

CREDIT CONTROL AND DEBT COLLECTION POLICY 2008/2009

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DEFINITIONS AND PURPOSE

1. DEFINITIONS

For the purpose of this policy, the wording or any expression has the same meaning as contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as amended from time to time, except where clearly indicated otherwise and means the following:

- "account" any account rendered for municipal services provided.
- "Act" the Local Government: Municipal Systems Act, 2000(Act No. 32 of 2000) as amended from time to time.
- "arrears" any amount due, owing and payable in respect of municipal services not paid by due date.
- "Consolidated Account" a monthly account reflecting municipal service fees, charges, surcharges on fees, property rates and other municipal taxes, levies and duties.
- "Credit Agreement" arrangements made with customers with regards to arrears.
- "customer" Any person liable to the Municipality for taxation or other charges
- "defaulter" any customer in arrears.
- "due date"
(i) **Monthly**
The monthly date on which all customers' accounts become due and payable.
(ii) **Annual**
Where the owner has entered into an agreement with the Municipality to pay property rates annually, the due date shall be as determined by the Municipality.
- "illegal connection" a connection to any system through which the municipal services are provided, which is not authorised or approved by the Municipality or its authorised agent.
- "owner"
a. the person in whom from time to time is vested the legal title to premises;
b. in case where a person in whom the legal title to premises is vested is insolvent or dead, or is under any form of legal

disability whatsoever, the person in whom the administration and control of such premises is vested as curator, executor, administrator, judicial manager, liquidator or other legal representative;

- c. in any case where the Municipality or its authorised agent is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises or a building thereon;
- d. in the case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereof;
- e. in relation to:
 - i. A piece of land delineated on a sectional plan registered in terms of Sectional Title Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of common property; or
 - ii. a section as defined in the Sectional Title 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 person; or
 - iii. a 'Home Owners Association', all members of the Association.
- f. the Ingonyama Trust, where the land is vested in the Trust by virtue of the provisions of the Ingonyama Trust Act.
- g. any legal person including but not limited to:
 - i. a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), a trust, a close corporation registered in terms of Close Corporation Act, 1984 (Act 69 of 1984) and a voluntary association
 - ii. any department of State;
 - iii. any Council or Board established in terms of any legislation applicable to the Republic of South Africa;
 - iv. any Embassy or other foreign entity.

“prescribed form”

refers to the form required by the Chief Financial Officer from time to time.

"rates"

municipal tax levied on the valuation of property. The rate is expressed as cents in the rand.

“Revenue Clearance Certificate”

the certificate referred to in Section 118(1) of the Municipal Systems Act 32 of 2000.

“social housing tenant”

any person letting / leasing any residential premises from any public legal body for less than a full rack rental or letting / leasing residential premises from a private person and receiving from the National / Provincial Government a subsidy or other amount to empower the tenant to pay the full rack rental.

2. PURPOSE

This policy has been compiled as required in terms of Section 97 of the Local Government: Municipal Systems Act 32 of 2000 and is designed to provide for credit control and debt collection procedures and mechanisms.

PROVISION OF MUNICIPAL SERVICES

3. REGISTRATION

- 3.1 The Municipality shall whenever possible, combine any separate accounts of persons who are liable for payment to the municipality, into one consolidated account.
- 3.2 No registrations or additions to the customer database can be processed unless legal documentation acceptable to the Chief Financial Officer has been produced in each instance.

- 3.3 If there is an outstanding debt on the property, this debt must be settled in full, or suitable payment arrangements must be made by the owner of the property, before the new customer is registered.
- 3.4 Customers who fail to register and who illegally consume services will be subjected to such administrative, civil or criminal action as the Municipality deems appropriate.
- 3.5 Where the purpose for or extent to which any municipal service used is changed, the onus and obligation is on the customer to advise the Municipality of such change.
- 3.6 The owner must advise the Municipality of any change of tenants as soon as is reasonably possible.

