

CREDIT
CONTROL
POLICY

SECTION FIN. 15

ANNEXURE A

CREDIT CONTROL POLICY

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SECTION FIN. 15

CREDIT CONTROL POLICY

[1] SCOPE OF THE POLICY

[1.1] This Policy applies to all administrations within the defined boundaries of the XYZ Local Municipality and all debtors of these administrations.

[1.2] This Policy as approved by Council, shall be enshrined in a Municipal by-law in terms of the Local Government: Municipal Systems Act No 32 of 2000 and such Policy will be binding on the public, officials and Councillors of the Local Municipality of XYZ and no interference in the process will be permitted.

[1.3] The Policy is applicable until such time as it is reviewed and any revisions to the Policy approved by Council.

All acts performed in terms of the above approved Policy, until such time as such Policy is enshrined in the Municipal By-Law, will not be invalidated due to the timing differences between approval and promulgation.

[1.4] All acts performed as mentioned in the previous paragraph will be ratified with the promulgation of the Municipal By-Law.

[2] OBJECTIVE OF THE POLICY

The objective of this Policy is to:

[2.1] Focus on all outstanding debt as raised on the debtor's account.

[2.2] Provide for a common credit control, debt collection and indigent Policy throughout the XYZ Local Municipality.

[2.3] Facilitate implementation of this Policy throughout the XYZ Local Municipality.

[2.4] Promote a culture of good payment habits amongst XYZ Local Municipality debtors and instill a sense of responsibility towards the payment of municipal accounts and reduction of municipal debt.

[2.5] Subject to the principles provided for in this Policy, the Council of XYZ Local Municipality must use innovative, cost effective, efficient and appropriate methods to collect as much of the debt in the shortest possible time without any interference in the process: and

[2.6] Effectively and efficiently deal with defaulters in accordance with the terms and conditions of this Policy.

[3] **DEFINITIONS**

- [3.1] “**arrears**” refers to any amount due to the Council and not paid by the due date.
- [3.2] “**billing**” refers to the process of charging for services provided by issuing accounts.
- [3.3] “**Town**” refers to all administrations within the area of XYZ Local Municipality.
- [3.4] “**credit control**” refers to certain basic credit worthiness checks which must be completed prior to a municipal service being provided and deposits collected.
- [3.5] “**Council**” means the Council of the Local Municipality of XYZ.
- [3.6] “**debt collection**” refers to the debt recovery process and includes sanctions (warning, disconnection, adverse credit rating, legal process and/or eviction, etc) to be applied in the event of non-payment of accounts.
- [3.7] “**disconnection**” means interrupting the supply of water or electricity to a debtor as a consequence of ignoring a notice for payment.
- [3.8] “**due date**” refers to the final date of payment as shown on the debtor's municipal account, demand or notice in terms of this Policy.
- [3.9] “**effective disconnection**” includes, inter alia, the physical removal of connections and/or equipment as a consequence of unauthorised reconnection (tampering and/or by-passing) of the disconnected service.
- [3.10] “**financial officer**” means the staff member of the Municipality responsible for the collection of moneys owed to the Municipality and and/or any other staff member to whom he/she has delegated duties and responsibilities in terms of this Policy.
- [3.11] “**financial year**” means a year ending 30 June.
- [3.12] “**holistic**” or “**consolidated**” refers to the combining of all debt in order to establish the total obligation the debtor has to the Municipality.
- [3.13] “**Indigents**” are as defined herein.
- [3.14] “**Indigent amount**” refers to the applicable value of the indigent subsidy as determined by the Council of the Municipality of XYZ from time to time.
- [3.15] “**interest on overdue accounts**” is based on a full month and part of a month shall be deemed to be a full month.
- [3.16] “**service**” means a municipal service rendered by the Municipality and includes the supply of electricity, water, sanitation and refuse removal.

[3.17] **"occupier"** means a person who occupies any premises or part thereof, without regard to the title under which he or she occupies;

[3.18] **"owner"** means -

- [a] the person in whom from time to time is vested the legal title to premises;
- [b] in a case where the person in whom the legal title to premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- [c] in any case where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises or a building or buildings thereon;
- [d] in the case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereof;
- [e] in relation to -
 - [i] a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of the common property, or
 - [ii] a section as defined in the Sectional Titles Act, 1986 (Act No. 95 of 1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;

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

[3.20] **"Letter of Demand"** means a notice sent prior the legal process commencing.

