into account the factors referred to in subsection (2):
- (a) extend its payment to the end of the month in which the customer enters into the agreement; or
  - (b) include it in the amount payable in terms of the agreement.
- (4) The municipality may, after taking into account the factors referred to in subsection (2), require a customer to pay an additional amount on entering into an agreement for the payment of arrears, in addition to the current account, representing a percentage of the arrears amount in arrears.
- (5) The municipality may, when a customer enters into an agreement or any time afterwards:
- (a) install a pre-payment meter; or
  - (b) limit the municipal services to basic municipal services.

### **28. Duration of Agreements**

- (1) The municipality may, in deciding on the duration of the agreement for the payment of arrears have regard to:
- (a) the credit record of the customer;
  - (b) the amount in arrear;
  - (c) the gross and net income of the customer;
  - (d) the level of consumption of municipal services;
  - (e) the level of service provided to the customer;
  - (f) previous breaches of agreements for the payment of arrears in instalments; and
  - (g) any other relevant factor.

### **29. Failure to Honour Agreements**

- (1) If a customer fails to comply with an agreement for the payment of arrears in instalments, the total of all outstanding amounts, including arrears, any interest, administration fees, costs incurred in taking relevant action, and penalties, including payment of a higher deposit, will be immediately due and payable without further notice or correspondence and the municipality may:
- (a) limit or disconnect the municipal services specified in the final demand notice sent to the customer in accordance with section 22;

- (b) institute legal action for the recovery of the arrears; and
- (c) hand the customer's account over to a debt collector or an attorney for collection.

### **30. Re-connection of Services**

- (1) An agreement for payment of the arrears amount in instalments, entered into after municipal services were limited or disconnected, will not result in the services being restored until—
  - (a) the current account, the first instalment payable in terms of the agreement for payment of the arrears in instalments and all recoverable administration fees, costs incurred in taking relevant action and any penalties, including payment of a higher deposit, are paid in full; or
  - (b) a written appeal by the customer, on the ground of having made timeous and full payment of instalments and current amounts due and payable for a period of at least 6 (six) months has been approved by the municipality.
- (2) In addition to any payments referred to in subsection (1), the customer must pay the standard re-connection fee, as determined by the municipality from time to time, prior to the re-connection of municipal services by the municipality.
- (3) Municipal services shall be restored within 7 (seven) working days after a customer has complied with the provisions of subsections (1) and (2).

## **Chapter 3**

### **PROVISION OF MUNICIPAL SERVICES TO INDIGENT CUSTOMERS**

#### **31. Qualification for Registration**

- (1) A domestic customer, with a household where the gross monthly income of all of its members of 18 years old or over, is less than an amount determined by the municipal council from time to time, who:
  - (a) does not own more than one property, and who
  - (b) does not have any income from letting a property or part of a property, qualifies as an indigent person and, if he applies for registration, may, subject to the provisions of section 40, 42 and 43 of these by-laws, be registered as being indigent.

#### **32. Application for Registration**

- (1) A domestic customer wishing to qualify as an indigent customer must complete the application form entitled "Application for Registration as Indigent Customer"
- (2) Any application in terms of subsection (1) must be:
  - (a) accompanied by;
  - (b) documentary evidence of his income, such as a letter from an employer, a salary advice slip, a pension card, unemployment insurance fund card or
  - (c) an affidavit declaring that he is unemployed and stating any income that he may have despite being unemployed; and
  - (d) the customer's latest municipal account, if there be one, and if it is in his possession; and
  - (e) a certified copy of the customer's identity document; and
  - (f) the names and identity numbers of all occupants over the age of 18 years who are resident at the property.
- (3) A customer applying for registration as an indigent customer shall be required to declare that all information provided in the application form and other documentation and information provided in connection with the application is true and correct.
- (4) The municipality shall counter-sign the application form and certify on the application form that its content and the consequences for the customer of its being approved, were explained to him and that he indicated that he understood the explanation.

#### **33. Approval of Application**

- (1) The municipality must send representatives to premises or to persons applying for registration as indigent customers to investigate whether the information provided prior to approval of an application is correct; and the provisions of section 61 apply to such an investigation.
- (2) An application received in accordance with section 40 shall be considered by the municipality and the applicant must be advised in writing within 14 (fourteen) working days of receipt of the application

by the municipality, whether or not the approval has been given And, if it is not approved, the applicant must be given reasons for the refusal.

(3) An application shall be approved only for the period of the municipality's financial year and application that has been approved during the municipality's financial year shall be valid only for the remaining period of the municipality's financial year.

#### **34. Conditions**

(1) The municipality may on approval of an application or at any time afterwards:

(a) install a pre-payment electricity meter for the indigent customer where electricity is provided by the municipality; and

(b) limit the water supply services of an indigent customer to basic water supply services.

#### **35. Annual Application**

(1) An indigent customer must annually, before the end of the municipality's financial year, re-apply for re-registration as an indigent customer for the forthcoming financial year, failing which the assistance will cease automatically.

(2) An indigent customer shall have no expectation of being regarded as an indigent customer in any year that ensues or follows a year in which he or she was so registered and the municipality gives no guarantee on grounds for the expectation of a renewal.