4. DEPOSITS

- 4.1 Deposits payable to the Municipality shall be consolidated deposit into a single sum.
- 4.2 Deposits will be due and payable on registration of new customers and subject to review upon the movement of existing customers to a new address.
- 4.3 At the time of registration as a customer, a cash deposit or a bank cheque will be required based on the criteria set by the Chief Financial Officer from time to time.

4.4 Review of Deposits

The value of the original deposit paid or a guarantee held may be reviewed from time to time by the Chief Financial Officer.

4.5 Interest Payable on Cash Deposits

Interest on cash deposits held, shall accrue 6 months from date of deposit at a rate as determined by the Chief Financial Officer from time to time. The deposit, plus interest accrued, shall be taken into account upon closure or termination of an account. The accrued interest may be paid annually against the customers account, if requested.

ACCOUNTS MANAGEMENT

5. ACCOUNTS

- 5.1 The Municipality will have accounts posted to all customers. However, failure to receive or accept accounts does not relieve a customer of the obligation to pay any amount due

and payable. The onus is on the customer to make every effort to obtain a copy account for payment.

- 5.2 The Municipality or its authorised agent must, if administratively possible, issue a duplicate account to a customer on request. The Municipality shall provide landlords with copies of their tenants accounts if requested.
- 5.3 The Municipality may post an annual rates assessment for record purposes.
- 5.4 With the exception of Government Accounts, assessment rates shall be billed on a monthly basis, and may only be billed annually by prior written agreement, subject to the Rates Policy of the Municipality.

6. RESPONSIBILITY FOR AMOUNTS DUE

- 6.1 In terms of Section 118 (3) of the Act an amount due for municipal service fees, surcharge on fees, property rates and other municipal taxes, levies and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property.
Accordingly, all such Municipal debts shall be payable by the owner of such property without prejudice to any claim which the Municipality may have against any other person.
- 6.2 Where the property is owned by more than one person, each such person shall be liable jointly and severally, the one paying the other to be absolved, for all Municipal debts charged on the property.
- 6.3 Except for property rates, owners shall be held jointly and severally liable, the one paying the other to be absolved, with their tenants who are registered as customers, for debts on their property.
- 6.4 Tenants and/or agents may be held liable for arrear rates in accordance with the provisions of Section 28 of the Municipal Property Rates Act.
- 6.5 Should any dispute arise as to the amount owing, the customers will pay all amounts which are not subject to the dispute.

7. PAYMENT OPTIONS

- 7.1 The Municipality will endeavour to establish a payment network to ensure that, wherever practically possible, customers in receipt of accounts have access to a payment site within a reasonable distance of their home.
- 7.2 Where any payment made to the Municipality, or its authorised agent, by negotiable instrument or direct debit, is later dishonoured by the bank, the municipality or its authorised agent:
- 7.2.1 will recover the average bank charges incurred relating to a dishonoured negotiable instrument against the account of the customer;
 - 7.2.2 may regard such an event as default on payment and the account shall be dealt with as an arrear account;
 - 7.2.3 reserves the right to take legal action on the negotiable instrument or for recovery of arrears.
- 7.3 Where the Municipality permits payment by debit/credit card through a 3rd party agent, such payments are limited to R2 500 per account per month. Payments made in excess of this value will result in an administration charge equivalent to the full commission charges being debited to the account.
- 7.5 The methods of payment shall be determined by the Chief Financial Officer from time to time.

8. 8. FULL AND FINAL SETTLEMENT

- 8.1 Where the exact amount due and payable has not been paid in full, any lesser amount tendered and receipted, except when duly accepted in terms of delegation of power, shall not be in full and final settlement of such an account.
- 8.2 The provision above shall prevail notwithstanding the fact that such lesser payment was tendered and/or receipted in full settlement.

9.

9. CASH ALLOCATION

- 9.1 For consolidated accounts the Municipality may in accordance with section 102 of the Act credit any payment by a customer against any account of that customer.

- 9.2 Any amounts paid may be appropriated to the oldest debt first where there are separate accounts, subject to clause 11.3.
- 9.3 Any amount paid by the customer in excess of an existing debt may be held in credit for the customer in anticipation of future rates and fees for municipal services. and no interest will be payable on that amount.
- 9.4 The Municipality's allocation of payment is not negotiable and the customer may not choose which services to pay.