[3.21] **"Municipality"** includes the Council, a Committee of the Council, a duly authorised official of the Council and an Agent of the Council.

[3.22] **"parked arrears"** refers to those monies that were put on hold by some of the former Councils which now constitute the Municipality of XYZ.

[3.23] **"payment"** refers to any form of redemption acceptable to the Council of XYZ from time to time towards the balance on an account.

[3.24] **"person"** means any natural person, local government body or like authority, a company incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

[3.25] **"premises"** means any piece of land, the external surface boundaries of which are delineated on -

[a] a general plan or diagram registered in terms of the Land Survey Act, 1927 (Act No. 9 of 1927), or in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937); or

[b] a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986);

[c] a register held by a tribal authority;

[3.26] **"prescribed tariff or charge"** means a charge prescribed by the Municipality;

[3.27] **"public notice"** means a notice in a newspaper in at least two of the official languages in general use within the Province or area in question, and, where possible, the notice shall be published in a newspaper appearing predominantly in the language utilised in the publication of the notice;

[3.28] **"residential debtors"** are classified as those debtors who qualify for and receive free electricity and/or water.

[3.29] **"non-residential debtors"** are classified as those debtors who do not qualify for or receive free electricity and/or water.

[3.30] **"sundry debt"** refers to any debt other than for rates, housing, metered services, sewerage and refuse removal.

[3.31] **"supply"** means any metered supply of water or electricity.

[3.32] **"tampering"** means the unauthorised reconnection of a supply that has been disconnected for non-payment, the interference with the supply mains or bypassing of the metering equipment to obtain an un-metered service.

[3.33] **"total household income or household income"** refers to the total formal and informal gross income of all people living permanently or temporarily on the property on which the account is based.

[3.34] Unless the context clearly indicates a contrary intention, an expression which denotes gender shall include a reference to any other gender; the singular shall include a reference to the plural and vice versa.

[4] PRINCIPLES

This Policy supports the following principles:

- [4.1]** Human dignity must be upheld at all times.
- [4.2]** The Policy must be implemented with equity, fairness and consistency.
- [4.3]** Details related to the debt and the account of the debtor should be correct at all times.
- [4.4]** Debts and arrangements to repay debts shall be treated holistically, but different repayment periods or methods may be determined for different types of service, debtors or areas within the general rule that the repayment period should be in sympathy with the instalments that the debtor can afford.
- [4.5]** The implementation of this Policy should be based on sound business practices. This includes credit worthiness checks when application for services is made, as well as debt collection through sanctions of warnings, disconnections, evictions and other legal processes.
- [4.6]** New services will only be provided if a clearance certificate has been issued indicating that all amounts due in respect of municipal services, surcharge on fees, property rates and other municipal taxes, levies and duties at the debtor's previous address have been paid.
- [4.7]** New applications for services will be subject to prescribed credit information and outstanding amounts may be transferred to the new account. All information furnished on the application form may be verified by the Council with any or all data information institutions, credit information bureaux and/or any financial institutions as may be deemed necessary by the said Council in determining the applicant's credit worthiness.
- [4.8]** Where alternatives are available, Council may provide reduced levels of service to manage the debt growth.
- [4.9]** Debtors may be referred to third party debt collection agencies and may be placed on the National Credit Rating list.
- [4.10]** All recoverable costs incurred by Council relating to the collection process shall be recovered from the debtor.
- [4.11]** Interest charges on overdue accounts will be levied from the due date if not paid by the following due date and will be calculated for a full month irrespective of when payment is made. The interest charged will appear in the following month's account.
- [4.12]** As part of the arrangements made to repay debt, debtors may be required to co-operate with any reasonable measures that might be required to reduce their level of use of consumptive services to affordable levels.

[4.13] At all times, the most financially beneficial arrangement to Council must be entered into whilst still retaining the principles of this Policy.

[4.14] Successful credit control is dependent upon a reliable billing system and an accurate municipal data base.

[5] APPLICATION FOR MUNICIPAL SERVICES

[5.1] Applicants for municipal services shall be required to complete a prescribed application form which shall contain:

[i] a certificate by the applicant to the effect that the information contained therein is true and correct;

[ii] an acknowledgement by the applicant that, in the event of the Municipality supplying the requested service, a binding contract shall come into existence between the applicant and the Municipality subject to the terms of conditions pertaining to the supply of the requested service as may be determined by the Council from time to time.

