



MAKHUDUTHAMAGA  
LOCAL MUNICIPALITY

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**MUNICIPALITY**

**Approved Credit Control & Debt Collection**

**Policy**

**2020/21**

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## **PREAMBLE**

The development of this Policy is sanctioned by section 96(b) of the Municipal Systems Act, 32 of 2000, as amended. The Act requires a municipality to adopt, maintain and implement a Credit Control and Debt Collection Policy which is consistent with its rates and tariff policies, and complies with the provisions of this Act and any other legislations which are applicable to local government.

## 1. Definitions

For the purpose of this Policy the following words and expressions shall have the corresponding meaning, unless the context clearly indicates otherwise:

**“Accounts”** means the municipal accounts for services rendered, claims submitted, contractual obligations to the municipality and assessment rates or any other levied by the Municipality. If such accounts are not paid by the due date indicated on the statement, then they will be regarded as being in arrears. If no due date is indicated on an account, it will be in arrears if not paid within 30 Days after submission.

**“Acknowledgement of Debt”** means a form to be completed by a customer when is in default with a municipal debt;

**“Application for Extension of Time for Arrear Payment”** means a form to be completed together with the Acknowledgement of debt form when a customer applies for payment extension of the municipal debt;

**“Authorized Representative”** means an employee, agent and/ or service provider appointed by the council and /or authorized by Council to represent and act on behalf of the Council.

**“Chief Financial Officer”** means such municipal official appointed in terms of section 57 of the Municipal Systems Act, 2000 and administratively in charge of the budget and treasury office;

**“Consumers”** mean those residents who make use of electricity, water, sewerage and refuse removal services.

**“Credit Control and Debt Collection Policy”**

; means the functions relating to the collection of all money that is due and payable to the municipality;

**“Council”** means the municipal council of Makhuduthamaga Municipality; established by Provincial Notice as amended, exercising its legislative and executive authority through the Municipality;

(a) its successor in title; or

(b) a structure or person exercising a delegated power or carrying out an instruction, where any power in these by-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Act; or

(c) a service provider fulfilling a responsibility under these by-laws, assigned to it in terms of section 81(2) of the act, or any other by-law, as the case may be;

**“Customer”** means the owner or occupier of property or premises, liable to the Council for payment of a Municipal Account or part thereof;

**“Debt collection”** is the execution of functions necessary to collect unpaid income of the municipality, owed by clients who are debtors.

**“Delegated”** means delegated in terms of section 59 of the Municipal Systems Act, 2000 as amended;

**“Illegal Connection”** means any connection or reconnection of a Property or Premises to the water and/or electricity reticulation network of the municipality, in contravention of this By-Law, any other by-law of the municipality, Act or Regulation;

**“indigent”** means a household who cannot afford to make a full monetary contribution towards rates and service charges as determined by council;

**“Makhuduthamaga Municipality”** means such municipality established in terms of section 12 of the Local Government Municipal Structures Act, 1998 (Act 117 of 1998);

**“Municipal Account”**; means a formal notification by means of a statement of account to persons liable for payments for which they are billed by Makhuduthamaga Local Municipality or a municipal entity, as the case may be, and shall include levies or charges in respect of the following municipal services and taxes:

- (a) electricity consumption,
- (b) water consumption,
- (c) refuse removal,
- (d) sewerage services,
- (e) rates and taxes,
- (f) interest, and
- (g) miscellaneous and sundry charges;

**“Municipal Systems Act”** means the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) as amended;

**“Municipality”** means Makhuduthamaga Municipality or any municipal entity established by the municipality;

**“National Credit Act”** refers to the National Credit Act, No 34 of 2005

**“Notice of New Occupier”** means a form to be completed by an owner of a property notifying the municipality about a new occupier of his/her property;

**“Notice of Termination of Services”** means a form to be completed by a customer when closing his/her municipal account;

**“Notice of Vacation of Occupation”** means a form to be completed by a customer when vacating a property

**“Occupier”** means a person who occupies a property premises or any part thereof, whether such occupation is lawful or otherwise;

**“Owner”-**

- (a) in relation to a property referred to in paragraph (a) of the definition of “property”, means a person in whose name ownership of the property is registered;
- (b) in relation to a right referred to in paragraph (b) of the definition of “property”, means a person in whose name the right is registered;
- (c) in relation to a land tenure right referred to in paragraph (c) of the definition of “property”, means a person in whose name the right is registered or to whom it was granted in terms of legislation; or (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of “property”, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of “publicly controlled” : provided that a person mentioned below may for the purpose of these By-laws be regarded by the Council as the owner of a property in the following cases:
  1. A trustee, in the case of a property in a trust excluding state trust land;
  2. An executor or administrator, in the case of a property in a deceased estate;
  3. A trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;

4. A judicial manager, in the case of a property in the estate of a person under judicial management;
5. A curator, in the case of a property in the estate of a person under curatorship;
6. A person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
7. A lessee, in the case of a property that is registered in the name of the Council and is leased by it; or
8. A buyer, in the case of a property that was sold by the Council and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

