

# **MASILONYANA LOCAL MUNICIPALITY**

## **CREDIT CONTROL AND DEBT COLLECTION POLICY**

**MASILONYANA Local Municipality hereby makes the following policy in terms of section 96(b) of the Local Government:**

**Municipal Systems Act no. 32 of 2000.**



**FINAL**

**TO REGULATE CUSTOMER CARE MANAGEMENT,  
CREDIT CONTROL AND DEBT COLLECTION POLICIES**

**(FOR IMPLEMENTATION ON 1 JULY 2015)**



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## MASILONYANA LOCAL MUNICIPALITY PRINCIPLES AND POLICY ON CREDIT CONTROL AND DEBT COLLECTION

### 1. PREAMBLE

WHEREAS section 152 (1) (b) of the Constitution of the Republic of South Africa Act 108 of 1996 (*the Constitution*) provides that one of the objects of local government is to ensure that the provision of services to communities occurs in a sustainable manner;

AND WHEREAS section 153 (a) of the Constitution provides that a municipality must structure its administration, budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community;

AND WHEREAS section 195 (1) of the Constitution provides that the public administration must be governed by the democratic values and principles enshrined in the Constitution, including-

- The promotion of the efficient, economic and effective use of resources;
- The provision of services impartially, fairly, equitably and without bias; and
- The fact that people's needs must be responded to.

AND WHEREAS section 4 (1) (c) of the Local Government: Municipal Systems Act 33 of 2000 (*the Systems Act*) provides that the Council of a municipality has the right to finance the affairs of the municipality by charging fees for services, imposing surcharges on fees, rates on property and, to the extent authorised by national legislation, other taxes, levies and duties;

AND WHEREAS section 5 (1) (g), read with subsection (2) (b) of the Systems Act provides that members of the local community have the right to have access to municipal services which the municipality provides provided that, where applicable and subject to the policy for indigent debtors, pay promptly for services fees, surcharges on fees, other taxes, levies and duties imposed by the municipality;

AND WHEREAS section 6 (2) (c), (e) and (f) of the Systems Act provides that the administration of a municipality must take measures to prevent corruption; give members of a local community full and accurate information about the level and standard of municipal services that they are entitled to receive; and inform the local community about how the municipality is managed, of the costs involved and the persons in charge;

AND WHEREAS Chapter 9, sections 95, 96, 97, 98, 99 and 100, of the Systems Act provides for Customer Care Management, Debt Collection responsibility of the Municipality, contents of the policy, by-laws that give effect to the policy, Supervisory authority and Implementing authority, respectively.

#### 1.1 Scope Of The Policy

- (a) This Policy applies to all administrations within the defined boundaries of the Masilonyana Local Municipality and all debtors of these administrations.
- (b) The Credit Control & Debt Collection policy as approved by Council, has been enshrined in a Municipal policy in terms of the Local Government: Municipal System Act No. 32 of 2000 and such Policy will be binding on the public, officials and Councilors of the Local Municipality of Masilonyana and no interference in the process will be permitted.



- (c) The Policy is applicable until such time as it is reviewed and any revisions to the Policy approved by Council.
- (d) All acts performed in terms of the above approved Policy, will not be invalidated due to the timing differences between approval and promulgation.
- (e) All acts performed as mentioned in the previous paragraph will be ratified with the promulgation of the Municipal Policy.

### **1.2. Objective Of The Policy**

The objective of this policy is to:

- (a) Focus on all outstanding debt as raised on the debtor's account.
- (b) Provide for a common credit control, debt collection and indigent Policy throughout the Masilonyana Municipality.
- (c) Facilitate implementation of this Policy throughout the Masilonyana Local Municipality.
- (d) Promote a culture of good payment habits amongst Masilonyana Local Municipality debtors and instill a sense of responsibility towards the payment of municipal accounts and reduction of municipal debt.
- (e) To ensure that the Council of Masilonyana Local Municipality uses innovative, cost effective, efficient and appropriate methods to collect as much of the debt in the shortest possible time without any interference in the process: and
- (f) To ensure that Masilonyana effectively and efficiently deal with defaulters in accordance with the terms and conditions of this Policy.

## **2. DEFINITIONS**

In this policy, unless the context indicates otherwise any word or expression to which a meaning has been assigned in the Local Government: Municipal Systems Act, has that meaning, provided that the following words and expressions shall have the meanings assigned to them as indicated below.

**"Account"** means an account rendered specifying charges for municipal services provided by the municipality, or any authorised and contracted service provider, and which account may include assessment rates levies;

**"Arrangement"** means a written agreement entered into between the municipality and the customer where specific repayment parameters are agreed to. Such arrangement does not constitute a credit facility envisaged in terms of section 8(3) of the National Credit Act but is deemed to be Incidental Credit as envisaged in terms of section 4(6)(b) read with section 5(2) and (3) of the National Credit Act.

**"Arrears"** means those rates and service charges that have not been paid by the due date and for which no arrangement has been made.

**"Authorised representative"** means a person or instance legally appointed by the municipality to act or to fulfill a duty on its behalf.



**"Billing date"** means the date upon which the monthly statement is generated and debited to the customer's account.

**"Business premises"** means premises used for the purposes of conducting a business thereon and excludes the following:-

- (a) hospitals, clinics and institutions for mentally ill persons which are not operated for gain;
- (b) museums, art galleries, libraries and botanical gardens which are registered in the names of private persons and are open to the public, whether admission fees are charged or not;
- (c) sports grounds used for the purpose of amateur sports and any social activities which are connected with such sports;
- (d) any property registered in the name of an institution or organisation which, in the opinion of the municipality performs charitable work;
- (e) any property utilised for bona fide church or religious purposes.

**"Chief Financial Officer"** means the person appointed as the Chief Financial Officer of the municipality, or his or her nominee.

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

**"Consolidated account"** means an account which is a consolidation of any separate accounts of a person who is liable for payment to the municipality.