9.5

10. INTEREST AND ADMINISTRATIVE CHARGES

- 10.1 Interest charges are raised on arrear amounts which appear on the Municipal accounts.
- 10.2 The interest rate is determined by the Chief Financial Officer and is reviewed from time to time.

10.3

An administrative charge as determined by the Chief Financial Officer shall be levied on arrear rates where the Municipality has instituted legal action to recover same.

11. ACKNOWLEDGEMENTS OF DEBT

- 11.1 The Municipality may, at its discretion, enter into an Acknowledgement Of Debt with customers and owners in arrears with municipal service fees, surcharges on fees, property rates and other municipal taxes, levies, duties and community charges.
- 11.2 Before any Acknowledgement Of Debt is concluded, all services must be consolidated onto one account (if not done previously) and an Acknowledgement Of Debt concluded for the full debt of all services where possible.
- 11.3 The customers' current account must be paid in full, and maintained, for the duration of the agreement.
- 11.4 The owner of a property must consent in writing to an Acknowledgement Of Debt with the Municipality and his tenant.

- 11.5 Re-connection and disconnection fees, where applicable, must be paid in full before any Acknowledgement Of Debt can be entered into.
- 11.6 By entering into an Acknowledgement Of Debt the debtor(s) acknowledge that failure to meet any installment will result in prompt disconnection action being taken, without prejudice to any legal action that the Municipality may take to recover the arrears.
- 11.7 Acknowledgement Of Debt negotiated on business accounts shall require the agreement to be signed by a duly authorised Director / Member of the business. Personal sureties to the value of the debt plus current accounts are also required. **Under no circumstances are agreements to be completed without such sureties.**
- 11.8 Acknowledgement Of Debt may **not** be granted where:
- 11.8.1 Arrears have arisen due to dishonoured cheques, direct debit reversals etc;
- 11.8.2 Instances of repeated meter tampering have been identified;
- 11.8.3 The services have been removed; or
- 11.8.4 The customer's deposit has been increased due to a poor risk profile.
- 11.9 Where any debt has arisen as a result of the Municipality having applied an incorrect charge and/or tariff, the customer may arrange to pay the debt over a maximum period at the discretion of the Chief Financial Officer.
- 11.10 Should any dispute arise with respect to the amount owing, the debtor will continue to make regular payments based on the average charges for the preceding three (3) months prior to the dispute, plus interest where applicable.
- 11.11 The amount of the down payment and the period of the Credit Agreement shall be at the discretion of the Chief Financial Officer.

12. BUSINESSES WHO TENDER TO THE MUNICIPALITY

- 12.1 When inviting tenders for the provision of services or delivery of goods, potential contractors must declare that all relevant municipal accounts owing by the tenderer or its directors, owners or partners have been paid or that suitable arrangements (which include the right to set off in the event of non-compliance) have been made for the payments of arrears.
- 12.2 The Municipality will at its sole discretion check whether all the Municipal accounts are up to date.
- 12.3 No tender will be allocated to a person / contractor until suitable arrangement for the repayment of arrears over the duration of the contract, has been made. The tenderer must maintain arrangements and pay current installments as provided for in any contract with the Municipality.

12.4 Where payments are due to a contractor in respect of goods or services provided to the Municipality, any arrear amount owing to the Municipality may be offset as a first charge against such payments as provided for in the contract with the Municipality.

13. AGREEMENT WITH EMPLOYERS

13.1 Section 103 of the Act reads as follows: -

" A Municipality may:

13.1.1 with the consent of a person liable to the municipality for the payment of rates or other taxes or fees for municipal services, enter into an agreement with that person's employer to deduct from the salary or wages of the person-

- 13.1.1.1 any outstanding amounts due by that person to the municipality; or
- 13.1.1.2 such regular monthly amounts as may be agreed."