**“Person”** includes a natural person and a juristic person;

**“Premises”** means 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, 1927 (Act 9 of 1927), or in terms of the Deeds Registry Act, 1937 (Act 47 of 1937); or
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), which is situated within the area of jurisdiction of the Council;

**“Property”** means

- (a) immovable property registered in the name of a person including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;
- (b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; or
- (d) public service infrastructure;

**“Service Agreement”** means the Service Agreement in terms of section 4 of the Policy.

## 2. Purpose of the Policy

### PRINCIPLES

- a) Non-payment by debtors of their accounts has a direct negative impact on the Municipality’s ability of service delivery to the community.
- b) Current levies not paid by the indicated due date are in arrears and all debtors with arrears are subject to credit control and debt collection measures. The right of access to services, and consumption thereof, can only be exercised by residents who are not in arrears on their municipal service accounts or who have arranged to pay their arrears in terms of this Policy.
- c) Various methods of payment by debtors as well as sufficiently convenient payment points are available.
- d) Interest on debt in arrears is levied monthly at the prime overdraft rate of the Municipality’s banker as at 1 January and 1 July of each year for the six months following this two respective dates.
- e) Interest is levied on all arrears in excess of 59 days, subject to exceptions as per Council

Resolution. Interest levied but not paid is included in the arrear amount of such a debtor.

f) Credit Control measures are applied with a pro-active reminder or warning. Accounts statements are regarded as reminders of the arrears status of the account as well as stating the intention to take credit control measures.

g) Payment received by the municipality from its debtor will in terms of section 102 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) be allocated at the discretion of the municipality against any amount owed by such a debtor to the municipality.

h) Metered service consumed by an unknown consumer is billed to the owner of the property to which the service connection is registered. Consumers who are to be billed separately must enter into a service agreement to have access to these services. No service agreement is valid without the written consent of the registered owner of the property.

i) Refusal by banks to honour payments by cheque or debt order is regarded as non payment, upon which the relevant debtors are subject to credit control measures.

j) Clients, who make no further use of any services but still owe an amount, are inactive debtors who, after the submission of a second inactive account statement to their latest known postal addresses, are handed over for collection to a debt collector appointed for this purpose. Limited collection actions (i.e Final Letter of Demand) are applied for inactive accounts smaller than R 1000 due to the cost – benefit ratio of such cases and any further action required for these individual accounts is at the discretion of the Chief Financial Officer.

k) Debtors who are large consumers of services are managed by telephonic and personal conduct with them on a higher management level, e.g. corporate business and government department.

l) Residential household debtors form a distinct group for whom the following special measures and exceptions apply:

m) Water supply to defaulting residential household debtors will not be completely discontinued, but rather be restricted due to hygienic reasons. Other types of debtors who are in default and whose water supply is involved will be completely deprived of the service.

n) Any interest free arrangements for payment of arrears are intended to assist those debtors by making their current monthly accounts more affordable.

o) All notifications served to the domicilia of client's state the reason/s for action taken as well as information as to how they can take corrective action to normalize the situation.

p) If it is necessary to disconnect any service in terms of this Policy, the free crosssubsidised portion of that service in terms of the Municipality's tariffs for service delivery, will also not be available for as long as that service is to remain disconnected.

The purpose of this Policy is to:

- 2(1) Ensure that all monies due and payable to a Council are collected;
- 2(2) Outline credit control and debt collection policy procedures and mechanisms;
- 2(4) Provide for conditions pertaining to the supply of services and the discontinuation thereof;
- 2(5) Provide for mechanisms whereby accounts or metered services are queried or verified and for written objections;
- 2(6) provide for indigents in a way that is consistent with rates and tariff policies and any national policy on indigents;
- 2(7) provide for extensions of time for payment of accounts;
- 2(8) provide for charging of interest on arrears, where appropriate.
- 2(9) set realistic targets consistent with –
  - (i) generally recognized accounting practices and collection ratios; and
  - (ii) the estimates of income set in the budget less an acceptable provision for bad debts;

### **3. Application of Policy**

3.1 This policy shall only apply to monies due and payable to the Council for -

- (a) Property rates;
- (b) municipal tax
- (c) fees, surcharges on fees, charges and tariffs in respect of municipal services, such as:
  - 1.1.1. the provision of water;
  - 1.1.2. refuse removal;
  - 1.1.3. sewerage;
  - 1.1.4. the removal and purification of sewerage;
  - 1.1.5. electricity consumption;
  - 1.1.6. interest which has accrued or will accrue in respect of money due and payable to the Council ;
  - 1.1.7. collection charges in those cases where the Council is responsible for –
    - (aa) the rendering of municipal accounts in respect of any one or more of the municipal services;
    - (bb) the recovery of amounts due and payable in respect thereof, irrespective whether the municipal services, or any of them, are provided by the Council itself or by a service utility with which it has concluded a service provider agreement to provide a service on the municipality's behalf;any other charges levied from time to time

3.2 This policy shall also apply to municipal services provided through pre-paid meters.

3.3 This policy shall apply to any municipal entity of which the municipality is the parent municipality.

### **4. Responsibility/Accountability for Credit Control**

#### **4.1 Responsibilities of communities, ratepayers and residents**

The responsibilities of communities, ratepayers and residents are -

- (a) to fulfil certain responsibilities, as brought about by the privilege and or right to use and enjoy public facilities and municipal services.
- (b) to pay service fees, rates on property and other taxes, levies and duties imposed by the municipality.



