

MATATIELE LOCAL MUNICIPALITY



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CREDIT CONTROL AND DEBT COLLECTION POLICY

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MUNICIPAL MANAGER



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Approval of Policy

Please note that the implementation of the policy contained in this document is subject to approval and signing off by all relevant Heads and/or Committees, including but not limited to:

- Municipal Manager; and
- Municipal Council.

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PART 1 - OBJECTIVE

1.1 Constitutional Obligations

The Council, in adopting this policy on credit control and debt collection, recognises its constitutional obligations to develop the local economy and to provide acceptable services to its residents. It simultaneously acknowledges that it cannot fulfil these constitutional obligations unless it exacts payment for the services which it provides and for the taxes which it legitimately levies – in full from those residents who can afford to pay, and in accordance with its indigency relief measures for those who have registered as indigents in terms of the Council's approved indigency management policy.

1.2 Payment Levels

In terms of the budgets approved by the Council, and in accordance with commonly accepted best practice, this municipality pledges itself to strive to its utmost to ensure that payment levels for the present and future financial years, in respect of all amounts legitimately owing to the municipality – that is, inclusive of the balance of the monthly accounts payable by registered indigents, but exclusive of the subsidies granted as relief to such indigents – are maintained at an annual average of at least 95%.

PART 2 - CREDIT MANAGEMENT

2.1 Service Agreement

Before being provided with electricity and/or other customer services, every customer shall enter into a service agreement with the municipality, in terms of which, among other things, the customer shall agree that the electricity payment system may be used for the collection of arrears in respect of all service charges. Where a consumer has failed to enter into such service agreement, electricity shall be blocked, disconnected or restricted, as the circumstances may require, until such time as such service agreement has been entered into and the applicable deposits have been paid. Such consumer shall be liable for the payment of any applicable calculated amounts (see 2.4 below) relating to the period prior to the signing of such service agreement.

2.2 Accounts

The municipality shall bill the inhabitants of and property owners and occupiers of property within the municipal area for property rates and municipal services supplied to them by the municipality. Such billing shall take place at monthly intervals, or as otherwise prescribed by law.

The owner of a property shall be liable for the payment of the refuse charges relating to such property.

The municipality shall post or hand deliver the consolidated accounts for property rates and municipal service charges to the respective customers at the address specified in the service agreement, and such accounts shall be posted or delivered in order to reach the customers before the due date printed on such account. Any change of address will become effective only when proper notification of such change has been received and acknowledged by the municipality.

The customer shall pay, in full, the amount indicated on the bill, and shall make such payment on or before the indicated due date. Failure to comply with this requirement will result in debt collection action being instituted against such customer, and interest at the rate determined from time to time by the Council, or in the absence of any such determination, as prescribed by law, shall be charged from the date on which the account was due for payment.

2.3 Deposits

Deposits shall be determined by the Chief Financial Officer, and shall be based on two times the average monthly account for services rendered to the property concerned, either as factually determined or as a calculated amount.

In determining such deposit, the Chief Financial Officer shall differentiate between areas within the municipality to give cognisance to differences in service standards and the consumption and usage of services.

The Chief Financial Officer may reassess the customer deposits for new commercial and industrial customers three months after the initial deposit date, and may, as a result of such reassessment, require an additional deposit from any such customer.

The Chief Financial Officer shall review all deposits biennially or whenever a customer's services are disconnected or blocked as a result of non-payment. The outcome of such review shall be communicated to the customer concerned in the event of any variation in the deposit arrangements being required. Should the deposit be found to be inadequate, the Chief Financial Officer shall allow the relevant customer to make arrangements for the payment of the additional amount.

Consumer deposits shall be paid in respect of electricity services only.

Deposits shall be paid in cash or by cheque, but the municipality shall accept an appropriate bank guarantee in cases where a deposit exceeds R2 000. Such bank guarantee shall be hand delivered during normal office hours to the offices of the Chief Financial Officer at the civic centre.

All deposits shall be paid at least two days prior to the occupation of the property concerned or two days prior to the date on which the services are required, if not required on the date of occupation. Failure to comply with this requirement may lead to a delay in the connection of the services concerned, and the municipality shall not be liable for any loss or prejudice resulting from such delay.

No service deposit shall be required for a particular service if a pre-payment meter has been installed for such service.

Where deposits have been increased in terms of the present policy, the affected customers may enter into a written agreement with the Chief Financial Officer to pay off the increase in the deposits levied over a maximum period of six months.

2.4 Calculated Amounts (Estimated Consumption)

The Chief Financial Officer shall calculate the amounts due to the municipality by a consumer in respect of the supply of any municipal service for any period during which the exact quantity of such supply cannot be accurately determined for any reason, and such calculation shall be based on the average consumption figures, if available, for the service rendered to the customer over the three months immediately prior to the commencement of any such period, or in the event of such data not being available, on the average consumption figures applicable to one or more properties of similar size and nature in the area in which the customer resides or carries on its business.

2.5 Disconnection for Non-Payment

2.5.1 Notices to Customers

The municipality will, at its sole discretion, issue final request notices or other reminders to customers whose accounts are in arrears, prior to disconnecting any services supplied to such customer.

The municipality shall issue a final demand for payment of arrears in respect of all debtor accounts reflecting an amount outstanding for more than 30 days, and, in addition to the disconnection of the supply of services to such customer, such account shall be handed over for debt collection in terms of 2.10 below.

2.5.2 Electricity

The municipality shall disconnect services to customers with conventional electricity meters whose service accounts are in arrears after the due date.

Should such customers wish to have their electricity reconnected, they shall be charged the applicable reconnection fee and the service shall not be reinstated before the account is paid in full, with the inclusion of the reconnection fee and any other applicable charges, or satisfactory arrangements have been made in terms of 2.7 below with the Chief Financial Officer.

The municipality shall disconnect the electricity supply before 13.00 hours on the day of disconnection.

Where all the applicable conditions have been met, the municipality shall attempt to reconnect services as soon as practically possible, but this shall be done only during normal working hours.

In the event of mass disconnections, the municipality shall not be obliged to effect reconnections on the same day, even if all applicable conditions have been met.

