

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

(The -----the municipality) hereby publishes the Credit Control and Debt Collection By-Laws set out below. They have been promulgated by the municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996 and in accordance with section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

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

#### **LOCAL, GOVERNMENT: MUNICIPAL FINANCE MANGEMENT ACT, 2003**

Council resolves, in terms of section 111 of the local government municipal finance management Act (No.56 of 2003), to adopt the under- mentioned revised policy as the credit control and debt collection policy of the municipality.

#### **1. INTRODUCTION**

This policy is established in terms of chapter 9 of the municipal systems act. (No.32 of 2000) and section 62(f) (iii) of the municipal finance management act (56 of 2003) which requires that a municipality establish and maintain a credit control and debt control policy.

##### **2. Scope of the policy**

- a. This policy applies to all boundaries within the defined boundaries of the ----- Municipality and all persons of these administrations
- b. This policy as approved by council shall be passed into a Municipal bylaw in terms of the local Government: municipal systems Act No 32 of 2000 and such policy will be binding on the public, officials and councillors of the Municipality of \_\_\_\_\_ and no interference in the process will be permitted.
- c. The policy is applicable until such time as it is reviewed and councils approve the revisions. All acts performed in terms of the above approved policy, until such time as the policy is passed into a municipal bylaw, will not be invalidated due to the timing differences between approval and promulgation.
- d. All acts performed as mentioned in the previous paragraph will be ratified with the promulgation of the related municipal bylaw.

#### **3. OBJECTIVES OF THE POLICY**

The objectives of this policy are to:

- 3.1 Define a framework within which the municipality can develop an effective procedure to bill and collect its revenues;
- 3.2 Ensure that all monies due and payable to the municipality are collected in full and used to deliver municipal services in the best interest of the community, residents and ratepayers and in a financially sustainable manner as prescribed by the municipal systems Act, 2000(Act No,32 of 2000), and other applicable legislation;
- 3.3 enable the implementation of this policy throughout the \_\_\_\_\_ local municipality

- 3.4 effectively and efficiently deal with defaulters in accordance with the terms and conditions of this policy;
- 3.5 promote a culture of payment and instil a sense of responsibility towards the payment of municipal accounts and reduction of municipal debt;
- 3.6 ensure compliance with the National Credit Act.

#### **4. PRINCIPLES**

- a. The administrative integrity of the municipality must be maintained at all times
- b. All customers must complete an official application form, formally requesting municipal services. Existing customers may be required to complete new application forms from time to time, as determined by the municipal manager.
- c. A copy of the application form, including conditions of services, must be handed to every new customer on date of application for services. All customers must be informed of the contents of the council's credit control and debt collection policy and bylaws a copy made available to any customer on request.
- d. Billing is to be accurate, timely and understandable
- e. The customer is entitled to reasonable access to pay points and to a variety of reliable payment methods.
- f. The customer is entitled to an efficient, effective and reasonable response to appeals, and should suffer no disadvantage during the processing of a reasonable appeal.
- g. Enforcement of payment must be prompt, consistent and effective.
- h. Unauthorised consumption, connection and reconnection, the tampering with or theft of meters, service supply equipment and the reticulation network and any fraudulent activity in connection with the provision of municipal services will lead to disconnections, penalties, loss of rights and criminal prosecutions.
- i. Incentives and disincentives may be used in collection procedures.
- j. There must be legal cause between the municipality and its customer, and customer debt must arise out of a legal framework and must be legally collectable.
- k. Debtors may be referred to third party debt collection agencies and may be placed on the National Credit Bureau.
- l. The municipal manager shall on a regular basis report to the executive on the progress made in implementing the policy.
- m. The municipality shall not conduct any business activity with or provide any services to any persons with arrear municipal accounts except as provided for in policy and as determined by the municipality from time to time, nor will any refunds of credits be made to any debtor who is in arrears with their municipal account.

#### **5. DEFINITIONS**

In this policy word or expression to which a meaning has been assigned in the Local Government: Municipal Systems Act has that meaning, unless the context indicates otherwise-

**“account”** means a notification by means of a statement of account to a ratepayer or customer who is liable for payments of any amount to the municipality and any authorized service provider in respect of the following:-

Electricity that is consumed by a consumer based on a meter reading or an estimated consumption and any service fee;

Water that is consumed by a consumer based on a meter reading or an estimated consumption or water availability fees,

Refuse removal and disposal;

Sewerage services and sewer availability fees;

Rates

Interest;

Connection fees;

Collection charges, miscellaneous and sundry fees; and

Default administration charges.

**“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, including any subsequent variation that may be made to that agreement in conformity with this policy , or that is deemed to be an agreement;

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

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

**“Arrears”** means any amount that is due, owing and payable by a customer in respect of a municipal service provided to such customer that has not been paid on or before the due date reflected on an account rendered in respect thereof;

**“arrangement”** means a written agreement or acknowledgement of debt in terms of which a municipality agrees to the payment over a period of time of a debt that is outstanding;

**Authorised agent”** means:

Any person authorized by the council to perform any act, function or duty in terms of or to exercise any power under this policy;

Any person to whom the council has delegated responsibilities, duties or obligations in respect of the provision of revenue collection services ; or

Any person appointed by the council, in a written contract, as a service provider for the provision of revenue collection 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;

**“billing”** refers to the process of charging for services provided by issuing accounts;

**“by law”** means a legislation that is made by a decision taken by the council of the municipality binding in the municipality on the persons to whom it applies and is published in terms of section 13 of the municipal systems act;

**“credit control”** refers to the action/s required to safeguard revenue including disconnections, reconnections, normalising installations and follow-up procedures and data integrity.

**“credit control and debt collection”** is the function relating to the effective collection of any monies due and payable to a municipality;

**“municipal consumer debt”** refers to the non-payment or late payment by consumers of property rates and municipal services (water, electricity, sanitation, refuse removal), traffic fines and rental housing payments, and includes any amounts considered as irrecoverable;

**“Council”** means the council of the local municipality of \_\_\_\_\_. A structure or person exercising delegated authority and power or carrying out an instruction in terms of these by laws or a service provider fulfilling the responsibility under these by-laws;

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

**“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;

**“Credit agreement”** means a credit agreement as defined in the national credit act in No.34 of 2005, including an accidental credit agreement;

**“continuous service”** means the supply for consideration of a municipal service with the intent that as long as the agreement to supply the service remains, the municipality will make the service continuously available to be used by the consumer from time to time as determined by the consumer,

**“chief financial officer”** means the official of the municipality responsible for the collection of moneys owed to the municipality and/ or any other staff member to whom he/she has delegated duties and responsibilities in terms of this policy;

**“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 a customer, which date shall not be more than 30 days after the date on which the account has been sent to the customer concerned;

**“Debt collection ”** refers to the debt recovery process and includes sanctions( warning, disconnection, adverse credit rating, legal process and/or eviction, etc.) to be applied in the event of non-payment of accounts;

**“Disconnection”** means interrupting the supply of water or electricity to a debtor as a consequence of ignoring a notice for payment;

**Effective disconnection”** includes, inter alia, the physical removal of connections and / or equipment as a consequence of unauthorised reconnection (tampering and/ or by –passing) of the disconnected service.