- (c) to observe the mechanisms and processes of the municipality in exercising their rights.
- (d) to allow designated municipal officials unrestricted access to their property to execute municipal functions during normal working hours and at a time that is agreeable by the consumer and municipal officials for work to be done after hours against payment of the promulgated fees by the consumer.
- (e) to comply with the by-laws and other legislation of the municipality.
- (f) to refrain from tampering with municipal services and property.

#### **4.2 Responsibilities of all councillors**

- (a.) Section 12A of Schedule 1 of the Municipal Systems Act, Act 32 of 2000 as amended, stipulate as follows:

“A councillor may not be in arrears to the municipality for rates and services charges for a period longer than 3 months”

- (b) The municipality may deduct any outstanding amounts from a councillor’s allowance after this period.
- (d) The normal credit control procedures shall also be applied to any arrear account of a councillor

#### **4.3 Responsibilities of all municipal staff**

- (a) Section 10 of Schedule 2 of the Municipal Systems Act, Act 32 of 2000 as amended, stipulate as follows:

“A staff member of a municipality may not be in arrears to the municipality for rates and services charges for a period longer than 3 months, and a municipality may deduct any outstanding amounts from a staff member’s salary after this period.”

- (b) The normal credit control procedures shall also be applied to any arrear account of a municipal staff member

#### **4(4) CUSTOMER CARE AND MANAGEMENT**

The municipality shall conduct itself towards its customers in a manner that it is stipulated in section 95 of the Municipal Systems Act, 2000 which requires the municipality to, within its financial and administrative capacity;

- (a) establish a sound customer management system that aims to create positive and reciprocal relationship between persons liable for the payments for municipal services and the municipality;
- (b) establish mechanisms for users of services and ratepayers to give feedback to the municipality regarding the quality of the services and the performance of the municipality;
- (c) 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;
- (d) where the consumption of services has to be measured, take reasonable steps to ensure that the consumption by individual users of services is measured through accurate and verifiable metering systems;
- (e) ensure that persons liable for payments receive regular and accurate accounts that indicate the basis for calculating the amounts due;
- (f) provide accessible mechanisms for those persons to query or verify accounts and metered consumption, and appeal procedures which allow such persons to receive prompt redress for inaccurate accounts;
- (g) provide accessible mechanisms for dealing with complaints from such persons, together with prompt replies and corrective action by the municipality;
- (h) provide mechanisms to monitor the response time and efficiency in complying with paragraph (g); and

- (i) provide accessible pay points and other mechanisms for settling accounts or for making pre-payments for services. ,.

## **5. Municipal Account**

- 5 (1) The municipality shall on monthly basis delivery a municipal account, as reflected in the financial account relating to a property or premise, to be delivered to the customer in the manner provided for in section 10.
- 5 (2) The Municipal Account shall reflect amounts due for the following:
  - (a) The rates and services charge for a specific period;
  - (b) The interest charges for any overdue amount;
  - (c) Any other charges, levies and taxes due to the municipality; and
  - (d) The number of units consumed in relation to electricity and/or water consumed for a specific period.
- 5 (3) Consumers will receive monthly statement/s with an indicated payment due date. The statement shall contain messages of events within the municipality from month to month. Consumers with disputes on their account/s must pay other services and an average of the disputed service/s. Ratepayers/consumers who have not received an account for a specific month, are advised to pay an average of the previous two months' accounts and to notify the Manager Revenue in order to ensure that correct postal details are on the system. It should be stressed that the non-receipt of an account does not exempt one from the liability of payment.