**"Council"** means the Council of the Masilonyana Municipality.

**"Customer"** means the occupier of any premises to which the municipality has agreed to supply or is actually supplying municipal services, or if no occupier can be identified or located, then the owner of the premises and includes any debtor of the municipality.

**"Day/Days"** means calendar days, inclusive of Saturdays, Sundays and public holidays.

**"Defaulter"** means any person who owes arrears to the municipality.

**"Delivery date"** shall mean the date on which the periodic account is delivered to the consumer or 3 days after the date the account was posted, whichever is the first.

**"Due date"** in relation to -

- (a) rates due in respect of any immovable property, means:-
  - (i) the thirtieth (30<sup>th</sup>) day of September of the financial year for which such rate is made, in the case where rates are levied on an annual basis;
  - (ii) the date for payment indicated on the account, in the case where rates are levied on a monthly basis; or
  - (iii) any other date determined by Council in terms of a public notice in the Provincial Gazette, and



- (b) service charges due in respect of any immovable property, means the date for payment indicated on the account, provided that the due date for refuse charges means the thirtieth (30<sup>th</sup>) day of September in the case where refuse charges are levied annually; and

provided that should such day fall on a Saturday, Sunday or public holiday the due date shall be the next working day.

**"Immovable property"** includes -

- (a) an undivided share in immovable property, and  
(b) any right in immovable property.

**"Indigent debtor"** means:-

- (a) the head of an indigent household:-  
(i) who applied for and has been declared indigent in terms of Council's Indigent Support Policy for the provision of services from the municipality; and  
(ii) who makes application for indigent support in terms of Council's Indigent Support Policy on behalf of all members of his or her household;
- (b) orphaned minor children duly represented by their legal and/or de facto guardians.

**"Indigent Support Policy"** means the Indigent Support Policy adopted by the Council of the municipality.

**"Interest"** means the charge levied on arrears, calculated as the prime rate, charged by the bank which holds the municipality's primary bank account, plus one percent or such other percentage as may be determined by Council from time to time.

**"Manager Income"** Means the official of the municipality responsible for the collection of monies owed to the municipality and/or any other official to whom he/she has delegated duties and responsibilities in terms of this policy.

**"Month"** means a calendar month.

**"Monthly average consumption"** means the monthly average consumption in respect of that property calculated on the basis of consumption over the preceding or succeeding twelve months.

**"Municipality"** means the Municipal Council of the Masilonyana Municipality or any duly authorised Committee, political office bearer or official.

**"Municipal pay point"** means any municipal office in the area of jurisdiction of the municipality designated by Council for such purposes, or any such other places as the Chief Financial Officer may from time to time designate.

**"Municipal Manager"** means the Municipal Manager of the Masilonyana municipality or his or her nominee acting in terms of power delegated to him or her by the said Municipal Manager with the concurrence of the Council.

**"Municipal services"** means services provided either by the municipality, or by an external agent on behalf of the municipality in terms of a service delivery agreement.



**"Occupier"** means the person who controls and resides on or controls and otherwise uses immovable property, provided that:-

- (a) the husband or wife of the owner of immovable property which is at any time used by such owner and husband or wife as a dwelling, shall be deemed to be the occupier thereof;
- (b) where a husband and wife both reside on immovable property and one of them is an occupier thereof; the other shall also be deemed to be an occupier thereof.

**"Owner"** in relation to immovable property means -

- (a) the person in whom is vested the legal title thereto provided that-
  - (i) the lessee of immovable property which is leased for a period of not less than thirty years, whether the lease is registered or not, shall be deemed to be the owner thereof;
  - (ii) the occupier of immovable property occupied under a service servitude or right analogous thereto, shall be deemed to be the owner thereof;
- (b) if the owner is dead or insolvent or has assigned his or her estate for the benefit of his creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be, shall be deemed to be the owner thereof;
- (c) if the owner is absent from the Republic or if his address is unknown to the municipality, any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property, or
  - (i) if the municipality is unable to determine who such person is, the person who is entitled to the beneficial use of such property.

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

- (a) A general plan or diagram registered in terms of the Land Survey Act, (9 of 1927) or in terms of the Deed Registry Act, 47 of 1937; or
- (b) A sectional plan registered in terms of the Sectional Titles Act, 95 of 1986, and which is situated within the area of jurisdiction of the municipality.
- (c) A register held by a tribal authority.

**"Prescribed"** means prescribed by this policy and where applicable by Council or the Municipal Manager.

**"Prescribed debt"** means debt that becomes extinguished by prescription in terms of the Prescription Act 68 of 1969.

**"Person"** means a natural and juristic person, including any department of state, statutory bodies or foreign embassies.

**"Rate"** means a municipal rate on property envisaged in section 229 (1) (a) of the Constitution.

**"Refuse charges"** means service charges in respect of the collection and disposal of refuse.





"**Registered owner**" means that person, natural or juristic, in whose name the property is registered in terms of the Deeds Registry Act, no. 47 of 1937.

"**Responsible person**" means any person other than the registered owner of an immovable property who is legally responsible for the payment of municipal service charges.

"**Service charges**" means the fees levied by the municipality in terms of its tariff policy for any municipal services rendered in respect of an immovable property and includes any penalties, interest or surcharges levied or imposed in terms of this policy.

"**Service delivery agreement**" means an agreement between the municipality and an institution or persons mentioned in section 76(b) of the Local Government: Municipal Systems Act 32 of 2000.

"**Sundry debtor accounts**" means accounts raised for miscellaneous charges for services provided by the municipality or charges that were raised against a person as a result of an action by a person, and were raised in terms of Council's policies, bylaws and decisions

"**Tariff**" means the scale of rates, taxes, duties, levies or other fees which may be imposed by the municipality in respect of immovable property or for municipal services provided.

"**Tariff Policy**" means a Tariff Policy adopted by the Council in terms of Section 74 of the Local Government: Municipal Systems Act 32 of 2000.

"**User**" means the owner or occupier of a property in respect of which municipal services are being rendered.