**“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 and 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 areas where the service is rendered by the municipality, at the appropriate level of service, for a specific time;

**“Financial year”** means a year ending 30 June;

**“Holistic” or consolidated”** refers to the combining of all debt in order to establish the total obligation the debtor has to the municipality;

**“house hold”** 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 and that is not authorised or approved by the municipality;

**“incidental credit agreement”** as defined in the National Credit Act No. 34 of 2005 means an agreement, irrespective of its form, in terms of which an account was rendered for utility services that have been provided to a customer and a fee, charge or interest become payable when payment of the amount charged in terms of that account was not made on or before a date which is less than 30 days before such fee, charge or interest was first levied;

**“Principle debt”** means a debt that is owed to the municipality in respect of rates and services. It may include interest, collection charges, default administration charges and connection charges and any other charges;

**“Collection Costs”** means an amount that the municipality can charge with regard to the enforcement of a consumer’s monetary obligation, if the service agreement is a credit agreement in terms of the National Credit Act;

**“Default Administration Charges”** means a charge that may be imposed by the Municipality to recover administration costs incurred as a result of a consumer’s default, if the agreement is a credit agreement in terms of the National Credit Act;

**“interest”** means a charge levied on all arrear monies and calculated at a rate determined by the Council from time to time as may be prescribed by the Minister of Justice in terms of paragraph 1 of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1075) or in terms of the Municipal Property Rates Act or in term of the National Credit Act No 34 of 2005 in the case of an incidental credit agreement, as may be applicable to any agreement concluded under this policy;

**“Interest on overdue accounts”** “is based on a full month and part of a month shall be deemed to be a full month.

**“Indigent customer”** “means a domestic customer who is qualified to be and who is registered with the municipality as an indigent in accordance with this policy;

**“Indigent amount”** “refers to the applicable value of the indigent subsidy as determined by the Council of the municipality from time to time;

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

**“Legal process or procedures and/or legal action”** “refers to, inter alia, the process and/ or action described in the Magistrate Courts Act No. 32 of 1944; Supreme Court Act No. 59 of 1959 Adjustment of Fines Act No. 101 of 1991; Debt Collector Act No. 114 of 1998; Criminal Procedure Act No. 51 1977; Local Government: Structures: Cross-Boundary Municipalities Act No. 29 of 2000; Local Government: Structures Amendment Act No. 33 of 2000; Local Government: Municipal System Act 32 of 2000;

**“Letter of Demand”** means a notice sent prior to the legal process commencing and includes notices sent as part of the monthly statement;

**“Municipality”** means:

- a. the Municipality of \_\_\_\_\_, a local municipality established in term of paragraph 12 of the Local Government: Municipal Structure 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 this policy, the Municipal Manager in respect of the performance of any function, or the exercise of any duty, obligation, or right in terms thereof or any other law; or
- c. an authorized agent of the municipality;

**“Municipal Manager** “means the person appointed by the Council as the Municipal Manager of the municipality in term of section 82 of Local Government: Municipal Structure 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 Property Rates Act”** means the Local Government: Municipal Property Rates Act No. 6 of 2004;

**“Municipal Services”** for purposes of this policy, means services provided by the municipality, including refuse removal, water supply, sanitation electricity services and rates either collectively or singularly;

**“Occupier”** means any person who resides on and/or occupies any premises to which municipal services are supplied, regardless of the title under which he/she or it occupies the 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/her 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 legal representative, as the case may be;
- 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 building;
- 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:
  - I. 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
  - II. A sectional 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
  - III. A person occupying land under a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

**“Parked arrears** “ refers to those monies that were put on hold by some of the former councils which now constitute the municipality of \_\_\_\_\_;



**“payment”** refers to any form of redemption acceptable to the council of \_\_\_\_\_ from time to time towards the balance on an account;

**“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 no. 9 of 1927 or in terms of the deeds registries act no. 47 of 1937;
- b. A sectional plan registered in terms of the sectional titles act No 95 of 1986; or
- c. A registered held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

and where the text so requires, includes any building, structure or the like erected on such land;

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

- a. publication of a notice, in at least two of the official languages in general use within the province or area in question and, where possible, the notice shall be published in a newspaper appearing predominantly in the language utilised in the publication of the notice.
  - I. In any local news paper or newspapers circulating in the area of supply of the municipality
  - II. In the newspaper or newspapers circulating in the area of supply of the municipality determined by the council as a newspaper of record; or
  - III. On the official website of the municipality:
  - IV. 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 authorized agent and to which the public has reasonable access; and
- c. Communication with customers through public meetings and ward committee meetings;

**“Prescribed tariff or charge”** a charge prescribed by the municipality;

**Residential debtors”** are classified as those debtors who qualify for and receive free electricity and/ or water;

**“Non-residential debtors”** are classified as those debtors who do not qualify for or receive free electricity and / or water;

**“Shared consumption”** means the consumption by a customer of a municipal service during a specific period and 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, as determined by the council, 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;

**“Service”** means a municipal service rendered by the municipality and includes the supply of electricity, water, sanitation and refuse removal;

**“Sundry debt”** refers to any debt other than rates, housing, metered services, sewerage and refuse removal.

**“Supply”** means any metered supply of water or electricity;

**“Tampering”** means the unauthorised reconnection of a supply that has been disconnected for non-payment, the interference with the supply mains or bypassing of the metering equipment to obtain an un-metered service;

**“Total household income or household income”** refers to the total formal and informal gross income of all people living permanently or temporarily on the property on which the account is based;

**“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;

**“Utility”** as defined in the National Credit Act No 43 Of 2005, means the supply to the public of an essential

- a. Commodity, such as electricity, water or gas; or
- b. Service, such as waste removal or access to sewerage lines, telecommunication networks or any transportation infrastructure. Unless the context clearly indicates a contrary intention, an expression which denotes gender shall include a reference to any other gender; the singular shall include a reference to the plural and vice versa

## **6. DUTIES AND FUNCTIONS**

### **6.1 Duties and functions of council**

- To provide a budget consistent with the needs of communities, ratepayers and residents in line with the financial capability of council
- To impose rates and taxes and to determine service charges, fees and penalties to finance the budget.
- To facilitate sufficient funds to give access to basic services for the poor.
- To provide for a bad debt provision , in line with the payment record of the community, rates payers and residents, as reflected in the financial statements of the municipality

- To set an improvement target for debt collection, in line with acceptable accounting ratios and the ability of the implementing authority.
- To approve a reporting framework for credit control and debt collection.
- To consider and approve bylaws to give effect to the policy
- To monitor the performance of the Mayor (supervising authority) regarding credit control and debt collection.
- To revise the budget should council's targets for credit control and debt collection not be met?
- To take disciplinary and / or legal action against councillor, officials and agents who do not executive council policies and bylaws, or act improperly in terms of such policies.
- To approve a list of attorneys that will act for council in all legal matters relating to debt collection.
- To delegate the required authorities to monitor and executive the credit control and debt collection policy to the mayor and municipal manager and service provider respectively.
- To provide sufficient capacity in the municipality's finance department for credit control and debt collection policy to the mayor and municipal manager and service provider respectively.
- To provide sufficient capacity in the municipality's finance department for credit control and debt collection. Alternatively to appoint a service provider debt collection agent (such service provider must be a registered debt collection agent in terms of legislation).
- To assist the municipal manager in the execution of his duties, if and when required.
- To provide funds for the training of staff.

## **6.2 Duties and Functions of the Mayor, or Executive Committee**

- To ensure that council's budget, cashbook and targets for debt collection are met and executed in terms of the policy and relevant by-laws.
- To monitor the performance of the municipal manager in implementing the policy and bylaws.
- To review and evaluate the policy and bylaws in order to improve the efficiency of council credit control and debt collection procedures, mechanisms and processes.
- To report to council.

## **6.3 Duties and Functions of Ward Councillors**

- To hold regular ward meetings wherein the credit control and debt collection policy and procedures of council are addressed.
- To adhere to and convey council policies to residents and ratepayers and in particular the credit control and debt collection policy and procedure
- To adhere to the code of conduct for councillors
- To act in terms of roles and functions as approved by council and assist in the dissemination and distribution of information.

#### **6.4 Responsibilities of all Councillors**

- To always pay amounts that are owed in respect municipal rates, taxes and services as required by section 12A of schedule 1 of the municipal systems act and not to default on payments for a period longer than 3months
- The municipality may deduct any outstanding amounts from a councillor's allowance, if the councillor has not paid amounts that are due to the municipality for more than 3months
- The normal credit control procedures shall apply to any arrear account of a councillor.
- All agreements with councillors must not exceed the expiry date of the term of office.

#### **6.5 Duties and Functions of the Municipal Manager**

- The Municipal Manager, as the accounting officer of the municipality, must take all reasonable steps to ensure that-
- The municipality has effective revenue collection systems consistent with Section 95 of the Act and the municipality's Credit Control and Debt Collection bylaws and National Credit Act;
- Revenue due to the municipality is calculated on a monthly basis.
- All money received is promptly deposited into the municipality's primary and other bank accounts;
- The municipality has and maintains a system of internal control in respect of debtors and revenue, as may be prescribed;
- The municipality charges interest and other permissible charges on arrears, except where the council has granted exemptions;
- All revenue received by the municipality, including revenue received by any collecting agent on its behalf, is reconciled regularly;
- The accounting officer must immediately inform the national treasury of any payments due by an organ of State to the municipality in respect of municipal tax or for municipal services, if such payments are regularly in arrears for periods of more than 30 days.