13.2 The onus to introduce such arrangements remains with each employer / employee.

13.3A collection commission may be payable to the employer as determined from time to time.

14. STAFF AND COUNCILLORS IN ARREARS

14.1 Item 10 of Schedule 2 to the Act states that: - "A staff member of the Municipality may not be in arrears to the municipality for rates and service charges for a period longer than 3 months and a municipality may deduct any outstanding amounts from a staff members salary after this period."

14.2

The Municipality, shall liaise with the relevant staff and their departmental representatives and issue the necessary salary deduction instruction where appropriate after compliance with the provisions of the Basic Conditions of Employment Act.

14.3 Item 12A of Schedule 1 to the Act states that: - " A Councillor may not be in arrears to the municipality for rates and service charges for a period longer than three months."

14.4 The Municipal Manager shall liaise with the Mayor and issue the necessary salary deduction instruction where appropriate.

TERMINATION OF MUNICIPAL SERVICES

15. ARREAR ACCOUNTS

DISCONNECTION AND RECONNECTION OF SERVICES

- 15.1 Arrears on rates or services or any other consolidated debt may result in disconnection of services or with- holding use of Municipal facilities.
- 15.2 Metering and connection equipment remain the property of the Municipality at all times and anyone involved in instances of tampering, damaging or theft thereof is committing a criminal offence and will be liable for prosecution and or civil claims/penalties by the Municipality.

DOMESTIC WATER CUSTOMERS

- 15.3 On restriction of the water supply, customers have the following payment options:
 - 15.3.1 Pay the outstanding arrear amount plus all relevant charges in full;
 - 15.3.2 Apply for a flow limiter and sign an Acknowledgement Of Debt.
- 15.4 Confirmation of tampering of a restricted supply on two occasions may result in the entire water connection being removed. Customers have two options to facilitate the re-instatement of the water supply:
 - 15.4.1 Pay the outstanding debt in full (including all charges) plus the prevailing costs of a new connection;
 - 15.4.2 Apply for a flow limiter and sign an Acknowledgement Of Debt, which would include the connection costs.
- 15.5 In the event of a funeral, an application may be made for temporary relief whereby the flow limiter may be removed for a specific period of up to seven days only. This may be done upon payment of a prescribed fee of R300.00 to be reviewed annually. The flow limiter will be reinstated after seven days.

16. TERMINATION / TRANSFER OF SERVICES

- 16.1 At least 14 days notice is required from the customer upon termination / transfer of an account, to enable the Municipality to take final meter readings and process account adjustments.

- 16.2 Once the Municipality has been notified of termination of the account, the owner must produce a certificate by a registered electrician that the supply is disconnected and the last meter reading.
- 16.3 Land – lords are not permitted to terminate water if there are occupants on the property and the account is not in arrears.
- 16.4 Customers are required to update their information details with the Municipality. Failure to respond to the Municipalities request for updated information may result in with-holding of services or prosecution.

16 UNALLOCATED CONSUMPTION

When electricity and water consumption is recorded on a property during a period for which there is no registered customer against whom a bill can be raised, the relevant charges shall be raised against the registered owner on his consolidated bill.

16 REVENUE CLEARANCE CERTIFICATES

Subject to Sections 118(1) and (1A) of the Act, the following shall apply to the issue of a Revenue Clearance Certificate for the purpose of effecting transfer of a property to a new owner.

18.1 Assessments

18.1.1 Application shall be made by the conveyancer, in the prescribed format.

18.1.2 Copies of all the accounts must accompany the application. If the relevant information is not provided, the application will be returned to the conveyancer.

18.1.3 The assessment shall remain valid for a period of 30 days. If payment has not been received within this period, a re-assessment may be required and payment of a further assessment fee will apply.

18.1.4 Amounts raised on the Supplementary Valuation Roll prior to the effective date of that roll, will be billed for the purpose of the assessment. The seller shall waive his right to be billed on the effective date of such roll.

18.1.5 The onus rests with the seller to ensure

18.1.4.4.1.1 that on new sub-divisions, the debts on the parent property are fully paid.