## **6. Service Agreement**

- 6(1) No municipal services shall be provided to any property unless a written agreement governing the supply and cost thereof has been entered into with the municipality subject to its administrative, logistical and financial capability.
- 6(2) Such an agreement shall be entered into by both the owner and occupier, where applicable. The owner shall bind himself/herself as surety and co- principal debtor in favour of the municipality for the fulfilment of the obligations of the occupier towards the municipality;
- 6(3) The owner and occupier shall be jointly and severally liable for payment of all services charges. It is the duty of the owner to ensure that at all times that the occupier of the premises are not in arrears with payments, but the Municipality shall within its financial and human resource constraints, make an endeavour to inform the owner of the performance by the occupier in terms of the agreement.
- 6(4) In case of service agreement by business entities, including but not limited to trusts, companies, close corporations, partnerships, sole proprietors and voluntary associations the municipality may require the agreement to be accompanied by any one or more or all of the following:
  - (a) A resolution whereby authority to enter into the agreement is delegated to the signatory;
  - (b) The business entity's registration number or ID number, if applicable;
  - (c) The names, addresses and all relevant contact particulars of all the businesses' directors or members or trustees or proprietors or partners or executive members;
  - (d) That any one or more or all partners/members/directors/trustees must sign as surety and co-principal debtor for the due fulfilment of all the obligations of the business entity;
  - (e) That the signatory to the agreement warrants that he/she is duly authorised to do so, that all information supplied is true and correct and shall further warrant that the business is not trading in insolvent circumstances.
- 6(5) The Owner must inform the municipality of the vacation of the property or premise by an occupier on or before the date of vacation or as soon thereafter as the owner may become aware of such vacation, by submitting to the Council a Notice of Vacation of Occupation.
- 6(6) Should the owner or occupier be represented by an agent or other representative, such agent or representative must submit a power of attorney authorizing such agency or representation in a form and contents to the satisfaction of the Chief Financial Officer.

## **7. Screening, Credit Rating and Security Deposit**

- 7(1) The municipality shall require the service agreements to be accompanied with banking details, previous municipal account, particulars of trade creditors and the consumer shall give in the service agreement permission and authority to the municipality to verify such information in order to assess the credit risk of the customer;
- 7(2) Apart from section 6(1) above the municipality may also make the necessary enquiries with credit bureaus and similar institutions in order to assess the credit risk of the customer.
- 7(3) The municipality shall classify customers in terms of their credit risk profile into three groups;
  - (a) Good Customers – Customers with a good credit record and pose no credit risk to the municipality;
  - (b) Moderate Customers – Customers with a moderate credit record and pose a credit risk to the municipality; and

- (c) Bad Customers – Customers with a bad credit record and pose a significant credit risk to the municipality.
- 7(4) Prior to the provision by the municipality of consumption services a security deposit shall be paid by the owner or occupier.
- 7(5) Such security deposit shall be paid either in cash or any other means of payment acceptable to the municipality.
- 7(6) The security deposit may vary according to the credit rating of the customer as assessed by the municipality. The security deposits will be determined as follows depending on the grouping of the customer;
  - (a) The security deposit for a customer with a good credit rating shall be determined and set to cover one month consumption charges which shall include water and electricity consumption;
  - (b) The security deposit for a customer with moderate credit rating shall be determined and set to cover an aggregate of two months consumption charges which shall include water and electricity consumption; and
  - (c) For a customer with bad credit rating, the security deposit shall be determined and set to cover an aggregate of three months consumption charges which shall include water and electricity consumption.
- 7(7) The municipality shall review the security deposit on an annually basis in terms of the annual budget process. Any increase or decrease on security deposit shall be reflected on the municipal account of the customer.
- 7(8) Upon termination of the service agreement the amount of the deposit less any outstanding amounts due will be refunded to the customer.
- 7(9) No interest shall be payable to the customer on deposits held by the municipality.
- 7(10) Should the customer wish to appeal against a decision of the Chief Financial Officer in terms of subsections 6(3) and 6(6), the customer may submit an appeal and reasons in writing to the Municipal Manager, within twenty one (21) days from the date on which the customer is notified of the determination of the Chief Financial Officer meant on the above subsections.
- 7(11) The Municipal Manager shall consider the appeal within six weeks from the date of the appeal and shall notify the customer of his or her decision within a reasonable time thereafter.

## **8. Payment of Municipal Services**

- 8(1) The customer shall be responsible for payment of municipal services when the municipal account become due.
- 8(2) The Chief Financial Officer may consolidate separate Municipal Accounts, or portions thereof, of persons liable for payments to the municipality.
- 8(3) The Occupier, who fails to enter into the service agreement, will despite such failure be liable for the payment of the municipal account.
- 8(4) Nothing contained in this Policy will prohibit the municipality to collect payment of any amount from the owner or any other person in terms of an applicable legislation.
- 8(5) An increase in a consumer deposit in terms of section 6(7), becomes payable within twenty one (21) days from the date on which the customer is informed thereof or should the customer appeal against such increase, then within twenty one (21) days from the date on which the Customer is informed of the decision of the Municipal Manager, if the appeal is not up held.

## 9. Juristic Person

- 9(1) Should the Occupier be a Juristic person, the following will apply:
- (a) If the Occupier is a company registered in terms of the Companies Act, No 61 of 1973, the Directors of such, Company shall agree to be jointly and severally liable for payment in terms of the Service Agreement, if the Company fails to make such payment.
  - (b) If the Occupier is a closed corporation registered in terms of the Closed Corporations Act 1984 (Act 69 of 1984), the members shall agree to be jointly and severally liable for payment in terms of the Service Agreement, if the Close Corporation fails to make such payment.
  - (c) If the Occupier is an Association with legal persona, the members of the, Association shall agree to be jointly and severally liable for payment in terms of the Service Agreement, if the Association fails to make such payment.
- 9(2) Any Service Agreement signed by a person on behalf of a legal person in section 8(1) above must be accompanied by a resolution authorizing such person to sign on behalf of the legal person.