#### **6.6 Responsibilities of all municipal staff**

- To always pay amounts that are owed in respect of municipal rates, taxes and services and not to default on payments for a period longer than 3 months.
- The municipality may deduct any outstanding amounts from a staff member, if the staff member has not paid amounts that are due to the municipality for more than 3months
- The normal credit control procedures shall apply to any arrear account of a councillor.
- Where the municipality provides temporary employment to members of the community who are in arrears with payments for municipal rates and services they will be required to enter an agreement to pay 20% of their gross remuneration towards these arrears of debt.

## **6.7 Duties and Functions of Communities, Ratepayers and Residents**

The responsibilities of communities, rates payers and residents are to

- Pay deposits, service fees, rates on property and other taxes, levies and duties imposed by the municipality.
- Observe the mechanisms and processes of the municipality in exerting their rights
- Allow municipal officials reasonable access to their property to execute municipal functions at a time that is agreeable by the consumer and municipal officials;
- Comply with the bylaws and other applicable legislation;
- Refrain from tampering with municipal services and property.

## **7. CUSTOMER CARE**

In terms of section 95 of the local Government Municipal Systems Act 2000, in relation to the levying of rates and other taxes by a municipality and charging of fees for municipal services, a municipality must, within its financial and administrative capacity.

- Establish a sound customer management system that aims to create a positive and reciprocal relationship between persons liable for these payments and the municipality itself;
- Establish mechanisms for users of services and rates payers to provide feedback to the municipality or other service provider regarding the quality of the services and the performance of the service provider.
- Take reasonable steps to ensure that users of services are informed of the costs involved in service provision, the reasons for the payment of service fees, and the manner in which monies raised from the service are utilised.
- Where the consumption of services have to be measured, take reasonable steps to ensure that the consumption by individual users of services is measured through accurate and verifiable metering systems;
- Ensure that persons liable for payments receive regular and accurate accounts and indicate the basis for calculating the amounts due;
- Provide accessible mechanisms for those persons to query or verify accounts and metered consumptions, and appeal procedures which allow such persons to receive prompt redress for inaccurate accounts;
- Provide accessible mechanisms to monitor the responsible time and efficiency in complying with the above point; and
- Provide accessible pay points and other mechanisms for settling accounts or for making pre-payments for services.

## **CREDIT CONTROL**

### **8. APPLICATION FOR MUNICIPAL SERVICES**

- 8.1 Customers who require a service must enter into a written service agreement with the municipality. In the event that the occupant is not the owner of the property, service agreements will only be entered into the lawful owner of the property to which the services are to be provided.
- 8.2 The process must occur at least five (5) working days prior to taking occupation of the premises, so that the municipality can ensure that a meter reading is taken on the

appropriate day and that the services are available when occupation is taken. Failure to adhere to the timeframe may result in customers not having the services available when occupation is taken.

- 8.3 Applications for municipal services may be checked for credit-worthiness including banking details and information from credit bureaus, other local authorities, trade creditors and employers. This will require the provision of an identity document, binding lease agreement, title deed and other supporting documents as required by council from time to time.
- 8.4 Applications for services from businesses, including but not limited to trusts, companies, close corporations and partnerships must include a resolution delegating authority to the applicant to apply for the relevant service and furnishing, if applicable, the business entity's registration number or IT number, the names, addresses and all relevant contact particulars of all business' directors, members, trustees, proprietors or partners.
- 8.5 An applicant must provide any information and documentation which the municipality requires.
- 8.6 If an applicant for municipal service is an existing customer of the municipality in respect of any other municipal service and such customer has an outstanding amount that is due and payable to the municipality:

- The arrears must be paid; or
- An agreement for payment or arrears must be concluded with the municipality before an application for services can be approved.

- 8.7 The municipality will render the first account after the first meter reading cycle to be billed following the date of signing the service agreement.
- 8.8 customers who illegally consume services without this agreement will be subject to punitive action.

#### 8.9 **PROPERTY DEVELOPMENTS**

- a. A property developments must inform the municipality of the nature and extent of the municipal services or services that will be provided as well as the measuring devices that will be used.
- b. A property developer who fails to comply with the provisions of sub-paragraph (a) 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 by such customers.

### **9. TERMINATION OF SERVICES**

- 9.1 It is the responsibility of the consumers to notify the municipality when municipal services are no longer required due to the sale of the property or other reasons.
- 9.2 Failure to comply with the provision of paragraph 10.1 above renders the consumer liable for all service charges and interest thereon accumulated from the date when the premises are vacated to the date when council becomes aware of such vacation.
- 9.3 A customer may terminate an agreement for the supply of municipal services by giving at least 21 (twenty-one) days written notice to the municipality of such termination.

- 9.4 The municipality may terminate an agreement for the supply of municipal services by giving at least 21 (twenty-one) days' written notice to a customer where:
- a. Municipal services were not utilised by such customer for a consecutive period of 2 (two) months and without an arrangement, to the satisfaction of the municipality, having been made for the continuation of the agreement; or
  - b. Premises' have been vacated by the customer concerned and no arrangement for the continuation of the agreement has been made with the municipality provided that, in the event of the customer concerned not being the registered owner of the premise, a copy of the aforesaid notice shall also be served on such registered owner.
- 9.5 A customer shall remain liable for all arrears and applicable charges that are payable for municipal services rendered prior to the termination of an agreement.

## **10. PAYMENT OF A DEPOSIT**

- 10.1 Every consumer must, on application for the provision of municipal services, pay a deposit to the municipality prior to the provision of any municipal services, the amount of which shall be determined by the council of the municipality by resolution from time to time.
- 10.2 The Council may require a consumer to whom services are provided and who was not previously required to pay a deposit, for whatever reason, to pay a deposit on request, within a specified period.
- 10.3 The Council may from time to time review the sum of money deposited by a consumer in terms of this section and, in accordance with such review
- a. Require that an additional amount be deposited by the consumer; or
  - b. Credit the account of the consumer with such amount as may be held by the municipality in excess of the reviewed deposit.
- 10.4 The municipality shall give the owner or occupier of premises where municipal services are rendered reasonable notice of any increase of the deposit.
- 10.5 An aggrieved owner or occupier of property where municipal services are provided may within the prescribed time lodge an objection to any increase of the deposit.
- 10.6 An amount deposited with the municipality in terms of this section shall not be regarded as being in payment or part payment of an account due for services rendered.
- 10.7 No interest shall be payable by the municipality on the amount of a deposit held by it in terms of this section.
- 10.8 An agreement for the provision of services may contain a condition that a deposit shall be forfeited to the municipality or its authorised agent if it has not been claimed within 12 (twelve) months of the termination of the agreement.

- 10.9 The municipality may accept in lieu of a deposit a bank guarantee as a deposit.
- 10.10 The municipality must ensure that the use of the deposit that is given by the consumer complies with Section 124 of the National Credit Act for all agreements that fall under the Act
- 10.11 On termination of the supply of the municipal services the consumer shall be paid the amount deposited less any payments due to the municipality.

## 11 RECOVERY OF ADDITIONS COSTS

- 11.1 The municipality may , in addition to any charge, tariff, levy or payment of any kind referred to in this policy, recover from a customer any reasonable costs incurred by it in this policy, 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 such customer as arrears in his account; and
  - b. The costs incurred in demanding payment from such customer and for reminding him/ her, by means of telephone, fax, email , letter or otherwise that payment is due, provided that, in respect of an incidental credit agreement, default administration and collection charges may only be charged on condition that they do not exceed the applicable limit permissible in terms of the National Credit Act, No. 34 Of 2005 in the event of the customer concerned defaulting on a payment obligation under such agreement and provided that proper notice in terms of this Act has been given.

## 11. PAYMENT FOR MUNICIPAL SERVICES PROVIDED

- 12.1 A customer shall be responsible for the payment of all municipal services accounts rendered to him/her from the commencement date of the agreement until the account has been paid in full and the municipality shall be entitled to recover all payments due to it from the customer concerned.
- 12.2 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 he is charged an amount lower than the applicable prescribed charge, the municipality may alter the amount so charged and recover from him/her the difference between the altered charge and the amount initially charged to him/her.
- 12.3 if amendments to the applicable charge become operative on a date between measurements and/or meter readings for the purpose of rendering an account for services rendered,
- a. It shall be deemed that the same quantity of municipal services was provided to the customer for each period of twenty-four (24) hours during the interval between the measurements and/ or metered readings as the case may be, 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
- 12.4 **“Full and final settlement ‘of an amount**



Where an account is not settled in full, any lesser amount tendered to and accepted by the municipality shall not constitute 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 his nominee or the manager of the municipality's authorised agent expressly accepts such payment in writing as being in full and final settlement of the amount reflected on the relevant account.