(3) The municipality shall inform the applicant in writing, within 14 (fourteen) working days of the receipt of the application by the municipality, whether or not the application has or has not been approved, and if it has not been approved, the applicant must be given the reasons why it has not been approved.

#### **36. Subsidised Services for Indigent Customers**

(1) The municipal council may annually as part of its budgetary process, determine the municipal services and levels of municipal services that will be subsidised in respect of indigent customers subject to principles of sustainability and affordability.

(2) The municipality must on a determination in terms of subsection (1) give public notice of the determination.

(3) Public notice in terms of subsection (2) must contain at least the following:

(a) the level or quantity of municipal service that will be subsidised;

(b) the level of subsidy;

(c) the method of calculating the subsidy; and

(d) any special terms and conditions that will apply to the subsidy, not provided for in these by-laws.

(4) An indigent consumer shall be liable for the payment of any municipal services rendered by the municipality or municipal services used or consumed in excess of the levels or quantities determined in subsection (1).

#### **37. Funding for Subsidised Services**

The subsidised services 44 shall be funded from the portion of revenue raised nationally that is allocated to the municipality and if that funding is insufficient the services may be funded from revenue raised through rates, fees and charges in respect of municipal services.

#### **38. Existing Arrears of Indigent Customers on Approval of Application**

(1) Arrears accumulated in respect the municipal accounts of customers prior to registration as indigent customers will be either:

(a) make arrangements on

(b) recovered through legal proceedings and / or extended term arrangements

#### **39. Audits**

The municipality may, subject to the provisions of any right to privacy and secrecy recognised by any law, undertake regular random audits to:

- verify the information provided by indigent customers;
- record any changes in the circumstances of indigent customers; and

- make recommendations on the de-registration of the indigent customer.

## Chapter 4

### UNAUTHORISED SERVICES

#### 40. Unauthorised Services

(1) No person may gain access to municipal services unless it is in terms of an agreement entered into with the municipality for the rendering of those services.

(2) The municipality may, irrespective of any other action it may take against a person in terms of this by-law, by written notice order a person who is using unauthorised services to:

(a) apply for such services in terms of sections 1 and 2; and

(b) undertake any work that may be necessary to ensure that the customer installation, by means of which access was gained, complies with the provisions of these or any other relevant by-laws or if it is of the opinion that the situation is a matter of urgency, and may, without prior notice, prevent or rectify the noncompliance and recover the cost from him.

(3) A person who gains access to municipal services in a manner other than in terms of an agreement entered into with the municipality for the rendering of those services shall be liable to pay for any services that he, may have utilised or consumed in breach of this bylaw, notwithstanding any other actions that may be taken against such a person. Consumption and use will be estimated on the basis of the average consumption of services to the specific area within which the unauthorised connection was made.

#### 41. Interference with Infrastructure for the Provision of Municipal Services

(1) No person other than the municipality shall manage, operate or maintain infrastructure through which municipal services are provided.

(2) No person other than the municipality shall effect a connection to infrastructure through which municipal services are provided.

(3) No person shall intentionally or negligently damage, change or in any way interfere with infrastructure through which the municipality provides municipal services unless there is a lawful justification for intentionally doing so.

(4) If a person contravenes subsection (1), the municipality may—

(a) by written notice require a person to cease or rectify the damage, change or interference at his own expense within a specified period; or

(b) if it is of the opinion that the situation is a matter of urgency, without prior notice prevent or rectify the change, damage or interference and recover the cost of doing so from him.

#### 42. Obstruction of Access to Infrastructure for the Provision of Municipal Services

(1) No person shall prevent or restrict physical access to infrastructure through which municipal services are provided.

(2) If a person contravenes subsection (1), the municipality must:

(a) by written notice require such person to restore access at his own expense within a specified period; or

(b) if it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost of doing so from him.

#### 43. Illegal Re-Connection

(1) A customer whose access to municipal services have been restricted or disconnected, who, except as provided for in this by-law, restores or reconnects to those services or who intentionally or negligently interferes with infrastructure through which municipal services are provided, shall be disconnected, after he has been given reasonable written notice.

(2) A person who re-connects to municipal services in the circumstances referred to in subsection (1) shall be liable for to pay for any services that he it may have utilised or consumed in breach of these by-laws, notwithstanding any other action that may be taken against him.

(3) Consumption will be estimated on the basis of the average consumption of services to the specific area within which the illegal re-connection was made.

## Chapter 5

### OFFENCES

#### 54. Offences and Penalties

(1) any person, who:

(a) contravenes or fails to comply with any provisions of this by-law other than a provision relating to payment for municipal services;

(b) fails to comply with any notice issued in terms of this by-law;

(c) fails to comply with any lawful instruction given in terms of this by-law, or

(d) who obstructs or hinders any authorised official or employee of the municipality in the execution of his duties under this by-law, is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months and in the case of any continued offence, to a further fine not exceeding R5000-00, or in default of payment, to imprisonment not exceeding maximum of one day for every day during the continuance of such offence..

## Chapter 6

#### 55. Short Title and Commencement

(1) These by-laws are called Thabazimbi Local Municipality **Debt Collection and Credit Control By-Laws, 2018/19** and will come to force and effect upon publication in the Limpopo Provincial Government Gazette.