## 10. Interest

- 10(1) The municipality shall levy interest on any amount due and in arrears, in terms of section 75A (1) (b) of the Municipal Systems Act.
- 10(2) The interest charged on a default amount shall not in aggregate, exceed the unpaid balance of the principal debt as at the time that the default occurs in terms of Section 103(5) of the National Credit Act, 2005.
- 10(3) The interest rate to be charged on overdue amount on property rates shall be set at prime rate plus one percent (1%) as stipulated on Government Gazette No. 28113 (Notice 1856 of 2005).

## 11. Dishonored Payments

- 11(1) Should any payment made to the municipality by cheque or other negotiable instrument, be dishonoured by the financial institution on which it is drawn, the municipality may levy such collection charge against the Municipal Account to which the payment relates, as determined by the Council in terms of section 75A (2) of the Municipal Systems Act.
- 11(2) Any dishonoured payment meant in section 10(1) due to insufficient funds with the financial institution on which it is drawn, will be sufficient grounds for a review of the credit rating of the Customer in terms of section 6(1).
- 11(3) The Chief Financial Officer may determine not to accept a cheque or other, negotiable instrument as payment from a Customer, other-than a cheque or negotiable instrument on which payment is guaranteed by the financial institution on which it is drawn, should a payment or previous payment by the Customer been dishonoured as meant in section 10(1).

## 12. Delivery

- 12(1) Every document that is required to be delivered to a customer shall be delivered through one or more of the following mechanisms;

- (a) in person at the residential or business premises of the customer, or at any other location designated by the customer but at the expense of the customer, or by ordinary mail;
  - (b) by fax;
  - (c) by cellphone short message service (SMS)
  - (d) by e-mail; and
  - (e) by printable web-page.
- 12(2) Delivery of document shall be in a manner chosen by the customer from the options made available on section 11(1)(a) to (e).
- 12(3) The municipality shall deliver municipal account to all customers one per month at no charge in a manner chosen by the customer for the options made available on Section 11(1)(a) to (e).
- 12(2) In the event that delivery cannot be effected in terms of section 11(1) (a) to (e) above, then by fixing it to or placing it in a conspicuous place, on the Property or Premises to which it relates.

### **13. Settlement of Account**

- 13(1) An amount tendered as payment against a Municipal Account will, if not representative of the full balance of such account on date of payment, be deemed not to be accepted a full and final payment of the amount due and payable on that date or any future date, unless so authorized by the Chief Financial Officer in writing.
- 13(2) An amount tendered as payment against a Municipal Account will, if less than the outstanding balance, be credited pro rata to the longest outstanding debt items reflected on such account subject thereto that the Chief Financial Officer may direct otherwise.
- 13(3) If an amount due and payable in terms of the Municipal Account is in arrears and the amount tendered is less than the balance reflected on such account, the payment will be credited against such items on the Municipal Account as the Chief Financial Officer may direct.

### **15. Collection Costs**

- 15(1) All legal cost incurred by the Council for the recovery of arrear amounts, due and payable in terms of the Municipal Account, will be debited against the Municipal Account, including any tracing cost and attorney's fees at the Attorney- and-own- client scale, subject to the discretion of the court regarding the awarding of cost.
- 15(2) The Council may levy and recover such collection charges determined in terms of section 75A(1)(b) of the Municipal Systems Act, not included in subsection 14(1).

### **16. Reminder Notice**

- 16(1) The Council may cause to be delivered to a Customer who fails to make timeous payment in terms of a Municipal Account, a notice to remind such Customer to make the due payment on or before a date specified in such notice.
- 16(2) A notice in terms of subsection (1) may, notwithstanding section 10, be served on a Customer by electronic mail or by cellular phone short message service send to the

electronic mail address or cellular phone number, respectively, provided by the Customer on the service Agreement: and such service shall have the effect as if served in terms of section 10.

- 16(3) Failure by the Council to cause the delivery of the notice in subsection (1), or the Customer not receiving such notice, for whatever reason, will not prevent the Council from instituting further process for the recovery of any arrear payment or constitute a defence against a claim instituted for the recovery of any arrear payment.
- 16(4) The Council may charge a tariff as payment for the delivery of a reminder in subsection (1), as determined by the Council in terms of section 75A (2) of the Municipal Systems Act.

## **17. Letter of Demand**

- 17(1) The Council may cause to be delivered to a Customer who is in arrears with payment in terms of a Municipal Account, a letter demanding payment of such arrear amount on or before a date specified in such letter of demand.
- 17(2) Failure by the Council to cause the delivery of the letter of demand in subsection (1), or the Customer not receiving such letter of demand, for whatever reason, will not prevent the Council from instituting further process for the recovery of any arrear debt or constitute a defence against a claim instituted for the recovery of any arrear payment.
- 17(3) The Council may charge a tariff for the delivery of a letter of demand in subsection (1), as determined by the Council in terms, of section 75A (2) of the Municipal Systems Act.