### 3. PRINCIPLES

The principles of credit management in the municipality are: -

1. The administrative integrity of the municipality must be maintained at all times.
2. Councillors must have full knowledge of the implementation and enforcement of the by- law.
3. The Executive Committee oversees and monitors the implementation and enforcement of this policy.
4. The Municipal Manager implements and enforces this policy.
5. Consumers must be informed of the contents of this policy.
6. Consumers must receive regular and accurate accounts that indicate the basis for calculating the amounts due. The consumer is entitled to have the details of the account explained upon request.
7. Consumers must pay their accounts regularly by the due date.
8. Consumers are entitled to reasonable access to pay points and to a variety of reliable payment methods.
9. Consumers are entitled to an efficient, effective and reasonable response to appeals, and should not suffer any disadvantage during the processing of a reasonable appeal.



10. Debt collection action will be instituted promptly, consistently, and effectively without exception and with the intention of proceeding until the debt is collected.
11. It shall be the duty of all consumers to ensure that they have the correct information regarding all due amounts.

#### **4. SUPERVISORY AUTHORITY**

- (1) The Executive Committee oversees and monitors -
  - (a) The implementation and enforcement of the municipality's credit control and debt collection policy.
  - (b) The performance of the Municipal Manager in implementing the credit control and debt collection policy.
- (2) The Executive Committee shall at least once a year cause an evaluation or review of the credit control and debt collection policy to be performed, in order to improve the efficiency of the municipality's credit control and debt collection mechanisms, processes and procedures, as well as the implementation of this policy.
- (3) The Executive Committee shall submit a report to Council regarding the implementation of the credit control and debt collection policy at such intervals as Council may determine.

#### **5. IMPLEMENTING AUTHORITY**

- (1) The Municipal Manager:-
  - (a) Implements and enforces the credit control and debt collection policy.
  - (b) Is accountable to the Executive Committee for the enforcement of the policy and shall submit a report to the Executive Committee regarding the implementation and enforcement of the credit control and debt collection policy at such intervals as may be determined by Council.
  - (c) Must establish effective administration mechanisms, processes and procedures to collect money that is due and payable to the municipality.
  - (d) Where necessary make recommendations to the Executive Committee with the aim of improving the efficiency of the credit control and debt collection mechanisms, processes and procedures.
  - (e) Establish effective communication between the municipality and account holders with the aim of keeping account holders abreast of all decisions by Council that may affect account holders.
  - (f) Establish customer service centers, located in such communities as determined by the municipal manager.



- (g) Convey to account holders information relating to the costs involved in service provision, and how funds received for the payment of services are utilised, and may where necessary employ the services of local media to convey such information.
- (2) The Municipal Manager may, in writing, delegate any of the powers entrusted or delegated to him or her in terms of Council's credit control and debt collection policy to the Chief Financial Officer.
- (3) A delegation in terms of subsection (2) -
  - (a) Is subject to any limitations or conditions that the Municipal Manager may impose;
  - (b) May authorise the Chief Financial Officer in writing, to sub-delegate duties and responsibilities to the Manager Income.
  - (c) The delegation does not divest the Municipal Manager of the responsibility concerning the exercise of the delegated power.
  - (d) The Chief Financial Officer is accountable to the Municipal Manager for the implementation, enforcement and administration of this policy, and the general exercise of his powers in terms of this policy.

## **6. UNSATISFACTORY LEVELS OF INDEBTEDNESS**

- (1) If the level of indebtedness in a particular ward or part of the Municipality exceeds the level of the acceptable norm as determined in the Municipality's budget guidelines, the supervisory authority (Executive Committee) must, without delay, advise the Councillor for that ward or part.
- (2) The Councillor concerned:-

Must without delay convene a meeting of the ward committee, if there is one, or convene a public meeting and report the matter to the committee or meeting for discussion and advice; and may make any appropriate recommendations to the supervisory authority.

## **7. APPLICATION FOR THE PROVISION OF MUNICIPAL SERVICES**

- (1) A consumer who requires the provision of municipal services must apply for the service from the municipality.
- (2) The application for the provision of municipal services must be made by the registered owner of an immovable property.
- (3) The municipality will not entertain an application for the provision of municipal services from a tenant of a property, or any other person who is not the owner of the property.



- (4) The only exception to (3) above is that individuals and businesses with lease agreements to lease properties from the municipality and government departments will be allowed to open an account in the name of the lessee of the property
- (5) An agent may with a proxy open an account in the name of the owner.
- (6) The application for the provision of municipal services must be made in writing on the prescribed application form that is provided by the municipality.
- (7) By completing the prescribed application form for the provision of municipal services the customer of services enters into an agreement with the municipality. Such agreement does not constitute a credit facility envisaged in terms of section 8(3) of the National Credit Act (NCA) but shall be incidental credit as envisaged in terms of section 4(6)(b) of the NCA, to which the NCA will only apply to the extent as stipulated in section 5 of the NCA.
- (8) The agreement with the municipality makes provision for the following: -
  - (a) An undertaking by the owner that he or she will be liable for collection costs including administration fees, interest, disconnection and reconnection costs, and any other legal costs occasioned by his or her failure to settle accounts by the due date on an attorney / client basis;
  - (b) An acknowledgement by the owner that accounts will become due and payable by the due date notwithstanding the fact that the owner did not receive the account; and
  - (c) That the onus will be on the owner to ensure that he or she is in possession of an account before the due date.
  - (d) An undertaking by the municipality that it shall do everything in its power to deliver accounts timeously.
- (9) The application for the provision of municipal services shall be made at least ten (10) days prior to the date on which the services are required to be connected.
- (10) On receipt of the application for provision of municipal services, the municipality will cause the reading of metered services linked to the property to be taken on the working day preceding the date of occupation.
- (11) The first account for services will be rendered after the first meter reading cycle to be billed following the date of signing the service agreement.
- (12) No rates clearance certificate will be provided to a new owner of any property unless amounts in terms of section 118 of the Municipal Systems Act is paid

## **8. DEPOSITS AND GUARANTEES**

- (1) On application for the provision of municipal services the consumer deposit prescribed by council shall be paid.