#### **12.4 Responsibilities for payment of amounts due and payable**

- a. Notwithstanding any other provision in this policy, an owner of premises shall be liable for the payment of any amount that is due and payable to the municipality by a customer who is a lessee or occupier of such premises to which municipal services have been provided for the preceding two years, if the municipality, after having taken reasonable steps to recover from such customer any amount due and payable by him/her, could not do so;
- b. Subparagraph (1) must not be construed as absolving the municipality from its responsibility to collect outstanding amounts in respect of municipal services provided to premises from the customer who has benefited there from nor for timeously informing the owner of the premises concerned that the occupying customer has defaulted in making payments due to the municipality in respect of rendered municipal services.
- c. Despite subparagraph (1) but subject to any law governing prescription, the municipality may collect amounts owing to it for a period in excess of two years through due legal process.

#### **12.5 Dishonoured Payments**

- a. If the drawer of the cheque, or the consumer who received value from the depositing of the cheque, is an existing consumer of council, the reversal and penalty fee may be debited to an account of the drawer or beneficiary and a letter of notification must be sent to the consumer. Such fee shall be deemed to be a tariff charge and shall be recovered from the consumer. Council reserves the right to refuse to accept further cheques from the drawer or beneficiary, to place the matter on the National Adverse Credit Listing and also institute legal action which may include criminal charges against the offender
- b. If the drawer of the cheque is not an existing debtor of Council, then a sundry debtor account is opened and the debit and penalty is raised. Once the account is submitted and the debtor fails to honour the cheque and pay the penalty within 14 days of receipt, a final demand is generated and submitted. If there is still no response, then the matter shall be handed over for placement on the National Adverse Credit Listing and/ or legal action that may include criminal charges being instituted against the offender.
- c. If the drawer of the cheque, or the debtor who received value from the depositing of the cheque, is an existing debtor of Council, the reversal and penalty fee may be debited to an account of the drawer or beneficiary and a letter of notification must be sent to the debtor. Such fee shall be deemed to be a tariff charge and shall be recovered from the debtor. Council reserves the right to refuse to accept further cheques from the drawer or beneficiary and also institute legal action which may include charges against the offender.

- d. Unpaid cheques in respect of motor vehicle licensing and payment of fines shall be dealt with in accordance with paragraph 12.6 or be forwarded to the relevant authority for further action.

## **12.6 Incentive Schemes**

Where a municipality offers a discount to consumers in the form of schemes, the municipality has to comply with all the requirements of the national credit act, as this discount agreement is treated as a credited agreement by the Act.

- a. The council may, by resolution, approve incentive schemes to encourage prompt payment of charges for services rendered and to reward customers who pay their accounts regularly and on time.
- b. The aforementioned incentive schemes may include the conclusion of a written agreement with the employer of a customer in terms of which such employer undertakes to deduct outstanding rates and service charges or to settle regular monthly accounts, through deductions from the relevant customer's salary or wages, in exchange for a monetary reward either by way of payment of a commission or the grant of a rebate on the charges owing by the employer concerned to the municipality in respect of services rendered to such employer.

## **12.7 Pay Points and Payment Methods**

- a. A customer must pay his account at pay points specified by the municipality or by an approved agent of the municipality.
- b. The municipality must inform customers of the location of specified pay- points and the identity of approved agents who may receive payments on its behalf in respect of services rendered to customers.
- c. Subparagraphs (a) and (b) must not be construed as prohibiting a customer from paying amounts due to the municipality or its authorised agent by means of electronic payment methods provided that the date of receipt of a payment shall be the date such payment appears on or is reflected in the banking account of the municipality.

## **13 PAYMENT OF INTEREST**

13.1 Except where expressly provided to the contrary in this policy, the municipality may levy interest on all arrears at a rate prescribed by the Council from time to time in accordance with prevailing law. The applicable interest rate for the financial year will be prime plus xxxx, subject to review as part of the budget review process.

13.2 The following categories of arrear debt shall not attract interest on arrears:

- a. Arrear debt
- b. Closed accounts
- c. Deceased estates
- d. Insolvent estates
- e. Debtor under administration ( administration portion only)
- f. The first 30 days after delivery date for all service.

- 13.3 Interest on arrear debt shall be calculated for each for which such payment remains unpaid and part of the month shall be deemed to be a month.
- 13.4 Interest will not be raised on "Parked Arrears". Parked arrears must be, however, be included in arrangements and notwithstanding anything to the contrary contained in this policy, parked arrears must be collected in full before transfer of the property to a new purchaser is authorised.
- 13.5 If a transaction falls under the national credit act, interest shall be limited to the prescribed limit in terms of section 101 of the National Credit Act.
- 13.6 If a transaction falls under the National Credit Act, the Municipality shall comply with Section 103 of the National Credit Act which states that the variation must be in terms of a fixed relationship to a reference rate which is stipulated in the consumer agreement.
- 13.7 If an agreement falls under the National Credit Act and the interest that is payable varies, the municipality shall provide the notice that is required in terms of Section 104 of the National Credit Act every time the interest varies. The notice must stipulate the new rate.
- 13.8 If an agreement falls under the National Credit Act, the municipality, in addition to the interest charged, can only charge collection costs and default administration charges.
- 13.9 The interest that is payable cannot exceed the capital amount that is owed by the consumer at any time.
- 13.10 If an agreement is a credit agreement in terms of the National Credit Act, the interest and all permissible charges cannot exceed the capital amount owned at any time.

## **14 ACCOUNTS AND BILLING**

- 14.1 A municipality shall provide every person liable to pay for municipal services assessment rates and taxes with a account in respect of every property for which that person is liable and all services rendered in respect of that property at the address last recorded with the municipality.
- 14.2 Failure by the municipality to render an account does not relieve a consumer of the obligation to pay any amount due and payable. The onus shall be on the consumer to obtain a copy of the account before the due date.
- 14.3 If a municipal service agreement constitutes a credit agreement in terms of the National Credit Act, the form and content of the account must comply with Section 109 of the National Credit Act, which provides guidance on the form and content of statement of account.
- 14.4 An account rendered by the municipality for services provided to a customer shall be paid not later than the last date for payment specified in such account, which date will not be more than 30 (thirty) days after the date of the account.
- 14.5 If payment of an account is received after the date referred to in Sub-Section 14.4, interest as may be prescribed by the municipality, must be paid by the debtor to the municipality.

- 14.6 Accounts will be rendered on a monthly basis in cycles of 30(thirty) days and shall be payable on the due date as indicated on the account.
- 14.7 Any amount which remains due and payable after the due date shall attract interest. Before charging any interest or charge with regard to outstanding amounts, the municipality shall ensure that it complies with section 4(6)(b) and paragraph 103-103 of the national credit act, where applicable.
- 14.8 Payments shall be deemed to be late unless received on or before the due date by the municipality. Electronic payments and payments made through agents must be received in a municipal bank account by the close of business on the due date.
- 14.9 The municipality may consolidate any separate accounts for which a customer is liable for payment. The municipality may not consolidate debt that is constituted by amounts that fall under the national credit act and those that do not fall under the national credit act, unless the municipality ensures that the consolidated debt will comply in all respects with the national credit act.
- 14.10 If the consumer agreement for the supply of municipal services constitutes a credit agreement in terms of the National Credit Act, any amount that is received from the consumer shall be used to firstly satisfy any due or unpaid interest charges, secondly to satisfy any due or unpaid fees and finally to reduce the principal debt (even if the principal debt is consolidated).
- 14.11 In all other instances where the National Credit Act does not apply, the municipality can allocate the payment as it deems fit unless the consumer has expressly instructed otherwise.
- 14.12 Accounts must contain at least the following:
  - a. The consumption or estimated consumption of water and electricity,
  - b. As determined for the measuring or consumption period;
  - c. The measuring or consumption period for water and electricity;
  - d. The amount due based on the measured or estimated consumption;
  - e. The amount due and payable for any other municipal service;
  - f. The applicable tariff;
  - g. The amount due in terms of the consumption;
  - h. The amount in arrears, if any;
  - i. The interest payable on any arrears, if any;
  - j. Collection charges if any
  - k. The final date for payment;
  - l. The methods, places and approved agents where payment may be made.
- 14.13 Accounts may be accompanied by a notice stating that-
  - a. The consumer may conclude an agreement with the municipality for payment of arrear amount in instalments at the municipality 5 (five working days before the final date for payment, if a consumer is unable to pay the full amount due and payable;
  - b. If no such agreement is entered into, the municipality may, in accordance with the policy contained herein, limit the water services to the consumer by installing a water restrictor;
  - c. Legal action may be instituted against any consumer for the recovery of any arrear amount in terms of the policy contained herein;

- d. The defaulting consumer's name may be listed with a credit bureau or any other equivalent body as a defaulter;
- e. The account may be handed over to a debt collector for collection;
- f. Proof of registration, as an indigent consumer, in terms of the municipality's indigent policy must be handed in before the final date for payment.