The municipality shall not be obliged to sell electricity to customers with pre-paid and conventional meters unless all customers' municipal accounts for other services and property rates, if any, have been paid in full, or unless satisfactory arrangements have been made with the Chief Financial Officer in terms of 2.7 below and have been honoured.

All disconnected electricity meters shall be clearly marked by the municipality when the supply is disconnected for non-payment, in order to avoid such disconnected meters being reported as faulty.

The municipality shall be entitled to disconnect, block or restrict, as the case may be, at the earliest opportunity, the electricity supply of customers who have offered a cheque as payment for municipal services whenever such cheque has been returned or dishonoured by the financial institution on which it has been drawn. The customer's account shall be endorsed accordingly, and no further cheque payments shall be accepted from such customer.

Standby electricians, meter readers and municipal contractors shall not be permitted to restore any service to customers without the written authority of the municipality's credit control section.

Customers whose supply of services has been unlawfully reconnected will be regarded as having tampered with the meter or the supply, and the provisions of 2.6 below shall apply.

2.5.3 General

A reconnection fee shall also be charged in cases where customers who receive other municipal services of any kind, and who have fallen into arrears with their payments in respect of such services, have had their electricity supply, whether pre-payment or conventional, disconnected or restricted in consequence of such arrears.

2.6 Tampering

Where the municipality finds that any electrical supply has been tampered with or the meter bypassed, the municipality may, subject to the provisions in the present policy and other applicable legislation, isolate or disconnect the relevant supply, and charge the customer the applicable tampering fee, such calculated amounts as are due, and a reconnection fee in those instances where the supply has been isolated and a connection fee in those instances where the supply has been removed.

In those instances where, in the view of the Chief Financial Officer, there is evidence of a discrepancy between the metered electricity consumption on the property and the consumption history in respect of such property, the Chief Financial Officer shall deal with the transgressors in the following manner:

- the supply to the property will be isolated at the point of supply in those instances where the transgression is a first offence, and removed in the case of subsequent offences;
- a written notification shall be given to the customer, informing the customer of such isolation or removal, as well as of the fees due in respect of the tampering, reconnection or connection of services, and the calculated amounts due; and
- the municipality shall only reinstate such services after all the foregoing amounts have been paid in full.

In those cases where physical tampering with the electricity supply is detected by the municipality, the transgressors will be dealt with in the following manner:

- the supply will be immediately isolated in the case of a first offence, and removed in the case of second or subsequent offences;
- a written notification will be given to the customer, informing the customer of such isolation or removal, as well as the fees due in respect of the tampering, reconnection or connection and the calculated amounts due; and

- the municipality will only reinstate such services after the amounts referred to above have been paid in full.

2.7 Agreements and Arrangements with Consumers who are in Arrears

- The Chief Financial Officer shall be authorised to enter into agreements with consumers who are in arrears with their accounts and to grant such consumers extensions of time or payment.

The Chief Financial Officer may determine, on the merits of each case, the initial amount to be paid as part of such agreement, as well as the number of instalments over which the arrear amount must be paid off and the term over which such payment is to be made, provided that such term may not ordinarily exceed 24 months.

At the commencement of this policy: if the overdue amount is outstanding for longer than 30 days and the outstanding balance is above R1000.00, a minimum down-payment of 30% shall be payable and the repayment period shall not exceed 6 months.

- If the overdue balance is outstanding for longer than 30 days and the amount outstanding is below R1000.00, the Chief Financial Officer will decide on the settlement terms of the balance
- The debtor should request such arrangement at a rate of 18% per annum and shall agree to the conditions attached thereto. Administration fees will be payable by the debtor.

The Chief Financial Officer may, where the Chief Financial Officer considers a particular case to be exceptional, and with the approval of the Municipal Manager, extend the period of such repayment beyond the stipulated 24 months.

In instances where the Chief Financial Officer is satisfied at the time of making any arrangements and after having duly investigated the matter that a customer, who is believed to be acting in good faith, cannot reasonably afford payment for services, such customer's details shall be recorded, and further legal steps against such customer shall either be deferred or waived, as the Chief Financial Officer decides.

2.8 Acknowledgement of Debt

Only debtors with positive proof of identity or an authorised agent with a power of attorney shall be allowed to complete an acknowledgement of debt agreement.

An acknowledgement of debt agreement shall contain all arrangements for paying off arrear accounts, and one copy of such acknowledgement shall be handed to the customer and the other filed at the municipality's management section.

A customer who has already been summonsed by the municipality's attorneys in respect of arrear accounts may nevertheless apply for credit facilities. However, all legal costs already incurred will be for such customer's account, and an initial payment of at least half of the total resultant outstanding debt shall be required before any repayment arrangements are negotiated. The customer shall also sign an acknowledgement of debt which shall include the legal fees payable.

Failure to honour an acknowledgment of debt agreement shall lead to the immediate blocking, disconnection or restriction of services by the municipality, without further notice, and the resumption of legal action.

In those instances where a customer who is in arrears is known to be employed, the municipality may request such customer to provide it with a voluntary garnishee order or emolument attachment order.

2.8 Interest on Arrears

Interest shall be charged on service arrears at the interest rate determined by the Council from time to time, or in the absence of any such determination, as prescribed by law.

Interest shall be charged on arrear property rates as prescribed in the applicable legislation.

That, interest charges on services and property rates will continue to be charged on capital amount not on outstanding amount which results in compounding of interest charges.

2.10 Handovers

The municipality shall issue a final demand in respect of all customer accounts reflecting an amount outstanding for longer than 30 days, and, if such account still reflects an amount in arrears after 90 days, hand such account over for collection to the municipality's external debt collectors.

The Chief Financial Officer shall investigate ways and means of assisting customers before attaching any movable or immovable property.

2.11 Customer May Not Selectively Nominate Payment

A customer shall not be entitled to insist that any payment made be allocated to any specific portion of the total debt due. The allocation of payments shall in all instances be made by the Chief Financial Officer.

2.12 Authority to Appoint Debt Collection Specialists

The Chief Financial Officer shall be authorised to appoint debt collection specialists and to enter into agreements with such specialists in terms of the Contingency Fee Act 1997.