- (2) A guarantee in lieu of a deposit will be accepted on application for the provision of municipal services by a business in terms of the prevailing conditions determined by the Municipal Manager at the time of the application.
- (3) Existing consumers moving to a new address are required to pay the prescribed consumer deposit on application for the provision of municipal services at the new address.
- (4) The minimum deposit payable is determined annually by Council and is contained in the tariff book produced annually.
- (5) The consumer deposit paid on application for the provision of municipal services must be reviewed annually and may be increased or decreased upon written notice to consumers. The deposit will be the equivalent of one months charge for all municipal services supplied, however this maybe increased if it is determined that the consumer is a credit risk.
- (6) On termination of the supply of services the amount of the deposit less any payment due to the municipality will be refunded to an account holder, provided that payments due are less than the deposit paid, and that the account holder has provided a forwarding address.
- (7) If the chief financial officer intends increasing the minimum deposit payable by the owner, then he or she shall, in the aforesaid notice, state full reasons for the increase, and allow the owner an opportunity to make written representations in this regard.
- (8) An aggrieved owner may, within a period of 21 (twenty one) days of having been notified of an increase in the minimum deposit payable, lodge an appeal against the decision of the chief financial officer with the municipal manager.
- (9) The municipal manager shall, in his or her capacity as the appeal authority, consider the appeal, and confirm, vary or revoke the decision of the chief financial officer, within a reasonable period.
- (10) The chief financial officer may, in respect of business premises, accept an irrevocable bank guarantee in lieu of a deposit.

## **9. ACCOUNTS AND BILLING**

- (1) The municipality shall provide all customers with a monthly consolidated account for municipal service rendered, which account shall be generated on a monthly basis in cycles of approximately thirty (30) days.
- (2) The monthly consolidated account can include property rates charges, in which case they shall comply with section 27 of the Municipal Property Rates Act No. 6 of 2004.
- (3) All accounts rendered by the municipality shall be payable on the due date.
- (4) Account balances which remain unpaid 30 days after the due date shall attract interest on arrears, irrespective of the reasons for non-payment.



- (5) All accounts are payable as above regardless of the fact that the customer has not received the account, the onus being on the customer to obtain a copy of the account before the due date.

#### **10. RATES, SANITATION AND REFUSE CHARGES**

- (1) Rates, sanitation and refuse charges shall be billed annually or monthly, as agreed by the municipality with the customer.
- (2) Property rates, sanitation and refuse charges which are levied annually shall be billed in terms of the July account of each year.
- (3) Property rates, sanitation and refuse charges which are levied on a monthly basis shall be billed in terms of monthly accounts.
- (4) The tariffs to calculate property rates, sanitation and refuse charges are determined annually, approved by Council and contained in the tariff book produced by the municipality.

#### **11. ELECTRICITY CHARGES**

- (1) The provisions of this policy, in respect of the supply of electricity to a customer, shall constitute the payment conditions of the municipality as licensee, contemplated in section 21(5) of the Electricity Regulation Act No. 4 of 2006.
- (2) Service charges in respect of electricity shall be determined in accordance with metered consumption.
- (3) Monthly accounts shall be rendered for electricity consumption and the customer shall effect payment thereof by the due date.
- (4) The tariffs to calculate the electricity charges are determined annually, approved by Council and contained in the tariff book prepared and kept by the municipality.

#### **12. WATER CHARGES**

- (1) The provisions of this policy, in respect of the supply of water to a customer, shall constitute the payment conditions of the municipality as water services authority and water services provider, contemplated in sections 4 and 21 of the Water Services Act No. 108 of 1997.
- (2) Service charges in respect of water shall be determined in accordance with metered consumption.
- (3) Monthly accounts shall be rendered for water consumption and the customer shall effect payment thereof by the due date.
- (4) The tariffs to calculate the water charges are determined annually, approved by Council and contained in the tariff book prepared and kept by the municipality.



### **13. SUNDRY DEBTOR ACCOUNTS**

- (1) Sundry debtor accounts may be rendered by the municipality from time to time.
- (2) Any sundry debtor account shall be included in the monthly consolidated account produced by the municipality.

### **14. FINAL ACCOUNTS**

- (1) Upon receipt of a customer's application for the termination of municipal services, the municipality shall –
  - (a) take final readings in respect of metered municipal services;
  - (b) prepare and render a final account;
  - (c) appropriate the consumer deposit for the reduction or settlement of any outstanding amount owed by the customer; and
  - (d) return the consumer deposit to the customer in the event that no amount is owed to the municipality.

### **15. METERING OF MUNICIPAL SERVICES**

- (1) The municipality may introduce various metering equipment and may encourage consumers to convert to a system which is preferred by the Council when Council considers this to be beneficial to its functioning and operations.
- (2) Council's current preferred metering system to measure electricity and water is the conventional metering system for domestic consumers and businesses. Council may resolve to convert to a pre payment system for electricity and/or water meters at any stage should funding allow for the change to such metering system.
- (3) Electricity and water consumption is measured with credit electricity and water meters.
- (4) The following applies to the reading of credit meters: -
  - (a) Credit electricity and water meters are read in cycles of approximately 30 days.
  - (b) If for any reason the credit electricity or water meters cannot be read, the municipality will render an account based on estimated consumption.
  - (c) The account based on estimated consumption will be adjusted in the subsequent account based on the actual consumption.
  - (d) The consumer is responsible to ensure access to metering equipment for the purpose of obtaining meter readings for billing purposes.



- (e) Consumers can, for reasons of non-accessibility to their properties by meter readers, provide the municipality with monthly meter readings for billing purposes, provided that an audit reading can be obtained by the municipality once every six months and provided that a final reading can be obtained should the consumer vacate the property.
- (f) If any calculation, reading or metering error is discovered in respect of any account rendered to a consumer-
  - (i) the error shall be corrected in the subsequent account,
  - (ii) any such correction shall only apply in respect of an account for a period of three years preceding the date on which the error in the account was discovered,
  - (iii) the correction shall be based on the tariffs applicable during the period, and
  - (iv) the application of this section shall not prevent a consumer from claiming overpayment for any longer period where the consumer is able to prove the claim in a court of law.
- (g) When a consumer vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made and the final account rendered accordingly.