## **15 DISPUTES, QUERIES AND COMPLAINTS**

15.1 in this Section "**Dispute**" refers to when a consumer questions the corrections of any account rendered by the municipality to such consumer and the consumer lodges an appeal with the council in accordance with this section. A consumer may lodge a query or a complaint in respect of any amount that is due and payable by him/her before or on the due date for payment specified in the account concerned or as soon as reasonable possible thereafter.

15.2 Procedures to be followed:

In order for a dispute to be registered with the municipality, the following procedures must be followed:

**a. By the consumer:**

- i. The consumer must submit the dispute in writing to the municipal manager of the municipality before or on the due date for payment specified in the account concerned or as soon as reasonably possible thereafter.
- ii. No dispute will be registered verbally whether in person or over the telephone.
- iii. The consumer must furnish his full personal particulars including in the correspondence referred to above.
- iv. The onus will be on the consumer to ensure that he receives a written acknowledgement of receipt from the municipality.

**b. By the council:**

On receipt of the dispute, the following actions are to be taken:

- i. An authorised official must register the query or complaint and provide the consumer with a reference number. An authorised controlling official will keep custody of the register and conduct a daily or weekly check or follow-up on all disputes as yet unresolved.
- ii. The following information should be entered into the register:
  - Consumer 's Account Number
  - Consumer's name
  - Consumer's address
  - Full particulars of the dispute
  - Name of the official to whom the dispute is given to investigate
  - Actions that have been/were taken to resolve the dispute
  - Signature of the controlling official.
- iii. A written acknowledgement of receipt of the dispute must be provided to the consumer.

- iv. The municipality should not institute enforcement proceedings against the consumer for an amount or an account entry that is in dispute until it has resolved the dispute.
- v. If an agreement is a credit agreement in terms of the of the national credit act, the municipality must deliver without charge and at the request of the consumer the following:
  - The current balance of the account
  - The amounts credited or debited during the period specified in the request
  - Any amount currently overdue and when such amount became due
  - Any amount currently payable and the date when it became it became payable.
- vi. All investigations regarding disputed amounts must be concluded by Council's Chief Financial Officer within 21(twenty-one) calendar days from receipt thereof.
- vii. The consumer shall be advised in writing of the findings

### 15.3 Appeal against finding

- a. A consumer may, in writing, appeal against a finding of the municipality.
- b. An appeal shall be in writing and shall set out the reasons for the appeal and lodged with the municipal manager within 21(twenty-one) days from the consumer is advised of the findings of the investigation.
- c. An appeal must be decided by the council of the municipality at its first ordinary meeting held after the appeal was lodged.
- d. The decision of the council shall be final and the consumer must pay any amounts due and payable in terms of such decision within 14 (fourteen) days of him/her being advised of the Council's decision.
- e. The Council may, in its sole discretion, condone the late lodging of an appeal or other procedural irregularity.
- f. If the consumer is not satisfied with the outcome of the appeal, he may, under protest, pay the amount in dispute and redress his action in a court of law.

## 16 ARREARS

- 16.1 A consumer of municipal services and am owner of property must pay any monies owed to the municipality within the period or before the due date that is indicated on the account.
- 16.2 if a consumer fails to pay the amount/s due and payable on or before the final date for payment, the unpaid amount is in arrear and a final demand notice may be hand delivered or sent , per registered mail, to the most recent recorded address of the consumer, thin 7 (seven) working days.
- 16.3 If an agreement falls under the National Credit Act, the municipality should send a letter in terms of Section 129 of the Act advising the consumer about the default and proposing that the consumer refer the matter to a debt councillor, alternative dispute resolution agent, consumer court or ombudsman within jurisdiction, with the intention

that the parties resolve the dispute under the agreement or develop and agree on a plan to bring the payments under the agreement up to date.

16.4 Failure to deliver or send a final demand notice within 7(seven) working days does not relieve a consumer from an obligation to pay such arrears.

16.5 The final demand notice must contain the following statements:

- a. The amount in arrears and any interest payable;
- b. The consumer may conclude an agreement with the municipality for payment of the arrear amount in instalments' within 14( fourteen ) days of the date of the final demand notice;
- c. That, if no payments is received and no such agreement is entered into within the stated period, services to the consumer will be limited and that legal action may be instituted against such consumer for the recovery of any amounts owing in accordance with the policy contained herein;
- d. That the consumer's name may be listed with a credit bureau or any other equivalent body as defaulter;
- e. That the account may be handed over to a debt collector for collection;
- f. That proof of registration, as an indigent consumer, in terms of the municipality's indigent policy must be submitted before the final date of the final demand notice;
- g. That an indigent consumer is only entitled to 6kl(8kl) free water services and that such a consumer will be liable for payment in respect of water services used in excess of the quantity of basic services.

16.6 If an agreement falls under the National Credit Act, the municipality may not commence legal proceedings before sending a letter as prescribed but Section 129 of the Act. The municipality may also not institute legal proceedings against the consumer unless the consumer has been in default for a period of 20 (twenty) business days and at least 10(ten) business days have lapsed since the municipality delivered the section 129(1) notice to the consumer.

16.8 if an agreement falls under The National Credit Act, the municipality can proceed with action against the consumer, unless the consumer is under debt review and counselling or if the consumer has not respond to the notice in terms of Section 29(1) or has responded to the notice by rejecting the municipality's proposals.

## **17 AGREEMENT FOR THE PAYMENT OF ARREARS IN INSTALMENTS**

17.1 Only a consumer with positive proof of identity or a person authorised in writing by that consumer, will be allowed to enter into an agreement for the payment of arrears in instalments.

17.2 The offer by the consumer to settle arrear amounts plus accrued interest thereon shall be embodied in a written agreement signed by the parties. The aforesaid agreements shall include an acknowledgement of debt signed by the consumer and a copy of the agreement shall be made available to the consumer. The cost of preparation of the agreement plus any incidental costs associated therewith shall be borne by the consumer.



- 17.3 A consumer will, in the agreement, assume liability for any administration fees, costs incurred in taking action for the recovery of arrears and any penalties, including the payment of a higher deposit.
- 17.4 A consumer may be required to complete a debit order for the payment of arrears.
- 17.5 No agreement for the payment of arrears including accrued interest thereon will be longer than 24(twenty-four) months, unless the circumstances referred to in subsection 17.6 and sections 18 to 21 prevail.
- 17.6 The municipality may, on an individual basis, allow a longer period than 24(twenty-four) months for the payment of arrears if special circumstances prevail that, in the opinion of the municipality, warrants such an extension and which the consumer reasonably could not prevent or avoid. Documentary proof of any special circumstances must be furnished by the consumer on request by the municipality.
- 17.7 In concluding an agreement with a consumer, the arrangement criteria referred to in Sections 16 to 19 shall be applied and, as far as possible, be incorporated into the agreement referred to in this section.
- 17.8 The municipality may, in exercising its discretion under subsection (17.6) have regard to a consumer's
- a. Credit record;
  - b. Consumption;
  - c. Level of service;
  - d. Previous breaches of agreements for the payment of arrears in instalments; and
  - e. Any other relevant factors.
- 17.9 should a consumer fail to comply with an agreement for the payment of arrears in instalments, the total of all outstanding amounts, including the arrears, any interest thereon, administration fees, costs incurred in taking relevant action, and penalties, including payment of a higher deposit, will immediately be due and payable, without further notice or correspondence.
- 17.10 A consumer may, in the sole discretion of the chief financial officer, be allowed to enter into a new agreement for the payment of arrears in instalments where that consumer has failed to honour a previous agreement for the payment of arrears in instalments, entered into after the receipt of a discontinuation notice. In the event of such further agreement been permitted, then the arrangements mentioned in section 21 shall be applied to such consumer on the basis of primary arrangements.
- 17.11 Where a body corporate is responsible for the payment of any arrear amount to the municipality in respect of a sectional title development, the liability of the body corporate shall be extended to the members thereof, jointly and severally and the agreement shall reflect this status accordingly.
- 17.12 A copy of the agreement will, on request, be made available to the consumer.