2.13 Applicability of Credit Management Policy

The Council may by notice in the provincial gazette determine that the provisions of this policy do not apply, from the date specified in the notice, to specified areas within the municipality's jurisdiction.

PART 3 - CREDIT CONTROL AND DEBT COLLECTION

3.1 Duties and Functions of Council, Municipal Manager, Community, Ratepayers, Residents, Ward Councillors and Political Parties

3.1.2 Duties and Functions of the Council

The duties and functions of the Council in regard to credit control and debt collection shall be to:

- approve an annual budget consistent with the needs of the community, ratepayers and residents;
- impose rates and determine service charges, fees and penalties to finance such budget;
- provide sufficient budgetary resources to give access to basic services for the poor;
- provide adequately for bad debt, in line with the payment record of the community, ratepayers and residents, as reflected in the financial performance of the municipality;
- set an improved target for debt collection, in line with the objective of the present policy as set out in Part 1 above, and in line with acceptable accounting ratios and the abilities of the municipal administration;
- approve a reporting framework for credit control and debt collection;
- consider and approve by-laws to give effect to the present policy;
- monitor the performance of the Municipal Manager and the municipal administration in regard to credit control and debt collection;
- revise the annual budget should the municipality's targets for credit control and debt collection not be met;
- take disciplinary action against officials who do not properly implement the Council's policies and by-laws in regard to credit control and debt collection;
- approve a list of attorneys to act for the municipality in all legal matters relating to debt collection;
- delegate the required authority to monitor and execute the credit control and debt collection policy to the Municipal Manager;
- approve an appropriate staff structure for credit control and debt collection;

- appoint debt collection agents to assist the Municipal Manager in the implementation of the credit control and debt collection policy, if required;
- ensure that the municipality's budget, cash flow and debt collection targets are met;
- monitor the performance of the Municipal Manager and the municipal administration in implementing the credit control and debt collection policy and by-laws;
- from time to time review and evaluate the policy and by-laws in order to improve the efficiency of the municipality's credit control and debt collection procedures, mechanisms and processes; and
- regularly table a report on the implementation of the Council's credit control and debt collection policy and by-laws.

3.1.3 Duties and Functions of the Municipal Manager

The duties and functions of the Municipal Manager in regard to the credit control and debt collection shall be to:

- implement good customer care and management;
- implement the Council's credit control and debt collection policy;
- install and maintain an appropriate accounting system;
- bill consumers;
- demand payment on due dates;
- raise penalties for defaults;
- appropriate payments received;
- collect outstanding debts;
- implement best practices;
- provide alternative payment methods;
- determine credit control measures;
- determine work procedures for public relations, arrangements for repayment of debt, disconnections of services, summonses, attachments of assets, sales in execution, writing off of debts, sundry debtors and legal processes;
- appoint firm(s) of attorneys to complete the legal process, that is, attachment and sales in execution of assets, emolument attachment orders, and so forth;
- set performance targets for municipal employees;
- appoint employees to executive the Council's policy and by-laws in accordance with the Council's employment policy;
- delegate certain functions to heads of departments;
- determine control procedures; and

- Report Quarterly to the Council on the implementation of its credit control and debt collection policy and by-laws.

3.1.4 Duties and Functions of Community, Ratepayers and Residents

The duties and functions of the community, ratepayers and residents in regard to credit control and debt collection shall be to:

- demonstrate responsible conduct in the use and enjoyment of public facilities and municipal services;
- pay their service charges, property rates, and other levies and duties imposed by the municipality;
- observe the mechanisms and processes of the municipality in exercising their rights;
- allow municipal officials reasonable access to their property to execute municipal functions;
- comply with the by-laws and other legislation of the municipality; and
- refrain from tampering with municipal services and property.

3.1.5 Duties and Functions of Ward Councillors and Political Parties

The duties and functions of ward Councillors and political parties in regard to credit control and debt collection shall be to:

- convene regular ward meetings;
- adhere to and communicate the Council's policy to residents and ratepayers; and
- adhere to the Council's code of conduct for Councillors.

3.2 Provision of Municipal Services to Customers Other than Indigent Customers

3.2.1 Application for Services

A customer who qualifies as an indigent customer must apply for services as set out in the Council's policy on indigency management.

No customer shall be entitled to access municipal services unless application has been made to and has been approved by the municipality, or its authorised agent, on the prescribed application form.

If it is found that at any time after the date on which the Council's by-laws on credit control and debt collection have been promulgated municipal services are being provided and received when no written agreement exists in respect of such services, it shall be deemed that such an agreement exists and that the level of services being provided to such customer is the level of services selected, until such time as the customer enters into an actual agreement as referred to in the foregoing paragraph. The municipality, or its authorised agent, shall on application for the provision of municipal services inform the applicant of the then available levels of services and the then applicable tariffs and charges associated with each level of service.

The municipality, or its authorised agent, shall be obliged to provide a specific level of service as requested only if the service is currently being provided and if the municipality, or its authorised agent, has the resources and capacity to provide such level of service.

A customer may at any time apply to change the level of services selected in terms of the agreement entered into, provided that such requested level of services is available and that any costs and expenses associated with changing the level of services are paid by the customer.

An application for services submitted by a customer and approved by the municipality, or its authorised agent, shall constitute an agreement between the municipality, or its authorised agent, and the customer concerned, and such agreement shall take effect on the date referred to or stipulated in such agreement.

In completing an application form for municipal services, the municipality, or its authorised agent, shall ensure that the document and the process of interaction with the owner, customer or any other person making such application, are understood by such owner, customer or other person, and shall advise such owner, customer or other person of the option to register as an indigent customer.

In the case of illiterate or similarly disadvantaged persons, the municipality, or its authorised agent, shall take reasonable steps to ensure that such person is aware of and understands the contents of the application form and shall assist such person in completing such form.

Municipal services rendered to a customer shall be subject to the provision of the municipality's by-laws on credit control and debt collection, any other applicable by-laws, and the conditions contained in the agreement.

If the municipality, or its authorised agent, refuses an application for the provision of municipal services or for a specific service or specific level of services, or is unable to render such municipal services or a specific service or level of service on the date requested for such provision to commence, or is unable to render the municipal services or a specific service or level of service, the municipality, or its authorised agent, must within a reasonable time inform the customer of such refusal or inability, the reason thereof, and, where applicable, when the municipality, or its authorised agent, will be able to provide such municipal services or specific service or level of service.