## **18. Debt Collection Measures**

The Municipality may appoint a debt collector agent or agents to collect on its behalf, arrear payments from Customers, and to take such legal steps necessary to give effect to such debt collection.

Legal steps are taken to collect arrears in the following cases:

- a) Where the cut-off action yielded no satisfactory result.
- b) Where no cut-off action is possible due to the nature of services for which the account has been rendered.
- c) Where the arrears are older than 90 days.

Amount outstanding over 90 days and above may be handed over to Municipality's Debt Collection Agency for collection

Where the letter of final demand and the termination of services yield no response and the account is outstanding for ninety (90) days and more may be handed over to debt collectors and/or attorneys for collection.

Liability for Rates and Municipal charges: If an amount due for rates and other municipal charges is unpaid by the owner of the property, the municipality may recover the amount from the tenant or occupier of the property. This amount due may also be recovered from the agent of the owner.

A pre-investigation into the account and debtor detail is carried out before the preparation of a summons takes place. The data of an appointed Credit Bureau is utilized in this regard, often resulting in telephonic contact with the client, which obviates the need for summoning. The tracing cost and the telephone cost are debited to the account of the debtor at the approved tariff of the Municipality.

Arrear account in excess of R 100 000 which are to be summonsed are Supreme Court Matters, which are referred to the appointed debt collector for summoning in conjunction with one of the appointed panel of attorneys. The legal cost is debited to the debtor's account on accordance with the eventual outcome of the matter.

- d) Arrear accounts smaller than R100 000 are Magistrate Court matters for which the relevant summonses are issued. The different Sheriffs of the Courts deliver these summonses to the summonsed debtors. The expenses of the issuing and delivery of the summonses are debited to the debtors accounts.
  
- e) If debtors react on the summonses received within 10 working days after delivery by the Sheriff, by either payment in full or partial payment and arrangement for monthly payment of the balance, no further legal costs are debited by the Attorney or debt collection agent, and the matter is not further pursued for as long a the debtor comply with the agreed monthly payment.
  
- f) Summonses are reacted upon within the 10 working days window period are referred to the local Magistrate Courts in conjunction with the collection agents, who has jurisdiction in these Courts.
  
- g) Default judgment is obtained and the relevant debtor is automatically also blacklisted at the major credit bureaus. A notice of the default judgment is posted to the debtor by registered mail.
  
- h) Default judgments not reacted upon within the 10 working days are again presented at the Magistrate, who issues a warrant of execution, which can either order the sale of property of the debtor to recover arrears or order the debtor to be evicted in case of arrear rentals. Where the debtor has no fixed property a court order can be served on him/her to appear in court where the Magistrate can approve a garnishee order on the debt.
  
- i) The process of debt collection of any portion or category of the debtor book can be outsourced to collection agents by the Chief Financial officer. Any cost that arises from such action can be recovered from the debtor.

All accounts not paid within 30 days are in arrears and may be blacklisted through the Credit Bureaux agencies after legal steps were taken in terms of chapter 4 of the National Credit Act, 2005(Act 34 of 2005)

The process for debt collection of any portion or category of the debtor book may be outsourced to collection agents by Chief Financial Officer. Any cost<sup>6</sup> that arises from such actions will be recovered from the debtors.

The following principles will apply to agreements with debt collectors.



Council may, when any consumer is 90 days in arrears and no agreement has been entered into between the consumer and the Municipality, commence handing over the consumer to the debt collectors.

The “no success on fee” will be agreed between the Council and debt collectors

The fees on success will be agreed between the Council and debt collectors and no additional cost will be levied by the debt collectors on the consumers’ accounts.

The account may be taken over from debt collectors if no progress is made to recover the debt at no additional cost to the Council within the period agreed upon by both parties.

Council will establish procedures and code of conduct with these outside parties.

Complete records will be kept of all the steps taken to collect arrears and these record will be available to the Municipality.

All the legal costs of this process are for the account of the consumer and will be recovered from debtors by debt collectors.

Individual consumer accounts are protected and are not the subject of public information .However Council may release consumer information to credit bureaus.

Consumer will be informed of the powers and duties of such debt collectors and Their responsibilities including their responsibility to observe agreed codes of conduct.

Any agreement concluded with debt collectors shall include a clause whereby breaches of the code by them will see the contract terminated.

Any cash or a bank guaranteed cheque for the full outstanding balance reflected on the account shall be deemed acceptable payment before a customer’s particulars are removed from any adverse credit listing. In the case of default judgments entered into against consumers, the consumers, the consumer shall at its own cost appoint in attorney to set aside the judgment, after payment of the full outstanding balance has been made to Council

## **19. Attorneys**

- 19(1) The Council may, at any time, appoint attorneys to institute or proceed with legal proceedings or appeal proceedings, against a Customer, to recover any amount due for payment by such customer, including the enforcement of the Acknowledgement of Debt.
- 19(2) The Municipal Manager or a member of staff delegated by him or her, may appoint and give any instruction to an attorney and if prudent, legal council, to give effect to subsection (1),

and further to depose of or require any person to depose of an affidavit, to give evidence and to produce any document, for the purpose of such legal proceedings.