[5.2] The applicant shall be interviewed by an official who may carry out a full credit check and endeavour to trace all municipal debt owed by the applicant. This will require the provision of, inter alia and if applicable, an Identity Document, binding lease agreement, title deed and other supporting documents as required by Council from time to time.

[5.3] Applications for services from businesses, including but not limited to trusts, companies, close corporations and partnerships must include a resolution delegating authority to the applicant to apply for the relevant service and furnishing, if applicable, the business entity's registration number or IT number, the names, addresses and all relevant contact particulars of all the business's directors, members, trustees, proprietors or partners.

[5.4] The prescribed application form forms an integral part of this Policy insofar as the contents of such application form is not in conflict with any of the provisions of this Policy.

[6] RATES

[6.1] Annual Rates (and other annual levies)

[6.1.1] Interest will be charged on all overdue accounts at an interest rate that shall be determined by the Council from time to time.

[6.1.2] If an account is not paid by the due date as displayed on the account, a notice shall be issued showing the total amount owed to Council.

[6.1.3] If an account is not settled or there is no response from the debtor to make acceptable arrangements to repay the debt, summons shall be issued and the legal process followed.

[6.1.4] In instances where the rates debt is in respect of Municipal property sold by suspensive sale agreement, the collection thereof will be undertaken in terms of the Deed of Sale or any subsequent applicable written agreement between the Council and the debtor.

[6.1.5] At any stage while the debt is outstanding, all reasonable steps shall be taken to ensure that the ultimate sanction of a sale-in-execution is avoided or taken only as a last resort. The Council, however, has total commitment to a sale-in-execution should the debtor fail to make use of the alternatives provided for by the Council from time to time.

[6.1.6] Any debtor may be granted the opportunity of converting to a monthly rates payment arrangement for the following financial year.

[6.2] Monthly Rates

[6.2.1] Interest will be charged on all overdue accounts at an interest rate that shall be determined by Council from time to time.

[6.2.2] Debtors may make application to the Council before 31 May each year to pay current and future rates monthly, the approval of which is at the sole discretion of the Financial Officer with the right to sub-delegate.

[6.2.3] The monthly amount payable for current annual rates plus interest will be calculated to allow the total balance of such amount to be paid in equal instalments by the end of that financial year.

[6.2.4] Should the debtors rates arrears equal the amount of any three monthly instalments or more, the full balance of the annual rates will become due and payable and the account status will be converted from monthly to annual.

[6.3] Rates Clearance Certificate

No rates clearance certificate will be issued by the Municipality contrary to the provisions of Section 118 of the Local Government: Municipal Systems Act, 2000.

[6.4] Determination and Collection of Rates

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

[7] SERVICES

[7.1] Service Tariffs

All tariffs and or charges payable in respect of services rendered by the Municipality must be determined by the Municipality by a resolution passed by its Council in accordance with its tariff Policy or any by-laws in respect thereof and/or in accordance with any regulations adopted by the Municipality or made applicable to the Municipality in terms of the provisions of the Water Services Act 1997 and any other national legislation.

[7.2] Fixed Charges

The tariffs referred to in paragraph [7.1] may include a fixed charge payable by every owner or debtor in respect of services provided by the Municipality whether or not such services are actually used by such owner or debtor.

[7.3] Deposits

[7.3.1] Every debtor must, on application for the provision of municipal services and before such services will be provided by the Municipality, deposit with the Municipality a sum of money herein referred to as a 'services deposit' the amount of which and in respect of what service shall be determined by the Council of the Municipality by resolution from time to time.

[7.3.2] The Council may require a debtor to whom services are provided and who was not previously required to pay a deposit, for whatever reason, to pay a deposit on request, within a specified period.

[7.3.3] The Council may from time to time review the sum of money deposited by a debtor in terms of this section and, in accordance with such review –

[a] require that an additional amount be deposited by the debtor; or

[b] refund to the debtor such amount as may be held by the Municipality in excess of the reviewed deposit.

[7.3.4] An amount deposited with the Municipality in terms of this Section shall not be regarded as being in payment or part payment of an account due for services rendered.

[7.3.5] If, upon the termination of the agreement for the provision of services, an amount remains due to the Municipality in respect of services rendered to the debtor, the Municipality may apply the deposit in payment or part payment of the outstanding amount and refund any balance to the debtor.

[7.3.6] No interest shall be payable by the Municipality on the amount of a deposit held by it in terms of this Section.