3.2.2 Termination Of Services

- 1.1 It is the responsibility of the consumers to notify the municipality when municipal services are no longer required due to safety of the property or other reasons.
- 1.2 Failure to comply with paragraph 1.1 above renders the consumer liable for all service charges and interest thereon accumulated from the date when the premises are vacated to the date when council becomes aware of such vacation.
- 1.3 A customer may terminate an agreement for supply of municipal services by giving at least 21 (twenty –one) days written notice to the municipality of such termination.
- 1.4 The municipality may terminate an agreement for the supply of municipal services by giving at least 21 (twenty-one) days written notice to a customer where :
 - a) Municipal services were not utilised by such customer for a consecutive period of 2 (two) months and without an arrangement ,to the satisfaction of the municipality, having been made for the continuation of the agreement ,or
 - b) Premises have been vacated by the customer concerned and no arrangement for the continuation of the agreement has been made with the municipality provided that, in the event of the customer concerned

not being the registered owner of the premise, a copy of the aforesaid notice shall also be served on such registered owner

3.2.3 Special Agreements for Municipal Services

The municipality, or its authorised agent, may enter into a special agreement for the provision of municipal services with an applicant within the municipal area of supply, if the services applied for necessitate the imposition of conditions not contained in the prescribed form or in the Council's by-laws on credit control and debt collection; or with an applicant receiving subsidised services; or if the premises to receive the service concerned are situated outside the municipal area of supply, provided that the customer concerned has advised the municipality which has jurisdiction over such premises of such special agreement, and such municipality has no objection to such special agreement.

3.2.4 Change in Purpose for which Municipal Services are Used

Where the purpose or extent to which any municipal service used is changed, the onus and obligation shall be on the customer to advise the municipality, or its authorised agent, of such change, and to enter into a new agreement with the municipality, or its authorised agent.

3.2.5 Applicable Charges for Municipal Services

All applicable charges payable in respect of municipal services, including but not limited to the payment of connection fees, fixed charges or any additional charges or interest, shall be set by the Council in accordance with its rates policy, its tariff policy, its credit control and debt collection policy, the by-laws which have been promulgated in regard to the foregoing, and any regulations in terms of national or provincial legislation.

Applicable charges may differ between different categories of customers, users of services, types and levels of services, quantities of services used or consumed, infrastructure requirements, and geographic areas.

Services shall be terminated because of non-payment on the terms and conditions stipulated in the credit control and debt collection policy and by-laws.

Deferment for payment of service accounts may be granted to customers in terms of the powers delegated and conditions approved by the Council in its credit control and debt collection policy.

The municipality may consolidate any separate account of any person who is liable for payment to the municipality, and may credit all payments received from such person to any service and order of performance as determined by the Council from time to time in terms of its credit control and debt collection policy.

3.2.6 Availability Charges for Municipal Services

The Council, in addition to setting tariffs or charges for municipal services actually provided, may levy a monthly fixed charge, annual fixed charge or once off fixed charge where municipal services are available, whether or not such services are consumed or used.

3.2.7 Subsidised Services

The Council may, from time to time, and in accordance with national policy, but subject to the principles of sustainability and affordability, by public notice implement subsidies for a basic level of municipal service.

The Council may, in implementing such subsidies, differentiate between types of household customers, types and levels of services, quantities of services, geographical areas and socio-economic areas.

The public notice preceding the implementation of such subsidies shall contain at least the following details applicable to each specific subsidy:

- the household customers who will benefit from the subsidy;
- the type, level and quantity of municipal services that will be subsidised;
- the area within which the subsidy will apply;
- the level of the subsidy;
- the method of implementing the subsidy; and
- any special terms and conditions which apply to the subsidy.

If a household customer's consumption or use of municipal services is less than the subsidy concerned, the unused portion of the subsidy may not be accrued by the customer, and shall not entitle the customer to a cash or other rebate in respect of such unused subsidy, and if the household customer's consumption or use of the municipal service is in excess of the subsidy granted, the customer shall be obliged to pay for such excess consumption at the applicable charge.

A subsidy implemented in terms of the foregoing may at any time be withdrawn by the Council, or altered in whatever way the Council in its sole discretion shall decide, but only after notice has been served, as required by law, on the person or persons affected by the Council's intention to consider such withdrawal or alteration, and the Council has considered any comments or requests received from such persons in response to such notice.

Commercial customers shall not qualify for subsidised services.

Subsidised services shall be financed from the portion of revenue raised nationally which is allocated to the municipality, and if such funding is insufficient, the services may be financed from revenues raised generally through property rates, service charges and other fees in respect of municipal services.

3.2.8 Authority to Recover Additional Costs and Fees

The municipality, or its authorised agent, shall have the authority to recover any additional costs incurred in respect of implementing its credit control and debt collection policy and by-laws, and such costs shall be recovered against the account of the customer concerned, and shall include but shall not be limited to all legal costs – including attorney and client costs incurred in the recovery of amounts in arrears – and the average costs incurred in relation to any action taken in demanding payment from such customer or in reminding such customer of its obligations.

3.2.9 Payment of Deposit

The Council may from time to time determine different deposits for different categories of customers, users of services, debtors, services and service standards, provided that such deposits shall not be more than two times the monetary value of the most recently measured monthly consumption of such services on the premises for which an application for services is made.

The customer shall on application for the provision of municipal services, and before the municipality, or its authorised agent, provides such services, pay a deposit in all cases in which the Council has determined that such deposit is payable.

The municipality, or its authorised agent, may annually review the deposit paid in terms of the foregoing, and in accordance with such review require that an additional amount be deposited by the customer where the deposit is less than the most recent deposit determined by the Council.

If a customer is in arrears, the municipality or its authorised agent, may require such customer to pay a deposit, if that customer was not previously required to pay a deposit, if the Council has determined a deposit as being payable, and pay an additional deposit where the deposit paid by such customer is less than the most recent deposit determined by the Council for comparable services.

No deposit shall be regarded as being payment of an account.