## **16. PAYMENT OF ACCOUNTS**

- (1) All accounts rendered by the municipality are due and payable on the due date.
- (2) All payments, whether made by cash, stop order, electronic payments or payments made through agents must be received by the municipality by the close of business on the due date. Cheques can be accepted as payment of an account for service charges and rates and Where a cheque has been dishonoured the person issuing the cheque shall not be allowed to pay by cheque in future.
- (3) Accounts rendered by the municipality can be paid at any municipal cashier office and any other pay point as determined by the Municipal Manager from time to time.
- (4) The payment methods and facilities supported by the municipality can be used to make payments on accounts.
- (5) Payments received in respect of rates and service charges will be allocated by the municipality entirely within its discretion, on the account of the debtor.
- (6) Part payment received on an account shall be allocated firstly to reduce any penalty charges that may have accrued on the account.
- (7) An official receipt issued by the municipality will be the only proof of payments made.





## **17. INTEREST ON ARREAR DEBT**

- (1) Account balances which remain unpaid after the due date shall attract interest irrespective of the reason for non-payment.
- (2) The following categories of arrear debt shall not attract interest on arrears: -
  - (a) Indigent debt.
  - (b) Closed accounts.
  - (c) Deceased estates.
  - (d) Insolvent estates.
  - (e) Debtors under administration (administration portion only).
  - (f) The first 90 days after delivery date for all service arrears.
- (3) Interest on arrear debt shall be calculated for each month for which such payment remains unpaid and part of a month shall be deemed to be a month.
- (4) No interest shall be charged on any outstanding amounts in respect of which an agreement had been concluded for the payment by way of installment thereof, provided the installment is paid in full by the due date.

## **18. ENQUIRIES AND APPEALS**

- (1) Any aggrieved person may address a grievance or query regarding charges for municipal services to the Chief Financial Officer in writing or may visit any customer care office provided by the municipality.
- (2) Every consumer has the right to ask and to be provided with a clear explanation as to the services being charged and a breakdown of all amounts shown on their account.
- (3) The aggrieved person shall clearly state the basis of his or her dissatisfaction and the desired resolution.
- (4) The lodging of an inquiry shall not relieve the aggrieved person of the responsibility to settle his or her account. An interim payment similar to an average account must be paid by the due date pending finalisation of the enquiry.
- (5) The municipality will respond to all inquiries from consumers in writing within twenty days from the lodging of the enquiry.
- (6) The Manager Income will keep custody of the Enquiries and Appeals Register and will carry out a weekly check on all enquiries and appeals yet to be resolved.



## 19. LIMITATION, DISCONNECTION OR DISCONTINUATION OF SUPPLY

- (1) An account rendered to a customer by the municipality in respect of rates or municipal services, including sanitation and the collection and disposal of refuse, shall be paid by the due date.
- (2) If the customer fails to pay any account after payment date the municipality must -**
  - (a) Issue 14 days further notice to the customer, subsequently if payment is not received the municipality MUST, disconnect or discontinue the supply of electricity or water to the immovable property in question; and**
  - (b) the chief financial officer or any duly authorised person may instruct attorneys to recover the outstanding amounts owed.**
- (3) The limitation, disconnection or discontinuation of the supply of electricity or water shall be effected in the manner that is customarily used or by taking such reasonable and lawful steps as may be necessary.
- (4) Any disbursements or charges incurred or raised in respect of the limitation, disconnection or discontinuation of the supply of electricity or water shall be paid by the customer.
- (5) The municipality must permit the customer to make representations prior to the limitation, disconnection or discontinuation of the supply of water, unless -
  - (a) other users will be prejudiced;
  - (b) there is an emergency situation; or
  - (c) the customer has interfered with a limited, disconnected or discontinued water supply.
- (6) The limitation, disconnection or discontinuation of the supply of water shall not result in a customer being denied access to basic water services for non-payment, where the customer proves, to the satisfaction of the municipality, that he or she is unable to pay for basic water services.
- (7) If a customer unlawfully reconnects or attempts to reconnect a supply of electricity or water that has been limited, disconnected or discontinued, then -**
  - (a) the municipality will disconnect or discontinue the supply entirely by removing the service connection from the premises; and**
  - (b) a criminal offence/case will be opened against such customer at the nearest SAPS**
  - (c) any disbursements, penalties or reconnection charges, together with any outstanding amounts owed in respect of rates or municipal services, must be**



**paid in full before a reconnection must be paid in line with the municipality electricity by and water by-laws or municipal approved tariff**

Subject to the provisions of this policy, the chief financial officer or any person duly authorised thereto may enter into an arrangement with a defaulter for the payment of an outstanding account, in which event -

- (a) payment may be made by way of instalments; and
  - (b) the normal supply of electricity and water to the premises shall be resumed.
- (8) Any defaulter who enters into a bona fide arrangement with the municipality for the settlement of arrears, and who fails to honour the terms of such arrangement, shall not be allowed to enter into any further arrangement with the municipality.
- (9) In the case of a customer where the supply of electricity or water has been limited, disconnected or discontinued at least twice during the preceding period of twelve (12) months, the municipality may review the amount of the consumer deposit required from such customer.'

**20. RECOVERY OF RATES FROM OWNERS, TENANTS, OCCUPIERS AND AGENTS**

- (1) The municipality may utilise the procedures prescribed in terms of section 19 to recover rates arrears from the owner of immovable property.
- (2) Any limitation, disconnection or discontinuation of the electricity or water supply, for the purposes of sub-section (1), shall be effected subject to the requirements contained in section 19.
- (3) Alternatively to sub-section (1), above, the municipality may recover rates arrears in whole or in part from a tenant or occupier of the immovable property, despite any contractual obligation to the contrary on the tenant or occupier. The municipality may recover an amount only after the municipality has served a written notice on the tenant or occupier.'
- (4) The amount the municipality may recover from the tenant or occupier of a property is limited to the amount of rent or other money due and payable, but not yet paid, by the tenant or occupier to the owner of the property.
- (5) Any amount the municipality recovers from the tenant or occupier of the property must be set off by the tenant or occupier against any money owed by the tenant or occupier to the owner.
- (6) The tenant or occupier of a property must, on request by the municipality, furnish the municipality with a written statement specifying all payments to be made by the tenant or occupier to the owner of the property for rent or other money payable on the property during a period determined by the municipality.