**18 LIMITATION AND DISCONTINUATION OF SERVICE DUE TO FAILURE TO COMPLY WITH FINAL DEMAND**

18.1 The municipality shall, within 7(seven) working days after the expiry of the 14-day period allowed for payment in terms of the final demand:

- a. Limit the provision of services to the defaulter; and
- b. Hand deliver or send per registered mail, to the last recorded address of the consumer , a discontinuation notice informing him/her that the provision of services will be disconnected within 14(fourteen) days of the date of the discontinuation notice if-
  - I. No payment is received within the allowed period;
  - II. No agreement is entered into for the payment of arrears in instalments ;or
  - III. No proof of registration as indigent is handed in within the 14-day period allowed.

18.2 A discontinuation notice must contain

- a. The amount in arrears and any interest payable
- b. A statement that the consumer may conclude an agreement with the municipality for payment of the arrears amount in instalments, within 14 (fourteen) days of the date of the discontinuation notice;
- c. That if no such agreement is entered into within the stated period , the municipality may discontinue the provision of services with immediate effect, notwithstanding any legal action instituted or in the process of being instituted against the consumer for the recovery of the arrear amount; and
- d. Proof of registration, as an indigent consumer, in terms of the municipality's indigent policy must be handed in within 14(fourteen) days of the date of the discontinuation notice.

18.3 The municipality may, within 10(ten) working days after the expiry of the 14-day period allowed for payment in terms of the discontinuation notice, discontinue the provision of services to the defaulting consumer, if

- a. No payment was received within the allowed period;
- b. No agreement was entered into for the payment of arrears in instalments;
- c. No proof of registration as indigent was furnished within 14-day period allowed.

## **19 LIMITATIONS AND DISCONTINUATION OF SERVICE DUE TO COMPLY WITH AGREEMENT TO PAY ARREARS IN INSTALMENTS**

19.1 in the event of a consumer failing to make payment in terms of an agreement referred to in Section 22 a notice shall be served on the consumer informing him/her:

- a. That payments in terms of the agreement have not been received
- b. Of the full amount outstanding in terms of the agreement;
- c. That unless full payment of the outstanding instalments are received within a period of 14 days from the date of such notice, the municipality reserves the right to cancel the agreement, claim all outstanding amounts from the consumer and discontinue the service in respect of which the agreement was concluded.

19.2 in the event of the consumer failing to respond to the aforesaid notice within the stipulated period, the municipality may discontinue the provision of services to the defaulting consumer without further notice.

## **20. RESTORATION OF SERVICES**

20.1 After a consumer settles arrear amounts owing to the municipality following continuance of service, the discontinued service will be restored within 7(seven) working days according to the type of service the consumer elected in terms of the agreement for the provision of services.

## **21 DISCRETION: NEGOTIABLE AMOUNTS**

21.1 Discretion in terms of negotiable amounts as per this policy is delegated to the Chief Financial Officer with the right to sub-delegate.

21.2 Officials with delegated powers may use discretion as a final tool by which decisions can be made in accordance with this policy.

21.3 At all times, and at all levels, discretion will only be used so as to apply the principles embodied in the policy and to ensure that some form of payment acceptable to council is forthcoming from negotiations with the consumer.

## **22 ARRANGEMENTS**

22.1 Notwithstanding that all debts should be treated holistically, certain categories of debt may be subject to category specific repayment parameters.

22.2 Current charges must be paid in full and cannot be negotiated.

22.3 The consumer may be required to prove levels of income and must agree to a monthly payment towards arrears based on his ability to pay or based on his total liquidity, if council so requires.

22.4 All negotiations' with the consumer should strive to result in an agreement that is sustainable and is most beneficial to council.

22.5 Interest will be charged on arrears at an interest rate that shall be determined by council from time to time.

22.6 Interest on arrears in arrears in respect of all services and rates may, at the option of the council, be frozen whilst the consumer adheres to the conditions of an arrangement.

22.7 Debtors, excluding housing debtors, who default on three (3) occasions in respect of arrangements made, will be denied the privilege of making further arrangements and the full amount becomes due and payable.

22.8 All arrangements should be subject to periodic review.

22.9 All services may disconnected and legal action will be taken against consumers as provided for in this policy and/ or such debt may be referred to third party debt collectors, for recovery.

## **23 ARRANGEMENT CRITERIA FOR RESIDENTIAL DEBTORS**

- 23.1 All consumers who are in arrears and apply to make arrangements to reschedule their debt will, subject to Section 16, be obliged to make the following minimum payment requirements at the time of entering into such arrangement:
- a. Current account, plus
  - b. An initial payment towards arrears with the minimum payment being equal to a monthly instalment which will liquidate the arrear amount plus accrued interest thereon within a period of 24(twenty-four) months.
  - c. Each following month the consumer will be required to pay:
  - d. Current account, plus
  - e. An instalment as determined in (b) above.
  - f. Should the consumer default, payments will be as follows:
    - a. First default- current account + the monthly payment as determined in (b) above increased by 25% of that payment.
    - b. Second default-current account +50% the monthly payment as determined in (b) above.
    - c. Final default – current account + full arrears.
  - g. In all cases, failure to respond to notices will result in normal credit control procedures and/or legal processes being followed.

## **24. ARRANGEMENT CRITERIA FOR NON-RESIDENTIAL DEBTORS.**

- 24.1 Non-residential debtors may make arrangements to liquidate their arrears where it would be financially beneficial to the council for them to do so.
- 24.2 The final decision to make these arrangements will rest with the financial officer with the authority to sub-delegate.
- 24.3 If any non-residential debtor wishes to make an arrangement for a period of not longer than six (6) months and will pay the first instalment immediately, interest on the arrangement amount may be suspended as long as the terms of the arrangement are maintained.

## **25 LISTING OF DEBTOR WITH CREDIT BUREAU**

- 25.1 Where an account rendered to a consumer remains outstanding for more than 90 (ninety) days-
- a. The defaulting consumer's name may, at the option of the municipality, be listed with a credit bureau of any other equivalent body as defaulter, provided that the agreement for the provision of services provide therefore; and
  - b. May be handed over to a debt collector or an attorney for collection unless the consumer is under debt review in terms of the National Credit Act.

## **26. TERMINATION, LIMITATION AND DISCONTINUATION OF SERVICES**

- 26.1 A consumer may terminate an agreement for the provision of services by giving to the municipality not less than thirty (30) calendar day's notice in writing of the consumer's intention to do so.
- 26.2 The municipality may, after having given notice, terminate an agreement for services if a consumer has vacated the premises to which such agreement relates.
- 26.3 The municipality may, subject to the conditions contained in this policy, limit or discontinue services provided in terms of this policy-
- a. On a failure by the consumer to pay the prescribed tariffs or charges on the date specified and response from the consumer;
  - b. On the failure of the consumer to comply with the provisions of any agreement entered into with the municipality in terms of this policy;
  - c. On failure by the consumer to comply with any other provisions of this policy and after due notice has been given to the consumer.
  - d. At the written request on a consumer;
  - e. If the agreement for the provision of services has been terminated and the municipality has not received an application for subsequent services to the premises within a period of 90( ninety) days of such termination;
  - f. If the building on the premises to which services were provided has been demolished;
  - g. If the consumer has interfered with a limited or discontinued service; or
  - h. Obstructs the efficient supply of electricity, water , gas or any other municipal services to another customer
  - i. Supplies such municipal service to a consumer who is not entitled thereto or permits such service to continue;
  - j. Causes a situation, which in the opinion of the municipality is dangerous, or a contravention of relevant legislation;
  - k. Is placed under provincial sequestration, liquidation or judicial management, or commits an act of solvency in terms of the Insolvency Act, 1936(Act 24 of 1936);
  - l. Is subject to an administration order granted in terms of section 74 of the Magistrate's Court Act, 1944 (Act 32 of 1944) in respect of such user;
  - m. Is subject to a debt revenue/debt rearrangement in terms of the National Credit Act in an emergency.
- 26.4 The municipality will not be liable for any damages or claims that may arise from the limitation or discontinuation of services provided in terms of this section.
- 26.5 the right of the Council or any duly appointed agent to limit or discontinue water to any premises or customer, shall be subject to the provisions of Section 3 and 4 of the Water Services Act, 1997( Act 108 Of 1997)
- 26.6 The right of the Council to discontinue the provision of electricity of electricity to any consumer shall be subject to the provisions of the electricity Act, 1987(Act 41 of 1987).
- 26.7 the right of the council or any duly appointed agent to limit the supply of municipal services to a customer shall be subject to the provisions of the Health Act, 1997( Act 63 of 1997), and the regulations made there under.