No interest shall be payable by the municipality, or its authorised agent, on any deposit held. A deposit paid by a customer is refundable to such customer on termination of the agreement, but such deposit shall be forfeited to the municipality if it has not been claimed by the customer within 12 months of termination of the agreement.

3.2.10 Methods for Determining Amounts Due and Payable

The municipality, or its authorised agent, shall in respect of municipal services that can be metered endeavour to, within the municipality's available financial and human resources, meter all customer connections and read all metered customer connections, on a monthly basis.

If a service is not measured, the municipality, or its authorised agent, may determine the amount due and payable by a customer for municipal services supplied to such customer, by calculating the shared consumption, or if this is not possible, an average of last 3 months consumption.

If a service is metered, but the meter cannot be read because of financial or human resource constraints or circumstances beyond the control of the municipality or its authorised agent, and the customer is consequently charged for an average consumption, the account following the reading of the metered consumption shall clearly indicate the difference between the actual consumption and the average consumption previously billed for, and what resultant credit or debit adjustment has been passed.

Where, in the opinion of the municipality or its authorised agent, it is not reasonably possible or cost effective to meter all customer connections within a determined area and/or read all metered customer connections in such area, the Council may, on the recommendation of the Municipal Manager or the municipality's authorised agent, determine a basic tariff (flat rate) to be paid by all customers within such area, irrespective of their actual consumption.

The municipality, or its authorised agent, shall inform customers of the method for determining the amounts due and payable in respect of the municipal services provided, and which will apply in respect of their consumption or supply zone.

The accounting officer must immediately inform the national treasury of any payments due by an organ of state to the municipality in respect of municipal taxes or for municipal services, if such payments are regularly in arrears for periods of more than 30 days as part of the body policy.

3.2.11 Payment for Municipal Services Provided

A customer shall be responsible for payment of all municipal services consumed by such customer from the commencement date of the agreement for the provision of such services until such customer's account has been settled in full and the municipality, or its authorised agent, shall recover all applicable charges due to the municipality from such customer.

If a customer uses municipal services for a use other than that for which it is provided by the municipality, or its authorised agent, in terms of the agreement for the provision of services, and such customer as a consequence is charged at a lower charge than the normally applicable charge, the municipality, or its authorised agent, may make an adjustment to the amount charged and recover the balance from the customer.

If amendments to the applicable charge become operative on a date between measurements, for the purpose of rendering an account in respect of the applicable charges it shall be deemed that the same quantity of municipal services was provided in each period of 24 hours during the interval between the measurements, and any fixed charge shall be calculated on a pro-rata basis in accordance with the charge that applied immediately before such amendment and such amended applicable charge.

3.2.12 Full and Final Settlement of an Account

Where an account is not settled in full, any lesser amount tendered and accepted shall not be deemed to be in final settlement of such an account.

This shall be the case notwithstanding the fact that such lesser payment was tendered and/or accepted in full and final settlement, unless the Municipal Manager, or the municipality's authorised agent, made such acceptance in writing.

3.2.13 Responsibility for Amounts Due and Payable

The owner of premises to which municipal services have been provided shall be liable for the payment of any amounts due and payable to the municipality, or its authorised agent, in respect of the preceding two years, where the owner is not the customer and the municipality, or its authorised agent, after taking reasonable measures to recover any amounts due and payable by the customer from the latter, has been unable to recover such amounts.

3.2.13 Dishonoured Payments

Where any payment made to the municipality, or its authorised agent, by negotiable instrument is later dishonoured by the financial institution on which such instrument has been drawn, the municipality, or its authorised agent, may recover the average bank charges incurred in respect of such dishonoured negotiable instruments against the account of the customer concerned, and shall regard such an event as a default on payment.

3.2.15 Incentive Schemes

The Council may institute incentive schemes to encourage payment and to reward customers who pay accounts on a regular and timeous basis.

3.2.16 Pay Points and Approved Agents

A customer may pay a municipal account at pay points specified from time to time by the municipality, or its authorised agent, or at approved agents of the municipality or its authorised agent.

The municipality, or its authorised agent, must inform a customer of the location of such specified pay points and approved agents for purposes of making payment of municipal accounts

3.2.17 Accounts

Accounts shall be rendered monthly to customers at the address last recorded with the municipality or its authorised agent. A customer may receive more than one account for different municipal services if such services are accounted for separately. Failure to receive or accept an account does not relieve a customer of the obligation to pay any amount due and payable in respect of such account.

The municipality, or its authorised agent, must if administratively possible issue a duplicate account to a customer on request, upon payment of a fee as prescribed in the municipality's tariff of charges.

Accounts shall be paid not later than the last date for payment specified in such account, which date shall be at least 14 days after the date of the account.

Accounts shall reflect at least:

- the nature of the services rendered;
- the consumption of metered services, or average, shared or estimated consumption;
- the period stipulated in the account;
- the applicable charges;
- any subsidies applicable;
- the amount due, excluding value added tax;
- value added tax;
- the adjustment, if any, to metered consumption which has been previously estimated;

- the arrears in respect of the account, if any;
- the interest payable on such arrears, if any;
- the final date for payment of the account; and
- the methods, places and approved agents where payment may be made.

Accounts shall further state that:

- the customer may conclude an agreement with the municipality, or its authorised agent, for payment of any arrear amount in instalments, either at the municipality or its authorised agent's offices, before the final date for payment, if the customer is unable to pay the full amount due and payable;
- if no such agreement is entered into, the municipality, or its authorised agent, shall limit the services provided, after sending a final demand notice to the customer;
- legal action may be instituted against any customer for recovery of an amount 45 days or more in arrears;
- the account may be handed over to a debt collector for collection; and
- proof of registration as an indigent customer, in terms of the municipality's indigency management policy, must be handed in at the office of the municipality, or its authorised agent, before the final date for payment.

3.2.18 Consolidated Debt

If a single account is rendered for more than one municipal service provided, the amount due and payable by the customer concerned shall constitute a consolidated debt, and any payment made by such customer of an amount less than the total amount due shall be allocated at the discretion of the municipality between the various service debts.

If an account is rendered to only one municipal service provided, any payment made by the customer of an amount less than the total amount due will be allocated at the discretion of the municipality.