- (7) The municipality may, despite the Estate Agents Affairs Act 1976, recover the amount due for rates on a property in whole or in part from the agent of the owner, if this is more convenient for the municipality.
- (8) The municipality may recover the amount due for rates from the agent of the owner only after it has served a written notice on the agent.
- (9) The amount the municipality may recover from the agent is limited to the amount of any rent or other money received by the agent on behalf of the owner, less any commission due to the agent.
- (10) The agent must, on request by the municipality, furnish the municipality with a written statement specifying all payments for rent on the property and any other money received by the agent on behalf of the owner during a period determined by the municipality.
- (11) The municipality must provide an owner of a property in its jurisdiction with copies of accounts sent to the occupier of the property for municipal services supplied to the property if the owner requests such accounts in writing from the municipality.

## 21. DEBT COLLECTION

### (1) Handover of debt to debt collectors

- (a) Debts which have been outstanding for more than **60 days** from due date shall be handed over to debt collectors appointed by the municipality for the purposes of collecting such debt.
- (b) If the debt collectors are unsuccessful in collecting the debt within **90 days** of same being handed over, the debt may be handed over to attorneys for legal action.
- (c) Only the **municipal manager** may hand over debts to attorneys for collection, and the Municipal Manager shall hand such debts over to attorneys for collection if they have not been collected by debt collectors within the aforementioned period of 90 days, unless the Municipal Manager is of the opinion that it shall not be cost effective to do so.
- (d) If the Municipal Manager is of the opinion that it is appropriate to do so (such as in cases of urgency), he or she may hand over debts for collection to attorneys at any time prior to the expiration of any of the periods referred to above and without first handing them to debt collectors.
- (e) The following types of debt will not be handed over to debt collectors.
  - (i) Debts of indigent debtors that are registered as indigent at the date of handover.
  - (ii) Debt that is being paid off as per an arrangement with the debtor.



- (iii) Debt that has not been under internal query for at least two months.
- (f) The process of collecting debt by debt collectors includes: -
  - (i) The phoning of debtors.
  - (ii) Sending out demand letters.
  - (iii) Making arrangements with debtors to payoff debt in terms of the Council's credit control and debt collection policy.
  - (iv) Making follow-up contact with debtors on unpaid arrangements.
- (2) Handover of debt to Attorneys for legal collection
  - (a) Debt that could not be collected by the debt collectors and debt that requires urgent legal attention will be handed over to attorneys for legal collection.
  - (b) The following types of debt will not be handed over to attorneys:-
    - (i) Debt of approved indigent debtors that has not yet been written off by the council.
    - (ii) Debt that is being paid off as per an arrangement with the debtor.
    - (iii) Debt that has not been under internal query for at least two months.
  - (c) The process of legal collection includes:-
    - (i) Final demands for payment to debtors.
    - (ii) Emolument attachment orders on debtor's salaries.
    - (iii) Summons issued for debt to be paid.
    - (iv) Default judgment be obtained against the debtor.
    - (v) The attachment of moveable properties and sale in execution of moveable property
    - (vi) The attachment of immovable property and the sale of immovable property.
- (3) Withholding or offsetting grants-in-aid.
  - (a) The municipality provides annual grants-in-Aid to Institutions on application. If an institution is in arrear with its services account, then the municipality will withhold the grant-in-aid or the grant-in-aid will be off set against the arrear debt with the municipality.
- (4) Section 118 of the Local Government: Municipal Systems Act No 32 of 2000.



- (a) The municipality will issue a certificate required for the transfer of immovable property in terms of Section 118 of the Local Government: Municipal Systems Act No 32 of 2000, which is lodged with the municipality in the prescribed manner.
- (b) This is subject to all amounts that became due in connection with that property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate have been fully paid.
- (c) Debt older than two years on the property irrespective of whether the owner of the property accumulated the debt will also have to be paid by the owner before the transfer of the property can be affected.
- (d) **If the owner refuses to pay the debt which is older than two years then the municipality will apply to a competent Court for an order in the following terms: -**
- (i) In the case where there is already a judgment for the payment of the amount, an order that the judgment debt be paid out of the proceeds of the sale, before the mortgage debt is settled.
  - (ii) In the case where there is no judgment debt, for an order staying transfer of the property pending the finalisation of a civil action to be instituted against the person who is in law liable for the payment of the outstanding debt.
  - (iii) The above action must be taken before the property is transferred as the statutory lien created by Section 118(3) of the Act only endures until the property has been transferred and in terms of Section 118(5) of the Act the new owner of the property cannot be held liable for the debt that became due before a transfer of a residential property took place.
- (5) Other debt collection methods
- (a) The debt collection methods mentioned in the paragraphs above are not an exhaustive list of methods that can be applied to collect debts and any other methods that can be initiated will be implemented with the approval of Council.
- (6) Debt Collection Costs
- (a) Any costs, which include collection costs, charges, disbursements and legal costs relating to any of the debt collection methods applied to collect the debt will be debited to the account of the defaulting debtor.

## 22. ARRANGEMENTS TO PAY ARREAR DEBT

- (1) Arrangements to Pay Outstanding and Due Amounts in Consecutive Installments - Residential Households
- (a) One of the key objectives of debt collection is to encourage debtors to start paying their monthly accounts in full. In addition it is also necessary to ensure that arrear debt is



addressed. The current average balances on consumer accounts necessitate that innovative ideas be implemented to encourage consumers to payoff their arrears.