## **20. Discontinuation and Resumption of Services**

The Municipal Manager or delegate may cause the supply of electricity and/or water to be discontinued to a Property or Premises, should the Municipal Account of the customer be in arrears, subject to the provision of the minimum water supply to a Property or Premises as the Council may determine from time to time.

### 20.1 Reconnection of services

a) Where services are disconnected as a result of the application of this policy, these services can only be reconnected under the following circumstances:

a. Water supply restricted for non-payment by clients, can only be normalized after either receipt of the amount in arrears or conclusion of a settlement arrangement for payment of the arrears in terms of this Policy.

b. Water supply which has been restricted due to non-payment will only be normalized after either full payment of the arrears, or upon receipt of an appeal for normalization due to a good payment record of three (3) months on the repayment contract and the current monthly levies. The Chief Financial Officer will receive and evaluate each such an appeal before normalization.

c. Electricity supply discontinued due to non payment can only be reconnected after receipt of the amount in arrears or the conclusion of a settlement arrangement for payment of the arrears in terms of this Policy.

d. Any services which are discontinued as a result of tampering with the Municipality's distribution networks and/or mechanisms can only be legally reconnected if a Court orders so.

e. If the affected client, however, admits in writing that he/she permitted or committed the tampering and undertakes to not repeat the action and concludes a settlement arrangement for payment of the arrears in terms of this Council resolution.

Policy, service reconnection can also be made. Such written admission will be kept on the case document for future use in case of repeated tampering.

### 20.2 Inactive Accounts

Amounts outstanding less than R1000.00, These debts are written off as bad debts after a final demand has been issued, as collection cost does not warrant proceeding with further legal action.

Amount outstanding greater than R1000.00, these debts are referred to the Legal Division for summoning and further legal action if the levy payer has not reacted to the final demand for payment.

### 20.3 Levy Inspection:

Identify arrears accounts (older than 60 days) during routine sweeping action and verify levy information.

Identify non-registered levy payers and ensure that they are duly registered.

### 20.4 Summoned Accounts:

Summoned accounts of which the warrant of execution is returned "Nulla Bona" are listed for writing the arrears off as bad-debt as there were no assets that could be attached.

### 20.5 Sundry Debtors

If sundry debtors are in arrears, a final demand for payment within 14 days is submitted to them, If there is no response after the final demand, the matter is handed over to the Legal Division for further collection action.

Where there is a response for arrangements, a payment based on a percentage of the outstanding debt has to be made and an interest free arrangement for the balance over a period not exceeding 24 months depending on the amount outstanding and what the debtor can afford. Only exceptional cases will arrangements exceeding 24 months since most of sundry debtors are cases where the service is provided once off. In the exceptional cases, the period of an arrangement agreement will be extended to more than 24 months up to a maximum of 60 months.

In case of payment not being received as agreed, the matter is handed over to the Legal Division for further collection action.

The minimum amount for an account to be handed over to the Legal Division is R1000.00. All accounts less than R1000.00 are written off after all collection efforts other than legal action have failed.

## 21. Extension for Payment

- 21(1) A Customer may apply for extension of time for payment of arrears on the Municipal Account by submitting an Application for Extension of Time for Arrear Payment.
- 21(2) An application will only be considered if the Customer provides all the information as required on the Application For Extension Of Time For Arrear Payment.
- 21(3) The Chief Financial Officer will consider an application submitted in terms of subsection (1), having regard to all relevant facts pertaining to the application and in particular the following:
  - (a) the amount in arrears;
  - (b) the period over which the arrears accumulated;
  - (c) the amount of payment made by the Customer over the period, in if any;
  - (d) any written or oral submissions or representations made by the Customer;
  - (e) the financial income and expenditures Of the Customer;
  - (f) the ability of the Customer to make payments on the arrear amount;
  - (g) the credit rating of the Customer mentioned in section 6 (1); and
  - (h) the current average cost over the prior six months of municipal services to the Customer.