- [7.3.7] An agreement for the provision of services may contain a condition that a deposit shall be forfeited to the Municipality or its authorised agent if it has not been claimed within twelve months of the termination of the agreement.

[8] **INTEREST**

- [8.1] Except where expressly provided to the contrary in this Policy, the Municipality may levy interest on all arrears at a rate prescribed by the Council from time to time in accordance with prevailing law.
- [8.2] Interest will not be raised on "Parked Arrears". Parked arrears must, however, be included in arrangements and notwithstanding anything to the contrary contained in this Policy, parked arrears must be collected in full before transfer of the property to a new purchaser is authorised by the Municipality.

[9] **ACCOUNTS**

- [9.1] Monthly accounts will be rendered to debtors for the amount due and payable, at the address last recorded with the Municipality.
- [9.2] Failure by the Municipality to render an account does not relieve a debtor of the obligation to pay any amount due and payable.
- [9.3] An account rendered by the Municipality for services provided to a debtor shall be paid not later than the last date for payment specified in such account, which date will not be more than twenty one days after the date of the account.
- [9.4] If payment of an account is received after the date referred to in Sub-Section 9.3, a late payment charge or interest as may be prescribed by the Municipality must be paid by the debtor to the Municipality.
- [9.5] Accounts for water supply will show the following;
- [i] the consumption or estimated consumption or assumed consumption as determined for the measuring and / or consumption period;
 - [ii] the measuring or consumption period;
 - [iii] the applicable tariff;
 - [iv] the amount due in terms of the consumption;
 - [v] the amount in arrears, if any;
 - [vii] the interest payable on any arrears, if any;
 - [viii] the final date for payment;

[9.6] Accounts may be accompanied by a notice stating that –

- [i]** the debtor may conclude an agreement with the Municipality for payment of the arrear amount in instalments at the Municipality before the final date for payment, if a debtor is unable to pay the full amount due and payable;
- [ii]** if no such agreement is entered into, the Municipality may, in accordance with the Policy contained herein, limit the water services to the debtor;
- [iii]** legal action may be instituted against any debtor for the recovery of any arrear amount in terms of the Policy contained herein ;
- [iv]** the defaulting debtor's name may be listed with a credit bureau or any other equivalent body as a defaulter;
- [v]** the account may be handed over to a debt collector for collection;
- [vi]** proof of registration, as an indigent debtor, in terms of the Municipality's indigent Policy must be handed in before the final date for payment; and
- [vii]** an indigent debtor is only entitled to basic water services and that an indigent debtor will be liable for payment in respect of water services used in excess of the quantity of basic services.

[10] DISPUTES, QUERIES AND COMPLAINTS

[10.1] In this Section "Dispute" refers to the instance when a debtor questions the correctness of any account rendered by the Municipality to such debtor and the debtor lodges an appeal with the Council in accordance with this Section.

[10.2] Procedure to be followed

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

[10.2.1] By the Debtor:

[10.2.1.1] The debtor must submit the dispute in writing to the Municipal Manager of the Municipality.

[10.2.1.2] No dispute will be registered verbally whether in person or over the telephone.

[10.2.1.3] The debtor must furnish his full personal particulars including the account number, direct contact telephone number, fax, e-mail addresses and any other relevant particulars as may be required by the Municipality.

- [10.2.1.4] The full nature of the dispute must be described in the correspondence referred to above.
- [10.2.1.5] The onus will be on the debtor to ensure that he receives a written acknowledgement of receipt of the dispute from the Municipality.
- [10.2.1.6] **By the Council:**
- [10.2.1.7] On receipt of the dispute, the following actions are to be taken:
- [10.2.1.8] All Administrations must keep a register in which all disputes received will be entered.
- [10.2.1.9] The following information should be entered into the register:
- Debtor's Account Number
 - Debtor's name
 - Debtor's address
 - Full particulars of the dispute
 - Name of the official to whom the dispute is given to investigate.
 - Actions that have/were taken to resolve the dispute.
 - Signature of the controlling official.
- [10.2.1.10] The Financial Officer will keep custody of the register and conduct a daily or weekly check or follow-up on all disputes as yet unresolved.
- [10.2.1.11] A written acknowledgement of receipt of the dispute must be provided to the debtor.
- [10.2.1.12] All investigations regarding disputed amounts must be concluded by Council's Financial Officer within 14 calendar days from receipt thereof.
- [10.2.1.13] The debtor shall be advised in writing of the findings on the dispute.