A customer may not elect how an account is to be settled if it is not settled in full or if there are arrears.

3.2.19 Queries or Complaints in Respect of Accounts

A customer may lodge a query or complaint in respect of the accuracy of an amount due and payable in respect of one or more specific municipal services as reflected on the account rendered.

Such query or complaint must be lodged with the municipality, or its authorised agent, before the due date for payment of the account.

Such query or complaint must be accompanied by the payment of the average of the last three months' accounts where a history of the account is available, or such estimated amount as is provided by the municipality. Such payment must be made by due date in respect of the account concerned, and such payments shall continue until the matter is resolved.

The municipality, or its authorised agent, shall register the query or complaint and provide the customer with a reference number.

The municipality, or its authorised agent, shall investigate or cause the query or complaint to be investigated, and shall inform the customer in writing of its finding within one month after the query or complaint was registered.

Failure to make the foregoing agreed interim payment(s) will render the customer liable to disconnection.

3.2.20 Appeals Against Findings of Municipality or its Authorised Agent in Respect of Queries or Complaints

A customer may appeal in writing against a finding of the municipality, or its authorised agent, in respect of any query or complaint lodged. Such appeal must be made in writing and lodged with the municipality within 21 days after the customer became aware of the finding of the municipality or its authorised agent in regard to the relevant query or complaint. The appeal shall further set out the reason for appealing against the finding, and be accompanied by any security determined for the testing of any measuring device, if applicable.

3.2.21 Interest and Other Penalties

Interest shall be levied on arrears at the prevailing prime interest rate as prescribed by the Council from time to time.

The costs associated for the limitation or disconnection of municipal services shall be payable by the customer concerned and shall be included in the account following the reconnection.

3.2.22 Accounts 90 Days or More in Arrears

Where an account rendered to a customer has remained outstanding for 90 days or more, the municipality, or its authorised agent, may institute legal action against such customer for the recovery of the arrears, and hand the customer's account over to a debt collector or attorney for collection.

A customer will be liable for any administration fees, expenses incurred in taking action for the recovery of arrears, and any penalties, including the payment of a higher deposit, as may be determined by the Council from time to time.

3.2.23 Agreements for the Payment of Arrears in Instalments

An agreement for the payment of arrears in instalments may be entered into subject to the following conditions: the customer must sign an acknowledgement of debt, a consent to judgement in the event of a breach of the agreement, and an emolument attachment order if the customer is employed.

The customer shall further acknowledge that interest will be charged on the arrears at the prescribed rate.

Customers with electricity arrears shall agree to the conversion to a pre-payment meter, if and when implementable, the cost of which shall be paid off either by adding it to the arrear account and repaying it over the agreed period, or adding it as a surcharge to the pre-paid electricity charges, and repaying it with each purchase of electricity until the debt is settled.

The municipality, or its authorised agent, shall require a customer to settle such customer's current account in full in addition to honouring the payments of arrears in instalments in terms of the relevant agreement.

The municipality reserves the right to raise any security deposit requirement from debtors who seek an agreement for the payment of arrears in instalments.

3.2.24 Copy of Agreement to Customer

A copy of the agreement for the payment of arrears in instalments shall be made available to the customer concerned.

3.2.25 Failure to Honour Agreements

If a customer fails to comply with an agreement for the payment of arrears in instalments, the total of all outstanding amounts, including the arrears, and the interest thereon, administration fees, costs incurred in taking any relevant action, and penalties, including the payment of a higher deposit, shall be immediately due and payable in full, without further notice or correspondence, and the municipality, or its authorised agent, may disconnect the electricity service provided to the customer, institute legal action for the recovery of the arrears, and hand the customer's account over to a debt collector or an attorney for collection.

3.2.27 Reconnection of Services

An agreement for the payment of an arrear amount in instalments entered into after the customer's electricity service was discontinued, will not result in the services being restored until the arrears, any interest thereon, administration fees, costs incurred in taking any relevant action, and penalties, including payment of a higher deposit, are paid in full, or the customer has paid the standard reconnection fee as determined by the municipality from time to time.

3.3 Amounts Due for Property Rates

The provisions set out in 3.2 above shall apply equally in respect of the recovery of property rates.

All property rates due by owners shall be payable by a fixed date as determined by the municipality from time to time.

Joint owners of property shall be jointly and severally liable for the payment of property rates.

Property rates shall be levied in equal monthly instalments and shall be included, where applicable, in the relevant consolidated municipal account.

The property owner shall remain liable for the payment of property rates included in such consolidated municipal accounts, notwithstanding the fact that the property is not occupied by the owner concerned and/or the municipal account is registered in the name of the person other than the owner of the property.

Ratepayers will be required to enter into an agreement with the Council for the payment of outstanding debts at the commencement of this policy.

3.4 Businesses who Tender to the Municipality

When inviting tenders for the provision of services or delivery of goods, potential contractors may submit tenders subject to the condition that the consideration and evaluation of such tenders will necessitate the tenderers obtaining from the municipality a certificate stating 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 payment of any arrears.

A municipal account shall mean any municipal service charge, property rates or other fees, fines and penalties, due in terms of an agreement or approved tariff or property rate, which is outstanding after the due date normally appearing on the consolidated account or overdue in terms of any agreement or any other due date which has passed.

The municipality shall, in terms of any contract negotiated with a successful tenderer, be allowed to deduct from the contract payments due to such contractor any monies owing to the municipality in terms of a reasonable arrangement with such debtor.

3.5 Use of Unauthorised Services

3.5.1 Unauthorised Services

No person may gain access to municipal services other than in terms of an agreement entered into with the municipality, or its authorised agent, for the rendering of such services.

The municipality, or its authorised agent, may, irrespective of any other action it may take against such person in terms of the Council's credit control and debt collection policy and by-laws, by written notice order a person who is using an unauthorised service to apply for such service in terms of the municipality's normal requirements,

and to undertake such work as may be necessary to ensure that the customer installation through which access has been gained complies with the provisions of the municipality's credit control and debt collection by-laws and any other relevant by-laws.