- (b) At the same time it is also of utmost importance that regular payers not be discouraged through the implementation of any possible incentives.
- (c) The main aim of an agreement will be to promote full payment of the current account and to address the arrears on a consistent basis.
- (d) A debtor may enter into a written agreement with the Municipality to repay any outstanding and due amount to the Municipality under the following conditions:-
  - (i) The outstanding balance, costs and any interest thereon shall be paid in regular and consecutive monthly installments;
  - (ii) The current monthly amount must be paid in full; and
  - (iii) The written agreement has to be signed on behalf of the Municipality by a duly authorised officer.
  - (iv) The agreement will be compliant with the requirements of the National Credit Act.
- (e) In order to determine monthly installments a comprehensive statement of assets and liabilities of the debtor must be compiled by a treasury official. To ensure the continuous payment of such arrangement the amount determined must be affordable to the consumer, taking into account that payment of the monthly current account is a prerequisite for concluding an arrangement.
- (f) The municipality may from time to time introduce incentive schemes to improve the debt collection rate.
- (g) A consumer who cannot pay their arrear debt may enter into an arrangement to pay the account over an extended period of time.
- (h) During the time of the debt collection process, but before the debt is handed over to the attorneys a consumer may enter into an arrangement to payoff arrear debt.
- (i) No arrangements will be entertained by attorneys on a debt that has been handed over for legal collection.
- (j) **The municipality will entertain only one arrangement with a consumer to payoff arrear debt. Failure to abide by the arrangement will result in that:-**
  - (i) the arrangement shall be terminated with immediate effect; and**
  - (ii) the outstanding balance shall immediately become due and payable;**
- (k) The consumer by signing the arrangement agreement to payoff arrear debt acknowledges the following: -
  - (i) The debt is owed to the municipality.



- (ii) That on default of the arrangement agreement, interest on arrears will be charged on the amount due, electricity supply will be disconnected to the property of the consumer or water supply will be limited/ terminated, and legal proceedings will be instituted to collect the debt.
- (iii) That the consumer will be liable for all costs, which includes legal costs on an attorney client basis incurred to collect the debt.

(2) Arrangements by businesses

- (a) At the date of the arrangement a minimum of 50% of the capital arrear debt must be paid immediately.
- (b) After the payment of 50% of the capital arrear debt, 50% of the interest accumulated will be written off from the provision for bad debt.
- (c) The balance of the debt which includes the capital amount and interest must be paid over a 6 to 12 month period on an interest free basis provided payments are made monthly by the due date.
- (d) The total monthly installment must include the current monthly charges plus the amount to payoff arrear debt.
- (e) Arrangement by businesses to payoff arrear debt will only be entertained for debt on which debt collection actions have been taken and which actions are in an advanced stage.
- (f) Failure to maintain the arrangement will result in interest being reversed and full debt collection being implemented, with no possibility of reprieve.
- (g) Any arrangement outside of the foregoing must be approved by the Municipal Manager. This function cannot be delegated.

(3) **Arrangements to Pay Outstanding and Due Amounts in Consecutive Installments – Government institutions**

- (a) At the date of the arrangement a minimum of 50% of the capital arrear debt must be paid immediately.
- (b) The balance of the debt which includes the capital amount and interest must be paid over a 6 to 12 month period on an interest free basis provided payments are made monthly by the due date.
- (c) The total monthly installment must include the current monthly charges plus the amount to payoff arrear debt.
- (d) Arrangement by government institutions payoff arrear debt will only be entertained for debt on which debt collection actions have been taken and which actions are in an advanced stage.





- (e) Failure to maintain the arrangement will result in interest being reversed and full debt collection being implemented, with no possibility of reprieve.
- (f) Any arrangement outside of the foregoing must be approved by the Municipal Manager or Chief Financial Officer. This function cannot be delegated.

**(4) Family Bereavements**

- (a) In the case of a family bereavement where electricity is disconnected the municipality will reconnect the power supply immediately.
- (b) The head of the family must make the necessary arrangements for reconnection of the power supply with the municipality.
- (c) After the funeral the municipality will allow two weeks for the full settlement of the electricity account.
- (d) If the electricity account is not settled in full within two weeks after the funeral the municipality shall disconnect the electricity and recovery action as outlined in this policy shall commence.



### 23. INDIGENT DEBTORS

- (1) An account holder (consumer) may apply, in the prescribed manner, to be regarded as an indigent debtor as defined in the Indigent Policy approved by the council.
- (2) Any person who has been declared indigent shall be entitled to indigent subsidies for basic services on a basis determined by Council from time to time.
- (3) The approved account holder shall remain responsible for any outstanding amount at the date of application as well as for future charges.
- (4) The arrears on the accounts of households, approved as indigent, will be submitted to Council to be written off in full (including any interest charged) after the expiry of six months being registered as an indigent. This submission will only be valid as a once-off exercise after approval and will not be applicable for future consumption in excess of the approved subsidy accumulated.
- (5) Where applicable, indigent consumers must have their credit electricity meters converted to prepayment electricity meters.
- (6) Indigent consumers with credit electricity meters are required to pay their current monthly account, which is the amount after the indigent subsidy has been deducted, every month by the due date, until the conversion to a prepaid meter has been made.

### 24. DEBT OF ABSCONDED OWNERS

- (1) The occupant of the property must sign an agreement in which the occupant agrees to pay all property rates and service charges that are to be raised on the property of the absconded registered owner's property.

### 25. STAFF AND COUNCILLORS - PAYMENT OF ARREARS

- (1) All staff joining the municipality must within thirty (30) days sign an agreement to pay arrears.
- (2) All existing staff and Councillors who have not entered into an agreement to pay arrears must do so within thirty (30) days of the approval of this policy by council.
- (3) The repayment period for both Councillors and staff is not to exceed twelve (12) months.
- (4) All agreements with Councillors must not exceed the expiry date of the term of office.