[10.3] Appeal against finding

- [10.3.1] A debtor may, in writing, appeal against a finding of the Municipality.

- [10.3.1.1]** An appeal in terms of Section 10.3.1. shall be in writing and shall set out the reasons for the appeal and be lodged with the Municipal Manager within 21 days from the date the debtor is advised of the findings of the investigation.
- [10.3.1.2]** An appeal must be decided by the Council of the Municipality at its first ordinary meeting held after the appeal was lodged.
- [10.3.1.3]** The decision of the Council shall be final and the debtor must pay any amounts due and payable in terms of such decision within 14 days of him being advised of the Council's decision.
- [10.3.1.4]** The Council may, in its sole discretion, condone the late lodging of an appeal or other procedural irregularity.
- [10.3.1.5]** If the debtor is not satisfied with the outcome of the appeal, he may, under protest, pay the amount in dispute and redress his action in a court of law.

[11] ARREARS

- [11.1]** If a debtor fails to pay the amount/s due and payable on or before the final date for payment, the unpaid amount is in arrear and a final demand notice may be hand delivered or sent, per registered mail, to the most recent recorded address of the debtor, within 7 [seven] working days.
- [11.2]** Failure to deliver or send a final demand notice within 7 [seven] working days does not relieve a debtor from an obligation to pay such arrears.
- [11.3]** The final demand notice must contain the following statements –
 - [a]** the amount in arrears and any interest payable;
 - [b]** that the debtor may conclude an agreement with the Municipality for payment of the arrear amount in instalments within 14 [fourteen] days of the date of the final demand notice;
 - [c]** that, if no payment is received and no such agreement is entered into within the stated period, services to the debtor will be limited and that legal action may be instituted against such debtor for the recovery of any amounts owing in accordance with the Policy contained herein;
 - [d]** that the debtor's name may be listed with a credit bureau or any other equivalent body as a defaulter;
 - [e]** that the account may be handed over to a debt collector for collection;
 - [f]** that proof of registration, as an indigent debtor, in terms of the Municipality's Indigent Policy must be handed in before the final date of the final demand notice;

- [g] that an indigent debtor is only entitled to basic water services and that such a debtor will be liable for payment in respect of water services used in excess of the quantity of basic services.

[12] AGREEMENT FOR THE PAYMENT OF ARREARS IN INSTALMENTS

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

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

[12.3] A debtor will, in the agreement, assume liability for any administration fees, costs incurred in taking action for the recovery of arrears and any penalties, including the payment of a higher deposit.

[12.4] A debtor may be required to complete a debit order for the payment of arrears.

[12.5] No agreement for the payment of arrears plus accrued interest thereon will be longer than twenty-four months, unless the circumstances referred to in Sub-Section 12.6 and Sections 16 to 19 prevail.

[12.6] The Municipality may, on an individual basis, allow a longer period than twenty four months for the payment of arrears if special circumstances prevail that, in the opinion of the Municipality, warrants such an extension and which the debtor reasonably could not prevent or avoid. Documentary proof of any special circumstances must be furnished by the debtor on request by the Municipality.

[12.7] In concluding an agreement with a debtor, the arrangement criteria referred to in Sections 16 to 19 shall be applied and, as far as possible, be incorporated into the agreement referred to in this Section.

[12.8] The Municipality may, in exercising its discretion under Sub-Section [6] have regard to a debtor's—

[a] credit record;

[b] consumption;

[c] level of service;

[d] previous breaches of agreements for the payment of arrears in instalments; and

[e] any other relevant factors.

[12.9] If a debtor fails to comply with an agreement for the payment of arrears in instalments, the total of all outstanding amounts, including the arrears, any interest thereon, administration fees, costs incurred in taking relevant action, and penalties, including payment of a higher deposit, will immediately be due and payable, without further notice or correspondence.

[12.10] The amount due and payable by a debtor constitutes a holistic or consolidated debt, and any payment made by a debtor of an amount less than the total amount due, will be allocated in reduction of the consolidated debt in the following order –

- [a] towards payment of the current account;
- [b] towards payment of arrears;
- [c] towards payment of interest; and
- [d] towards costs incurred in taking relevant action to collect amounts due and payable.

[12.11] A debtor may, in the sole discretion of the Financial Officer, be allowed to enter into a new agreement for the payment of arrears in instalments where that debtor has failed to honour a previous agreement for the payment of arrears in instalments, entered into after the receipt of a discontinuation notice. In the event of such further agreement being permitted, then the arrangements mentioned in Section 18.2 shall be applied to such debtor on the basis on primary arrangements.