**27. RESTRICTION OF SERVICES**

If the municipal manager is of the opinion that the termination of services, in the case of a particular property in respect of which the account is in arrear, is not in the best interests of the community-specifically because of the potential endangerment of the life of any person, whether resident in or outside the property concerned- the municipal manager may appropriately restrict rather than terminates the services in question.

**28. SERVICES NOT RECONNECTED OR REINSTATED AFTER FOUR (4) WEEKS**

If services have been terminated or restricted in the case of a property in respect of which the account is in arrear, and the account holder has not paid such arrears, including the interest raised on such account, or made an acceptable arrangement with the municipal manager for the payment of the arrear account, including the interest raised on such account, within a period of 28(twenty-eight) calendar days after the date of termination or restriction of the services(s) concerned, the municipal manager shall forthwith hand such account over for collection and such further action as is deemed necessary to the municipality's attorneys or any debt collecting agency appointed by the council.

Such further action shall include, if necessary, the sale in execution of such property to recover arrear property rates and service charges (if the account holder is also the owner of the property). All legal expenses incurred by the municipality shall be for the account of the defaulting account holder.

**29. NOTICES AND DOCUMENTATION**

29.1 An order, notice or other document issued by the municipality in terms of this Policy shall be deemed to be duly authorised by the Council of the municipality if signed by the Municipal Manager or by a duly authorised employee of the Council.

29.2 Any notice other document served on a person by a municipality in terms of any other legislation is regarded as having been served-

- a. By delivery the notice to him/her personally or to his duly authorised agent; or
- b. By delivering the notice at his residence or place of employment to a person apparently not less than sixteen (16) years of age and apparently residing or employed there;
- c. If he has nominated an address for legal purposes, by delivering the notice to such an address; or
- d. If he has not nominated an address for legal purposes, delivering it to the address given by him/her in his application for the provision of water services, for the reception of an account for the provision of water services;
- e. By sending it by pre-paid registered or certified post addresses to his last known address;
- f. In the case of a body corporate, by delivering it to the registered office or the business premises of such a body corporate;

g. If service cannot be effected in terms of the aforesaid sub-sections by affixing it to the principal door of entry to the premises, or displaying it on a conspicuous place.

29.3 In the case where complicated with a notice is required within a specified number of working days, such period shall be deemed to commence on the date of delivery or sending of such notice.

29.4 Delivery of a copy of the document shall be deemed to be delivery of the original.

### **30. UNAUTHORISED RECONNECTION OF WATER /ELECTRICITY SUPPLY (TAMPERING)**

30.1 The unauthorised reconnection of, or tampering with supply is prohibited and shall constitute a criminal offence that will result in legal action being taken against the person responsible for such unauthorised reconnection or tampering. Where this has occurred, the service reconnected without authorisation or tampered with will affectively disconnected.

30.2 The full amount of arrears plus any unauthorised consumption, and any applicable reconnected tariffs, will be payable prior to reconnection. Should exceptional circumstances exist, adequate payment arrangements may be permitted at the sole discretion of the financial officer with the right to sub-delegate?

### **31 UNOCCUPIED PREMISES**

31.1 When a consumer terminates a service agreement and no new service agreement is entered into with the municipality, the property shall be deemed to be unoccupied.

31.2 Whenever water and/ or electricity consumption is recorded at a property that is deemed to be unoccupied, an account will be raised and forwarded to the owner of the property for payment.

31.3 Notwithstanding the above, the municipality shall have the power to invoke the relevant provisions of section 30

### **32 INSTALLATION OF PREPAID METERS**

32.1 The installation of prepaid meters, with the written permission of the owner, should be encouraged, but those consumers whose electricity supply has been disconnected three (3) times for non-payment will be compelled to install a prepaid meter before the supply is connected. All prepaid meters are installed at the owner or tenant's expense.

### **33 ALLOCATION OF PREPAID PURCHASES TO ARREARS**

33.1 A minimum of 20% to a maximum of 50% of the value of units purchased for electricity shall be allocated in the first instance to electricity arrears and thereafter to



any another arrears. This action will be by prior arrangement with the consumer and shall remain unchanged unless by default.

### **34 RIGHT OF ACCESS**

- 34.1 An authorised representative of the municipality must, at all reasonable hours, be given unrestricted access to the consumer's premises in order to read, inspect, install or repair any meter, service or service connection for reticulation, or to disconnect, stop or restrict the provision of any service.
- 34.2 Any person who contravenes Section 34.1 above will be deemed to have contravened the provisions of section 101 of the local government: municipal systems act, 2000 as amended, and will be charged with the commission of an offence which, if proven, may attract the penalties referred to Section 119 of the Act.
- 34.3 Failure to comply with Clause 34.1 could result, *inter alia*, in any of the consumer's services being disconnected or terminated.

### **35 EMPLOYEE DEDUCTIONS**

- 35.1 The council may, subject to an employee's consent, enter into a written agreement with any employer within the council's area of jurisdiction to deduct outstanding rates and service charges or to settle regular monthly accounts through deductions from salaries or wages of its employees.
- 35.2 The municipality may, from time to time, provide special rebates, incentives or benefits to the employer or employees in the event of such an agreement, subject to the provisions of the Local Government: Municipal Property Rates Act, 6 of 2004, and any other applicable legislation.

### **36. RATES**

- 36.1 Annual rates (and other annual levies)
- a. Interest will be charged on all overdue accounts at an interest rate that shall be determined by the council from time to time.
  - b. If an account is not paid by the due date as displayed on the account , a notice shall be issued
  - c. If an account is not settled or there is no response from the consumer to make acceptable arrangements to repay the debt, summons shall be issued and the legal process followed.
  - d. In instances where the rates debt is in respect of municipal property sold by suspense sale agreement, the collection thereof will be undertaken in terms of the deed of sale or any subsequent applicable written agreement between the council and the consumer.
  - e. At any stage while the debt is outstanding, all reasonable steps shall be taken to ensure that the ultimate sanction of a sale –in execution is avoided or taken only

as a last resort. The council, however, has total commitment to a sale –in – execution should the consumer fail to make use of the alternatives provided for by the council from time to time

- f. Any consumer may be granted the opportunity of converting to a monthly rates payment arrangement for the following financial year.

### **36.2 Monthly Rates**

- a. Interest will be charged on all overdue accounts at an interest rate that shall be determined by council from time to time.
- b. Consumers may make application to the council before 31 may each year to pay current and future rates monthly, the approval of which is at the sole discretion of the chief financial officer with the right to sub-delegate.
- c. The monthly amount payable for current annual rates plus interest will be calculated to allow the total balance of such amount to be paid in equal instalments by the end of that financial year.
- d. Should the consumer's rates arrears equal the amount of any three monthly instalments or more, the full balance of the annual rates will become due and payable and the account status will be converted from monthly to annual.

### **36.3 Rates Clearance Certificate**

No rates clearance certificate will be issued by the municipality contrary to the provisions of section 118 of the Local Government: Municipal Systems Act, 2000. where an undertaking is submitted by an attorney to the municipality to pay all outstanding debt on receipt of the purchase price of the property, the municipality may issue a rates clearance certificate, valid for 90(ninety) days, after the relevant fee for the certificate was deposited in the municipality's primary account. If the attorney would default to pay the outstanding debt, he will forfeit this arrangement. Debt prior to (two) years that remain unpaid shall remain as a charge against the property and the new owner shall become liable therefore.