### 26. ADMINISTRATION ORDERS - PAYMENT OF ARREARS

- (1) On notification that the an order for administration in terms of s74 of the Magistrates Court Act, 1944 order has been granted, Council will manage the debt that is part of the administration order separately to the current account.



- (2) The debtor will be responsible for the payment of the current monthly account and if the debtor defaults on the payment of the account, debt collection action will be implemented.

## 27. WRITE OFF OF IRRECOVERABLE DEBT

- (1) The objective to write off irrecoverable debt is to have a debt book that does not reflect irrecoverable debt.
- (2) For this purpose Council should adopt and implement a write off policy to formalise the processes for writing off such debts.

## 28. CERTIFICATES REQUIRED FOR TENDERS

- (1) A person or an institution reacting to a tender published by the municipality or wishing to enter into a contract to either provide services or goods to the municipality must produce a certificate, on the prescribed form, which states that regular payment of rates and services accounts are maintained and that the account is currently up to date.
- (2) A person who fails to provide such a certificate shall be disqualified from the tendering process.
- (3) A person who has an existing arrangement with the municipality for the payment of arrears shall be exempted from (1) and (2) to the extent of the arrears.

## 29. PRIMA FACIE EVIDENCE

- (1) A certificate endorsed by the municipal manager, reflecting the amount due and payable to the municipality, shall upon mere production thereof be accepted by any court of law as prima facie evidence of the indebtedness reflected therein.

## 30. OFFENCES AND PENALTIES

- (1) 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 functions or duties in terms of this 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 refuses, 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.

(2) Upon conviction in a court, an offender shall be liable for a fine not exceeding R60 000, or to imprisonment for a period not exceeding 12 (twelve) months, 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.

### **31. REPORTING ON PERFORMANCE MANAGEMENT**

- (1) The Chief Financial Officer shall report monthly to the Municipal Manager in a suitable format to enable the Municipal Manager to report to the Executive Committee as supervisory authority in terms of section 99 of the Systems Act, read with section 100 (c).
- (2) The Executive Committee as Supervisory Authority shall, at intervals of three (3) months, report to Council as contemplated in section 99(c) of the Systems Act.
- (3) This report shall contain particulars on cash collection statistics, showing high-level debt recovery information (numbers of customers; enquires; arrangements; default arrangements; growth or reduction of arrear debt).
- (4) Where possible, the statistics should ideally be divided into wards, business (commerce and industry), domestic, state, institutional and other such divisions.
- (5) If in the opinion of the Chief Financial Officer, the municipality will not achieve cash receipt income equivalent of the income projected in the annual budget as approved by Council, the Chief Financial Officer will report this with motivation to the Municipal Manager who will, if in agreement with the Chief Financial Officer, immediately move for a revision of the budget according to realistically realisable income levels.

### **32. PROPERTY MANAGEMENT LEASES**

- (1) The procedure for the recovery of arrears on leases will be in accordance with the conditions contained in the relevant lease contract.



### **33. TEMPORARY WORKERS**

- (1) 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.

### **34. POWER OF ENTRY AND INSPECTION**

- (1) For any purpose related to the implementation or enforcement of this policy, and at all reasonable times, or in an emergency, a duly authorised representative of the municipality may enter premises, request information and carry out such inspection or examination, as he or she may deem necessary -
  - (a) with regard to the installation or repair of any meter or service connection or reticulation; or
  - (b) so as to limit, discontinue, disconnect or reconnect the provision of any service.
- (2) If the municipality considers it necessary that work be performed to enable the aforesaid authorised representative to perform a function referred to in subsection (1) properly and effectively, then it may –
  - (a) by written notice require the owner or occupier of the premises, at his or her own expense, to do specific work within a specified period; or
  - (b) if, in its reasonable opinion, the situation is a matter of urgency, then the municipality may do such work, or cause it to be done, at the expense of the owner or occupier, and without written notice.
- (3) If the work referred to in subsection (2)(b) above is carried out for the sole purpose of establishing whether a contravention of this policy has been committed, and no such contravention has taken place, then the municipality shall bear the expense connected therewith, together with the expense of restoring the premises to its former condition.

### **35. NOTICES**

- (1) A notice or document issued by the municipality in terms of this policy shall be deemed to be duly issued if signed by a duly authorised representative of the municipality.
- (2) If a notice is to be served on a person in terms of this policy then such service shall be effected by -
  - (a) delivering the notice to him or her personally, or to his or her duly authorised agent;



- (b) delivering the notice at his or her residence or place of employment, to a person apparently not less than 16 (sixteen) years of age, and apparently residing or employed there;
- (c) if he or she has nominated an address for legal purposes, delivering the notice to such an address;
- (d) registered or certified post, addressed to his or her last known address;
- (e) in the case of a body corporate, delivering it to the registered office or the business premises of such a body corporate; or
- (f) if service cannot be effected in terms of the foregoing subsections, by affixing it to the principal door of entry to the premises or displaying it in a conspicuous place on the property to which it relates.

### **36. REGULATIONS**

- (1) The municipality may make regulations regarding –
  - (a) any matter required, or permitted, to be prescribed in terms of this policy; and
  - (b) generally, all matters which, in the reasonable opinion of the municipality, are necessary, or expedient, to be prescribed, in order to achieve the objects of this policy.

### **37. REPEAL OF POLICY**

- (1) Any policy relating to credit control and debt collection adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this policy.

### **38. PUBLICATION OF POLICY**

- (1) The Municipal Manager shall, within 14 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.

### **39. APPLICATION OF THE POLICY**

- (1) The Council reserves the right to differentiate between different categories of consumers, debtors, services or service standards when applying this Policy. The Council will on application of the credit control policy avoid discrimination as forbidden by the Constitution unless it is established that the discrimination is fair as allowed by the Constitution.



#### **40. IMPLEMENTATION AND REVIEW OF THIS POLICY**

- (1) This policy shall be implemented once approved by Council. All future credit control actions must be made in accordance with this policy.
- (2) In terms of section 17(1)(e) of the MFMA this policy must be reviewed on annual basis and the reviewed policy tabled to Council for approval as part of the budget process.