[12.12] Where a body corporate is responsible for the payment of any arrear amount to the Municipality in respect of a sectional title development, the liability of the body corporate shall be extended to the members thereof, jointly and severably and the agreement shall reflect this status accordingly.

[13] **LIMITATION AND DISCONTINUATION OF SERVICE DUE TO FAILURE TO COMPLY WITH FINAL DEMAND**

[13.1] The Municipality shall, within 7 [seven] working days after the expiry of the 14 [fourteen] day period allowed for payment in terms of the final demand:

- [a] limit the provision of services to the defaulter; and
- [b] hand deliver or send, per registered mail, to the last recorded address of the debtor, a discontinuation notice informing him that the provision of services will be disconnected within 14 (fourteen) days of the date of the discontinuation notice;

if –

- [i] no payment is received within the allowed period;

- [ii] no agreement is entered into for the payment of arrears in instalments;
- [iii] no proof of registration as indigent is handed in within the 14 (fourteen) day period allowed; or

[13.2] A discontinuation notice must contain –

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

[13.3] The Municipality may, within 10 (ten) working days after the expiry of the 14 [fourteen] day period allowed for payment in terms of the discontinuation notice, discontinue the provision of services to the defaulting debtor, if -

- [a] no payment was received within the allowed period;
- [b] no agreement was entered into for the payment of arrears in instalments;
- [c] no proof of registration as indigent was furnished within the 14 (fourteen) day period allowed; or

[14] LIMITATION AND DISCONTINUATION OF SERVICE DUE TO FAILURE TO COMPLY WITH AGREEMENT TO PAY ARREARS IN INSTALMENTS

[14.1] In the event of a debtor failing to make payment in terms of an agreement referred to in Section 12 a notice shall be served on the debtor informing him:

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

[14.2] In the event of the debtor failing to respond to the aforesaid notice within the stipulated period, the Municipality may discontinue the provision of services to the defaulting debtor without further notice.

[15] **RESTORATION OF SERVICES**

After a debtor settles arrear amounts owing to the Municipality following discontinuance of a service, the discontinued service will be restored within 7 [seven] working days to the type of service the debtor elected in terms of the agreement for the provision of services.

[16] **DISCRETION: NEGOTIABLE AMOUNTS**

[16.1] Discretion in terms of negotiable amounts as per this Policy is delegated to the Financial Officer with the right to sub- delegate.

[16.2] Officials with delegated powers may use discretion as a final tool by which decisions can be made in accordance with this Policy.

[16.3] At all times, and at all levels, discretion will only be used so as to apply the principles embodied in the Policy and to ensure that some form of payment acceptable to Council is forthcoming from negotiations with the debtor.

[17] **ARRANGEMENTS**

[17.1] **Principles for Residential Debtors**

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

[17.3] Current charges must be paid in full and cannot be negotiated.

[17.4] The debtor may be required to prove levels of income and must agree to a monthly payment towards arrears based on his ability to pay or based on his total liquidity if Council so requires.

[17.5] All negotiations with the debtor should strive to result in an agreement that is sustainable and is most beneficial to Council.

[17.6] Interest will be charged on arrears at an interest rate that shall be determined by Council from time to time.

[17.7] Interest on arrears in respect of all services and rates may, at the option of the Council, be frozen whilst the debtor adheres to the conditions of an arrangement.

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

[17.9] All arrangements should be subject to periodic review.

[17.10] All services may be disconnected and legal action will be taken against debtors as provided for in this Policy and/or such debt may be referred to third party debt collectors, for recovery.

[18] ARRANGEMENT CRITERIA FOR RESIDENTIAL DEBTORS

[18.1] All debtors who are in arrears and apply to make arrangements to reschedule their debt will, subject to Section 17, be obliged to make the following minimum payment requirements at the time of entering into such arrangement:

[18.1.1] Current account +

[18.1.2] an initial payment towards arrears with the minimum payment being equal to a monthly instalment which will liquidate the arrear amount plus accrued interest thereon within a period of 24 months.

[18.1.3] Each following month the debtor will be required to pay:

[18.1.4] Current account+

[18.1.5] an instalment as determined in 18.1.2 above.

[18.2] Should the debtor default, payments will be as follows:

[18.2.1] First Default -Current account + the monthly payment as determined in 18.1.2. above increased by 25% of that payment.