### **36.4 Determination of Collection of Rates**

The provisions of the Municipal Ordinance 20 of 1974, the Transkei Municipalities Act and the relevant provisions of the Local Government Transition Act, 1993 and the Municipal Systems Act 2000 shall, until repealed or replaced, continue to apply in respect of the determination, application and collection of rates owing to the municipality as well as the seizure and sale of property in execution.

## **37 INDIGENT MANAGEMENT POLICY**

- 37.1 The Council shall adopt an Indigent Management Policy which shall provide for the procedures and guidelines for the provision of indigent benefits to indigent households in its municipal area.

- 37.2 The object of the Indigent Support Policy will 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 guideline for the subsidisation of basic service charges to indigent households.
- 37.3 The verified gross monthly income of all occupants over 18 (eighteen) years of age may not exceed the amount approved by Council from time to time during the budget process.
- 37.4 The register of indigent must be the full-time occupant or owner of the property concerned, and may not own any other property, whether in or out of the municipal area. This includes cases where the occupant rents the property.
- 37.5 Consumption may not exceed a predetermined level a provided for in the municipality's Indigent Management Policy.
- 37.6 The benefit shall be limited to service charges for water, refuse removal, electricity and sewerage disposal and consumers may be require installing water management devices and prepaid electricity meters to avoid further escalation of debt.
- 37.7 The subsidy will only be valid for 12 (twelve) months where after the beneficiaries must reapply.
- 37.8 No further legal action will be taken on indigent arrears.

## 38 HOUSING

- 38.1 Interest may be charged on all overdue accounts at an interest rate that shall be determined by Council from time to time.
- 38.2 Interest charges on arrears may be frozen subject to a rescheduled debt arrangement being consistently honoured.
- 38.3 A debt rescheduling arrangement requires the payment of the current account plus an acceptable amount towards the arrears each month.
- 38.4 The first payment of the debt should be made at the time the debt rescheduling arrangement is entered into.
- 38.5 If an arrangement is not honoured, the debt collection process/legal action will resume from where it was suspended and not restart at the beginning of the administrative process.
- 38.6 The Ward and Proportional Representative (PR) Council will be informed of defaulting consumers following the issuing of a Letter of Demand to and Judgement Order against the occupant.
- 38.7 Home visit will be undertaken by officials or representatives on behalf of Council following the issue of the Letter of Demand to the consumer and again, once a Judgement Order has been granted. The visiting official or representative will make

every effort to encourage the defaulting consumer to pay his current account and enter into an arrangement for the payment of arrears.

- 38.8 The consumer is responsible for all legal costs and will have to pay such costs before any legal action may be stopped. An acceptable debt rescheduling agreement must also be entered into before any action may be stopped
- 38.9 The following minimum payments are required from the consumer prior to cessation of the legal process:
- (a) Following issue of Summons –3 x total monthly housing charge
  - (b) Following issue of Judgement Order—6 x total monthly housing charge
  - (c) One day of eviction—12x total monthly housing charge
  - (d) In each case, the payment required will be limited to the lesser of the outstanding Balance or the amount calculated above.
- 38.10 If the consumer defaults on an arrangement made on the day of eviction, a re-issued Warrant of Ejectment will be obtained and the subsequent eviction process may only be stopped if all outstanding arrears, plus any legal costs, are paid.
- 38.11 Once an eviction has been carried out by the Sheriff of the Court, no re-instatement of the evicted consumer will be considered.
- 38.12 Home-ownership Schemes
- (a) Loan instalments and other housing charges are payable by due date.
  - (b) If payment is not received by the due date, a first Contact Letter must be served on the consumer requesting payment and offering the consumer an opportunity to make an arrangement for payment within 14 (fourteen) days from the date of such letter.
  - (c) If there is no response to the First Contact Letter, a Letter of Demand must be issued, allowing the defaulter 7 (seven) days as a final opportunity to make an arrangement for payment.
  - (d) If the consumer fails to respond to this notice, the legal collection process will commence and the consumer will be responsible for all legal costs incurred by the Council.
  - (e) If the amount due on the day of eviction is not paid, repossession of property will take place and arrangements must be made for resale of the property.

## **39 IRRECOVERABLE DEBT**

The municipal Council may, on recommendation from the Municipal Manager, or any duly delegated official, write off any debt or portion thereof, provided that the municipal Council is

satisfied that the debt or portion thereof is irrecoverable or that it will be in the best interest of the municipality to accept part payment of the debt in full and final settlement.

The Executive Mayor may recommend to the municipal Council that any outstanding debt or portion thereof be written off, if in his opinion it would be in the best interest of the municipality, and that the writing off of the debt will not be contrary to the provisions of the Local Government: Municipal Finance Management Act, No 56 of 2003

#### **39.1 Debt will be regarded as irrecoverable if:**

- (a) all reasonable notifications and cost-effective measures to recover a specific outstanding amount have been exhausted; or
- (b) If the amount to be recovered is too small to warrant further endeavours to collect it; or
- (c) The cost to recover the debt does not warrant further action, i.e. to summons in another country; or
- (d) The amount outstanding is the residue after payment of a dividend in the Rand from an insolvent estate; or
- (e) A deceased estate has no liquid assets to cover the outstanding amount; or
- (f) It has been proven that the debt has prescribed; or
- (g) The consumer is untraceable or cannot be identified so as to proceed with further action; or
- (h) It is impossible to prove the debt outstanding; or
- (l) the outstanding amount is due to an administrative error by council.

#### **39.2 Authorisation**

- (a) As rates are deemed to be recoverable in all instances, all requests to write off debt in respect of rates must be presented as individual items to the Chief Financial Officer.
- (b) In respect of other debt, schedules indicating the consumer account number, the consumer's name, the physical address in respect of which the debt was raised, erf number, if applicable, amount per account category as well as the steps taken to recover a debt and a reason to write off the amount, must be compiled and submitted to the Council for consideration with a view to writing off such debt as irrecoverable.
- (c) Notwithstanding the above, Council or its authorised officials will be under no obligation to write off any particular debt and will always have the sole discretion to do so.
- (d) An accounting officer must ensure that all debts written-off are done in accordance with a write-off policy determined by the accounting.

#### **40 ARREARS WHICH HAVE ARISEN PRIOR TO THE ADOPTION OF THE PRESENT POLICY**

The Council shall separately consider arrears which arose prior to the adoption of the present policy, and shall advise account holder of their respective obligations in regard to such arrears. In determining such obligations, the Council shall have regard to the quantum of such arrears, to the period over which the default occurred, and to

whether the account holder concerned has registered as an indigent in terms of the municipality's policy on indigent management.

The Council shall further consider incentive schemes which will appropriately encourage account holder to settle all or a stated percentage of these arrears.

#### **41 OFFENCES AND PENALTIES**

41.1 The Council acknowledges that, in terms of Section 119 of the Local Government: Municipal System Act 2000, it is an offence for any person who-

- a. Fails to give the access required by a duly authorised representative of the municipality in terms of this policy;
- b. Obstructs or hinders a duly authorised representative of the municipality in the exercise of his or her powers or performance of function or duties in terms of the policy;
- c. Unlawfully uses or interferes with municipal equipment or the consumption of services supplied to any customer;
- d. Tampers with or breaks any seal on a meter or on any equipment belonging to the municipality, or causes a meter not to register properly the service used;
- e. Fails, or refuse, to give a duly authorised representative of the municipality such information as he or she may reasonably require for the purpose of exercising or performing his or her powers or functions in terms of this policy, or gives such representative false or misleading information, knowing it to be false or misleading; or
- f. Contravenes, or fails to comply with a provision of this policy, shall be guilty of an offence.

41.2 Upon conviction in a court, an offender shall be liable for a fine not less than the cost of repairing the damage or any such cost determined by the municipality, or to imprisonment for a period not exceeding 12 (twelve) month, or both such a fine and imprisonment, and may be charged for consumption, as determined by the Chief Financial Officer, and based on average monthly consumption, or as determined by resolution of the municipality from time to time.

#### **42 PUBLICATION OF POLICY**

The Municipal Manager shall, within 14 (fourteen) days from the date of adoption of this Policy by the Council, by public notice draw the attention of the public to its broad contents and method of application.

#### **43 CONFLICTION BY-LAWS**

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

#### **44 Application**

This By-law shall be binding on all persons who own and/or occupy immovable property or any premises within the area of jurisdiction of the Municipality.

44

**Short title**

This By-law is called the -----Municipality: Credit Control and Debt Collection By-law.