3.5.2 Interference with Infrastructure for the Provision of Municipal Services

No person other than the municipality, or its authorised agent, shall manage, operate or maintain infrastructure through which municipal services are provided. No person other than the municipality, or its authorised agent, shall effect a connection to infrastructure through which municipal services are provided.

3.5.3 Obstruction of Access to Infrastructure for the Provision of Municipal Services

No person shall prevent or restrict physical access to infrastructure through which municipal services are provided, and if a person contravenes this requirement, the municipality or its authorised agent, may by written notice require such person to restore such access at such person's own expense and within a specified period, or if it is of the opinion that the situation is a matter of urgency restore such access without prior notice and recover the expenses involved from such person.

3.5.4 Illegal Reconnections

If any customer unlawfully and intentionally or negligently reconnects or causes to have reconnected any services which have been limited or disconnected by the municipality or intentionally or negligently interferes or causes to have interfere with any infrastructure through which municipal services are provided, such customer's services shall immediately be disconnected.

Any person who reconnects any municipal services in the circumstances referred to in the foregoing paragraph shall be liable for the expenses associated with any consumption of such services, in addition to any other actions which may be taken against such customer.

3.5.5 Immediate Disconnection

The provision of municipal services to a customer may immediately be disconnected by the municipality if any person unlawfully and intentionally or negligently interferes with infrastructure through which the municipality, or its authorised agent, provides such municipal services, and who fails to provide information or provides false information reasonably requested by the municipality, or its authorised agent, in this regard.

PART 4 - UNCOLLECTABLE ARREARS

4.1 Write Off of Uncollectable Arrears

The effective implementation of the Council's policy on credit control and debt collection also implies a realistic review of the municipality's debtors book at the conclusion of each financial year. The Municipal Manager shall as soon as possible each year present to the Council a report indicating the amount of the arrears which it is believed is un-collectable, together with the reasons for this conclusion.

The Council will set a limit below which summons will not be issued in its By-Laws. Where the amount is not collectable and judgement has not been granted, the debt will be listed on the National Credit Bureau's database, and the debtor will remain listed for period of 3 (three) years. In the case where judgement was taken, such case will be recorded for a period of 5 (five) years.

PART 5 - REVIEW OF POLICY AND PROMULGATION OF BY-LAWS

5.1 Review of Policy

The Council shall annually, at the time of drafting its annual budget, review its credit control and debt collection policy, and include any required amendments of such policy in the documentation forming part of the annual budget process.

5.2 By-Laws

The Council shall ensure that by-laws are adopted to give effect to the credit control and debt collection policy, and that such by-laws are annually revised, as required, in line with any revisions to the policy itself.

PART 6 - ANNEXURE: LEGAL REQUIREMENTS

6.1 Paraphrase of Legal Requirements

It is essential for the protection of the municipality's interests that the provisions of particularly the Municipal Systems Act 2000 and the Property Rates Act 2004, in so far as they provide additional debt collection mechanisms for municipalities, be diligently enforced. At the same time, both the Council and the municipal administration note the obligations which the municipality has towards the community in respect of customer care and relations.

For ease of reference a paraphrase of the relevant extracts of the Municipal Systems Act, specifically Sections 95 – 103 and Section 118, is appended to this policy, as are Sections 28 and 29 of the Property Rates Act. The immediately relevant extracts from the Municipal Finance Management Act 2003 are also included in the annexure.

ANNEXURE -

PARAPHRASE OF LEGAL REQUIREMENTS

SECTION I: LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT NO. 32 OF 2000

SECTION 95: CUSTOMER CARE AND MANAGEMENT

A municipality must, in relation to the levying of rates and other taxes, and the charging of fees for municipal services, within its financial and administrative capacity, do the following:

- establish a sound customer management system which aims to create a positive and reciprocal relationship between persons liable for these payments and the municipality itself or (where applicable) a service provider;
- establish mechanisms for users of services and ratepayers to give feedback to the municipality or other service provider with regard to the quality of the services and the performance of the service provider;
- take reasonable steps to ensure that users of services are informed of the costs involved in service provision, the reasons for the payment of service fees, and the manner in which moneys raised from the service are utilised;
- where the consumption of services is measured, take reasonable steps to ensure that the consumption by individual consumers of services is measured through accurate and verifiable metering services;
- ensure that persons liable for payments receive regular and accurate accounts which indicate the basis for calculating the amounts due;
- provide accessible mechanisms for those persons to query or verify accounts and metered consumption, as well as appeal procedures which allow such persons to receive prompt redress for inaccurate accounts;
- provide accessible mechanisms for dealing with complaints from such persons, together with prompt replies and corrective action by the municipality;
- provide mechanisms to monitor the response time and efficiency in complying with the aforementioned requirements; and
- provide accessible pay points and other mechanisms for settling accounts or for making prepayments for services.

SECTION 96: DEBT COLLECTION RESPONSIBILITY OF MUNICIPALITIES

A municipality must collect all moneys that are due and payable to it, subject to the requirements of the present Act and any other applicable legislation. For this purpose, the municipality must adopt, maintain and implement a credit control and debt collection policy which is consistent with its rates and tariff policies and which complies with the provisions of the present Act.

SECTION 97: CONTENTS OF POLICY

The municipality's credit control and debt collection policy must provide for all of the following:

- credit control procedures and mechanisms;
- debt collection procedures and mechanisms;
- provision for indigent debtors in a manner consistent with its rates and tariff policies and any national policy on indigents;
- realistic targets consistent with generally recognised accounting practices and collection ratios, and the estimates of income set in the budget less an acceptable provision for bad debts;
- interest on arrears (where appropriate);
- extensions of time for payment of accounts;
- termination of services or the restriction of the provision of services when payments are in arrears;
- matters relating to unauthorised consumption of services, theft and damages; and
- any other matters that may be prescribed by regulation in terms of the present Act.

The municipality, within its discretionary powers, may differentiate in its credit control and debt collection policy between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters, and, if so, must ensure that such differentiation does not amount to unfair discrimination.

SECTION 98: BY-LAWS TO GIVE EFFECT TO POLICY

The Council of the municipality must adopt by-laws to give effect to the municipality's credit control and debt collection policy, its implementation and enforcement.

Such by-laws may differentiate between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters, and, if so, must ensure that such differentiation does not amount to unfair discrimination.