[18.2.2] Second Default -Current account + 50% the monthly payment as determined in 18.1.2.above.

[18.2.3] Final Default -Current account + Full arrears.

[18.3] In all cases, failure to respond to notices will result in normal credit control procedures and/or legal processes being followed.

[19] ARRANGEMENT CRITERIA FOR NON RESIDENTIAL DEBTORS

[19.1] Non-residential debtors may make arrangements to liquidate their arrears where it would be financially beneficial to the Council for them to do so.

[19.2] The final decision to make these arrangements will rest with the Financial Officer with the right to sub-delegate.

[19.3] If any non-residential debtor wishes to make an arrangement for a period of not longer than six months and will pay the first instalment immediately, interest on the arrangement amount may be suspended as long as the terms of the arrangement are maintained.

[20] LISTING OF DEBTOR WITH CREDIT BUREAU

[20.1] Where an account rendered to a debtor remains outstanding for more than 90 [ninety] days –

- [a]** the defaulting debtor's name may, at the option of the Municipality, be listed with a credit bureau or any other equivalent body as a defaulter, provided that the agreement for the provision of services provide therefor; and
- [b]** may be handed over to a debt collector or an attorney for collection.

[21] TERMINATION, LIMITATION AND DISCONTINUATION OF SERVICES

[21.1] A debtor may terminate an agreement for the provision of services by giving to the Municipality not less than thirty calendar days' notice in writing of the debtors intention to do so.

[21.2] The Municipality may, after having given notice, terminate an agreement for services if a debtor has vacated the premises to which such agreement relates.

[21.3] The Municipality may, subject to the conditions contained in this Policy, limit or discontinue services provided in terms of this Policy –

- [a]** on failure by the debtor to pay the prescribed tariffs or charges on the date specified and after the final demand referred to in these by-laws has been issued and there has been no response from the debtor.
- [b]** on the failure of the debtor to comply with the provisions of any agreement entered into with the Municipality in terms of this Policy.
- [c]** on failure by the debtor to comply with any other provisions of these by-laws and after due notice has been given to the debtor.
- [d]** at the written request of a debtor;
- [e]** if the agreement for the provision of services has been terminated and the Municipality has not received an application for subsequent services to the premises within a period of 90 [ninety] days of such termination;
- [f]** if the building on the premises to which services were provided has been demolished;
- [g]** if the debtor has interfered with a limited or discontinued service; or
- [h]** in an emergency.

[21.4] The Municipality will not be liable for any damages or claims that may arise from the limitation or discontinuation of services provided in terms of this Section.

[22] NOTICES AND DOCUMENTS

[22.1] A notice or document issued by the Municipality in terms of this Policy shall be deemed to be duly authorised by the Council of the Municipality.

[22.2] Without derogating from the provisions of Section 115 of the Local Government: Municipal Systems Act, 2000, if a notice or document is to be served on an owner, debtor or any other person in terms of this Policy, such service shall be effected by -

- [a]** delivering it to him or her personally or to his or her duly authorised agent;
- [b]** delivering it at his or her residence, village or place of business or employment to a person not less than sixteen years of age and apparently residing or employed there;
- [c]** if he or she has nominated an address for legal purposes, delivering it to such an address;
- [d]** if he or she has not nominated an address for legal purposes, delivering it to the address given by him or her in his or her application for the provision of water services, for the reception of an account for the provision of water services;
- [e]** sending it by pre-paid registered or certified post addressed to his or her last known address;
- [f]** in the case of a legal person, by delivering it at the registered office or business premises of such legal person; or
- [g]** if service cannot be effected in terms of sub-sections [a] to [f], by affixing it to a principal door of entry to the premises concerned.

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

[23] UNAUTHORISED RECONNECTION OF WATER/ELECTRICITY SUPPLY (TAMPERING)

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

[23.2] The full amount of arrears plus any unauthorised consumption, and any applicable reconnection tariffs, will be payable prior to reconnection. Should exceptional circumstances exist, adequate payment arrangements may be permitted at the sole discretion of the Financial Officer with the right to sub-delegate.

[24] **ENERGY DISPENSERS**

The installation of energy dispensers, with the written permission of the owner, should be encouraged but those debtors whose electricity supply has been disconnected three times for non-payment will be compelled to install an energy dispenser before the supply is reconnected. All energy dispensers are installed at the owner or tenant's expense.