18.1.6 Discrepancies in respect of the above may result in delays in issuing of a clearance certificate, and in addition may result in levying of additional backdated rates and / or penalties and / or service charges.

18.1.7 Any amounts paid shall be appropriated to the oldest debt first.

18.2 Clearance Certificates

18.2.1 Payment on the assessment must be made in cash or by bank guaranteed cheque.

18.2.2 An Attorney's Trust cheque may be accepted in lieu of cash payment.

18.2.3 There

18.1.6.2 shall be no refunds on the cancellation of a sale.

18.2.4 The Certificate shall be valid for a period of 120 days from date of issue.

17 LEGAL ACTION

19.1 Legal steps may be taken to collect arrears where;

19.1.1 disconnection action yielded no satisfactory result;

19.1.2 disconnection action is not possible due to the nature of the services for which the account has been rendered; or

19.1.3 the arrears are older than 90 days

19.2 The Chief Financial Officer is authorized to write off bad debts in accordance with the provisions of Section 113 of Ordinance 25 of 1974 and on instructions of the Executive Committee.

19.3 The Municipality will enforce any other rights or exercise any power conferred on it by any other legislation.

19.4 The Municipality may, in terms of Section 28 of the Municipal Property Rating Act, recover arrear rates from tenants / managing agents in occupation of the relevant property but only to the extent of the rent payable or amount due by the tenant but not yet paid to the owner of the property. This does not preclude further legal action against the owner.

19.5 For residential properties occupied by owners, all reasonable steps shall be taken to ensure that the ultimate sanction of judgment and sale-in-execution is avoided or taken as

the last resort. The Municipality, however, has total commitment to follow the legal process through to judgment and sale-in-execution should the debtor fail to make use of the alternatives provided for by the Municipality from time to time.

- 19.6 Once judgment is obtained the properties will be advertised and sold through public auction, unless appropriate settlement has been made to the satisfaction of the Municipality. The Municipality shall assess annually, the appropriate minimum amount below which it will not attach homes.

20. REFUNDS

Credits on accounts shall be refunded, on application, as follows:

- 20.1 on a water or electricity account: to the account holder;
20.2 where the owner pays the tenants account in terms of Section 118(3) of the Act : to the owner;
20.3 on transfer of a property: to the conveyancing attorney.

MISCELLANEOUS

21.ASSISTANCE TO THE POOR

This policy document aims to ensure that this Municipality's approach to debt recovery is sensitive, transparent and is equitably applied throughout the Municipality's geographic area.

The Municipality has taken cognisance of the high level of poverty and unemployment, which is prevalent in various areas of the City and has developed various initiatives to assist those customers who are economically unable to meet normal rates and service charges.

This has led Municipality to formulate and adopt the following indigent policies

21.1 Electricity:

A special tariff has been designed to assist customers who need and use little electricity. Currently, those who select this tariff receive a minimum of 50 kwhs per month free / and

up to 140 kwhs each month at advantageous rates. These tariffs may be amended by Council at its annual budget from time to time.

21.2 **Water:**

Currently, a minimum of 200 litres of water consumed each day are free to all domestic customers. However there are three levels of service available to Domestic Residential Customers based on certain conditions.

21.2.1 The Ground Tank service provides a maximum supply of 200 litres of water per day which is free;

21.2.2 The Semi-pressure service offers a reduced tariff for consumption between 200 litres and 1000 litres per day and are not charged any fixed charges irrespective of consumption;

21.2.3 The Full- pressure service customers who reside in residential properties with a rateable value as determined by Council at its annual budget, or less are not charged any fixed charges.

These tariffs may be amended by Council at its annual budget.

21.3 **Assessment Rates:**

Residential properties with a rateable value as determined by Council at its annual budget, are exempt from rates.

21.4 **Acknowledgement Of Debt**

where a debtor occupies property of the kind referred to in 21.3 above, and the debtor enters into an Acknowledgement Of Debt with the Municipality to pay off arrears for service charges, no further interest will be added to the arrears outstanding if during the period, the debtor adheres to the Agreement.