SECTION 99: SUPERVISORY AUTHORITY

A municipality's executive mayor or executive committee, as the case may be, or – if the municipality does not have an executive committee or executive mayor – the Council of the municipality itself, or a committee appointed by the Council as the supervisory authority, must do all of the following:

- oversee and monitor the implementation and enforcement of the municipality's credit control and debt collection policies and any by-laws enacted in terms of the foregoing requirements, and the performance of the Municipal Manager in implementing the policies and by-laws;
- where necessary, evaluate or review the policies and by-laws, and the implementation of such policies and by-laws, in order to improve the efficiency of its credit control and debt collection mechanisms, processes and procedures; and
- at such intervals as may be determined by the Council, report to a meeting of the Council, except when the Council itself performs the duties of the supervisory authority.

SECTION 100: IMPLEMENTING AUTHORITY

The Municipal Manager, or – where applicable – the service provider must:

- implement and enforce the municipality's credit control and debt collection policies and by-laws enacted in terms of the foregoing requirements;
- in accordance with the credit control and debt policies and any by-laws, establish effective administrative mechanisms, processes and procedures to collect moneys due and payable to the municipality; and
- at such intervals as may be determined by the Council, report the prescribed particulars to a meeting of the supervisory authority referred to previously.

SECTION 101: MUNICIPALITY'S RIGHT OF ACCESS TO PREMISES

The occupier of premises in a municipality must give an authorised representative of the municipality or of a service provider access at all reasonable times to the premises in order to read, inspect, install or repair any meter or service connection for reticulation, or to disconnect, stop or restrict the provision of any service.

SECTION 102: ACCOUNTS

Except where there is a dispute between the municipality and the person from whom the municipality has claimed any specific amount, a municipality may:

- consolidate any separate account of such person;
- credit a payment by such person against any account of that person; and
- implement any of the debt collection and credit control measures provided for in the present Act in relation to any arrears on any of the accounts of such person.

SECTION 103: AGREEMENTS WITH EMPLOYEES

A municipality may, within its discretionary powers, but with the consent of any person liable to the municipality for the payment of rates or other taxes or fees for municipal services, enter into an agreement with such person's employer to deduct from the salary or wages of such person any outstanding amounts due by such person to the municipality or such regular monthly amounts as may be agreed to.

The municipality may further, within its discretionary powers, provide special incentives for employers to enter into such agreements and for employees to consent to such agreements.

SECTION 118: RESTRAINT ON TRANSFER OF PROPERTY

The registrar of deeds or any other registration officer of immovable property may not register the transfer of any property other than on the production to such registration officer of a prescribed certificate issued by the municipality in which such property is situated, and which certificate certifies that all amounts due in connexion with such 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.

A municipality may recover, as far as is practicable, all amounts due to it for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties, in preference to any mortgage bonds registered against any property which is to be transferred.

CODE OF CONDUCT FOR MUNICIPAL STAFF MEMBERS

Paragraph 10 of this Code of Conduct stipulates that if any staff member of a municipality is in arrears to the municipality for rates and service charges for a period longer than 3 months, the municipality may deduct any outstanding amounts from such staff member's salary after this period.

CODE OF CONDUCT FOR COUNCILLORS

Section 6A of this code requires Councillors to pay all rates, tariffs, rents and other moneys due to the municipality promptly and diligently.

The Municipal Manager is further required to notify the speaker of the Council and the MEC for Local Government, in writing, whenever a Councillor has been in arrears with any of these payments for a period exceeding 30 days.

SECTION II: LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT NO. 56 OF 2003

SECTION 64: REVENUE MANAGEMENT

The Accounting Officer of the municipality is responsible for the management of the municipality's revenues, and must, for this purpose, take all reasonable steps to ensure:

- that the municipality has effective revenue collection systems consistent with Section 95 of the Municipal Systems Act 2000 and the municipality's credit control and debt collection policies;
- that revenues due to the municipality are calculated on a monthly basis;
- that accounts for municipal taxes and charges for municipal services are prepared on a monthly basis, or less often as may be prescribed where monthly accounts are uneconomical;
- that all moneys received are promptly deposited in accordance with the requirements of the present Act, into the municipality's primary and other bank accounts;
- that the municipality has and maintains a management, accounting and information system which recognises revenues when they are due, accounts for debtors, and accounts for receipts of revenues;
- that the municipality has and maintains a system of internal control in respect of debtors and revenues, as may be prescribed;

- that the municipality charges interest on arrears, accept where the Council has granted exemptions in accordance with its budget related policies and within a prescribed framework; and
- that all revenues received by the municipality, including revenues received by any collecting agent on its behalf, is reconciled at least on a weekly basis.

The Accounting Officer must immediately inform the national treasury of any payments due by an organ of state to the municipality in respect of municipal taxes or for municipal services, if such payments are regularly in arrears for periods of more than 30 days.

NOTE: SECTION 164: FORBIDDEN ACTIVITIES

Section 164(1)(c) lists as a forbidden activity the making by a municipality of loans to Councillors or officials of a municipality, directors or officials of any municipal entity, and members of the public. It has been assumed for purposes of compiling the credit control and debt collection policy that allowing any party to pay off arrears of rates and municipal service charges is not tantamount to the making of a loan in terms of Section 164.)

SECTION III: LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES ACT NO. 6 OF 2004

SECTION 28: RECOVERY OF RATES IN ARREARS FROM TENANTS AND OCCUPIERS

If the rates owed by a property owner are unpaid by due date, the municipality may recover such rates, either in whole or in part, from any tenant or occupier of the property concerned.

However, the tenant or occupier of the property must first be given written notice of the municipality's intentions, and the amount which the municipality may recover is limited to the amount of rent and other moneys due and unpaid by the tenant or occupier to the property owner concerned.

SECTION 29: RECOVERY OF RATES FROM AGENTS

If it is more convenient for the municipality to do so, it may recover the rates due on a property, either in whole or in part, from the agent of the property owner concerned.

However, the agent must first be given written notice of the municipality's intention, and the amount the municipality may recover is limited to the amount of any rent and other moneys received by the agent on behalf of such property owner, less any commission due to the agent.