- 21(4) The application for payment extension shall be considered by the Credit Extension Committee to be chaired by an official delegated by the Chief Financial Officer, the Committee shall comprise of the representatives of the following departments;
- (a) Electrical Services Department;
  - (b) Community Services Department;
  - (c) Civil Engineering Department; and
  - (d) Financial Services Department.
- 21(5) The Chief Financial Officer shall consider the application within fourteen (14) days based on the recommendations of the Committee referred to in Section 20(4).
- 21(6) The decision regarding the period of extension, the amount or instalment amounts to be paid and any other terms and conditions which are deemed necessary shall be made in terms of Section 20(3).
- 21(7) The Chief Financial Officer shall, on request of the customer provide reasons for refusing payment extension.
- 21(8) Should the Customer wish to appeal against a decision of the Chief Financial Officer not to allow an extension applied for in terms of subsection (1) or any term or condition relating to an extension granted by the Chief Financial Officer, the Customer may submit an appeal and reasons in writing to the Municipal Manager, within twenty one (21) days from the date on which the Customer is notified of the decision of the Chief Financial Officer referred to in Section 20(5).
- 21(9) The Municipal Manager must consider the appeal within fourteen (14) days from the date of the appeal and must notify the Customer of the decision within a reasonable time thereafter.
- 21(10) An extension of time for payment granted in terms of this section, is subject to the Customer signing the Acknowledgment of Debt.

## **22. Provision for Bad Debts and Irrecoverable Debts**

### **GRAP – 104**

22(1) Comply with GRAP with regard to provision for doubtful debts.

1. A report from the system should supply suitable information regarding the following:
  - Ageing of each debtor
  - Active / inactive account
  - Tenants' / owners' account
  - Debtor type: Residential, Business, Government, Other debtors etc.
2. Align all the debt collection indicators so that the history of an account can be used as basis for recommendations for writing off bad debts in future.
3. The report indicating the debtors in 0 – 4 scoring must be examined by a senior official and the specific debtors must be flagged for impairment and the amount of impairment must be double-checked and agreed to be consistent with any agreements to repay or knowledge that no repayments will take place.
4. A scoring would be used by adding additional fields in the database for each debtor / group of debtors indicating the following:
  - Account referred to debt collectors
5. The subsequent measurement is essential and should be done monthly. However, regardless of whether or not this was done correctly throughout the year, it is of paramount importance that all the debtors outstanding at year-end be screened in some way for impairment.

6. For each of the items impaired in accordance with GRAP.

- 22(2) The municipality, in the case of charges due or where it is the Service Provider, shall only abandon recovery of a debt owed to it in one or more of the following circumstances:
- (a) Insolvency or demise of the customer or debtor as the case may be, if proven that his or her estate has insufficient funds to make payment;
  - (b) A balance being too small to recover for economic reasons considering the costs of recovery;
  - (c) where the claim has become prescribed;
  - (d) when the customer or debtor as the case may be relocate and tracing agents are unable to trace the current whereabouts of such person;
  - (e) All reasonable notifications and cost-effective legal avenues to recover the outstanding amount have been exhausted.
  - (f) The amount outstanding is the residue of the payment of a dividend from an insolvent estate or where there is a danger of contribution in proving a claim against the insolvent estate.
  - (g) If the debt outstanding cannot be proved;
  - (h) The outstanding amount is due to an administrative error by the municipality; and
  - (i) by Council resolution on good cause shown or as per delegation system of the municipality
- 22(3) Notwithstanding the above the municipality shall be under no obligation to write off any particular debt.

### **23. Official Language and Illiterate Persons**

- 23(1) The municipality shall make an endeavor to provide any document that is referred to in this Policy in an official language that the customer can read or understand.
- 23(2) The municipality shall delegate a member or members of its staff to assist any person who is illiterate or for any other reason, requires assistance to complete any form prescribed or other document required in terms of this Policy, or to read or interpret any account, notice or document issued in this regard.

### **24. Disputes**

- 24(1) A Customer who disputes a Municipal Account must submit such dispute in writing to the Chief Financial Officer, stating the reasons for such dispute and any relevant facts, information or representation which the Chief Financial Officer should consider to resolve such dispute.
- 24(2) A dispute submitted in terms of section 23(1), shall not stop or defer the continuation of any legal proceedings already instituted, for the recovery of arrear payment relating to such dispute, unless the Chief Financial Officer decides otherwise.

- 24(3) The Chief Financial Officer will consider a dispute submitted in terms of section 23(1) and will inform the Customer of the decision in writing within fourteen (14) days from the date on which such dispute is submitted, together with reasons for such decision.
- 24(4) Should the Customer wishes to appeal against a decision of the Chief Financial Officer, the Customer may submit an appeal and reasons in writing to the Municipal Manager, within twenty one (21) days from the date on which the Customer is informed of the decision of the Chief Financial Officer meant in subsection (3).
- 24(5) The Municipal Manager must consider the appeal within fourteen (14) days from the date of the appeal and must notify the Customer of the decision within a reasonable time thereafter.

## **26. Indigent Households**

The indigent households shall be treated in terms of the Indigent Policy of the municipality.

## **27. Penalties**

- 27(1) A person who fails or omits to do anything prescribed by this policy or do anything prohibited in terms of this policy, will be guilty of an offence.
- 27(2) A person found guilty of an offence in terms of section 26(1) will be liable to a fine or imprisonment or both such fine and imprisonment.

## **28. Services Rendered**

The Municipality shall not conduct any business activity with any persons who are in arrears with municipal accounts except as provided for in policy and as determined by the Municipality from time to time, nor will any outstanding fund will be offset to that debtor account.