[25] **ENERGY DISPENSERS USED TO RECOVER ARREARS (PIGGYBACKING)**

A minimum of 20% to a maximum of 50% of the value of units purchased for electricity shall be allocated in the first instance to electricity arrears and thereafter to any other arrears. This action will be by prior arrangement with the debtor and shall remain unchanged unless by default.

[26] **RIGHT OF ACCESS**

[26.1] An authorised representative of the Municipality must, at all reasonable hours, be given unrestricted access to the debtor's premises in order to read, inspect, install or repair any meter, service or service connection for reticulation, or to disconnect, reconnect, stop or restrict the provision of any service.

[26.2] Any person who contravenes Section 26.1 above will be deemed to have contravened the provisions of Section 101 of the Local Government: Municipal Systems Act, 2000, as amended and will be charged with the commission of an offence which, if proven, may attract the penalties referred to in Section 119 of the Act.

[26.3] Failure to comply with Clause 26.1 could result, inter alia, in any of the debtor's services being disconnected or terminated.

[27] **OTHER DEBT AND GENERAL**

[27.1] **Sundries**

[27.2] Interest will be charged on all overdue accounts at an interest rate that shall be determined by the Council from time to time.

[27.3] In the recovery of sundry debt, Council reserves the right to utilise any legal action at its disposal as well as make use of any third party debt collector.

[27.4] Disconnection and/or termination of services may be utilised to obtain overdue payment.

[28] EMPLOYER DEDUCTIONS.

[28.1] The Council may, subject to an employee's consent, enter into an agreement with the employer of such employee to deduct an agreed amount from that employee's weekly or monthly wages or salary in payment towards current service and arrear service charges owing to the Municipality.

[28.2] In return for this "collection service", employers' who have municipal accounts will have their accounts credited with the equivalent commission, the extent of which will be determined by Council from time to time.

[28.3] Employers who do not have municipal accounts will be paid their commission in a manner determined by the Council.

[29] FULL AND FINAL SETTLEMENT PAYMENTS

[29.1] Any part payment of an account in full and final settlement can only be tendered to the Financial Officer or his delegated authority.

[29.2] Should such a payment not be tendered in accordance with Paragraph 29.1 above and :

[29.2.1] such payment being cash or postal orders, on discovery thereof, will be returned to the payer; or

[29.2.2] such payment be in the form of a cheque, the cheque will be returned to the drawer; or

[29.2.3] such payment be in the form of a cheque, credit card or electronic payment and deposited, the amount of such payment will be returned to the drawer thereof.

[29.2.4] Furthermore, should such a payment not be tendered in accordance with Paragraph [29.1] above, the account will be adjusted accordingly, where applicable, and debt management actions in terms of this Policy will commence or continue as if no payment had been tendered.

[30] DISHONOURED PAYMENTS

[30.1] Rates and General Services

If the drawer of the cheque, or the debtor who received value from the depositing of the cheque, is an existing debtor of Council, the reversal and penalty fee may be debited to an account of the drawer or beneficiary and a letter of notification must be sent to the debtor. Such fee shall be deemed to be a tariff charge and shall be recovered from the debtor. Council reserves the right to refuse to accept further cheques from the drawer or beneficiary, to place the matter on the National Adverse Credit Listing and also institute legal action which may include criminal charges against the offender.

[30.2] Miscellaneous Services

[30.2.1] If the drawer of the cheque is not an existing debtor of Council, then a sundry debtor account is opened and the debit and penalty is raised. Once the account is submitted and the debtor fails to honour the cheque and pay the penalty within 14 days of receipt, a final demand is generated and submitted. If there is still no response, then the matter shall be handed over for placement on the National Adverse Credit listing and/or legal action that may include criminal charges being instituted against the offender.

[30.2.2] If the drawer of the cheque, or the debtor who received value from the depositing of the cheque is an existing debtor of Council, the reversal and penalty fee may be debited to an account of the drawer or beneficiary and a letter of notification must be sent to the debtor. Such fee shall be deemed to be a tariff charge and shall be recovered from the debtor. Council reserves the right to refuse to accept further cheques from the drawer or beneficiary and also institute legal action which may include criminal charges against the offender.

[30.2.3] Motor Vehicle Licensing and Payment of Fines

Unpaid cheques shall be dealt with in accordance with paragraph 30.2 or be forwarded to the relevant authority for further action.

[31] PROPERTY MANAGEMENT LEASES

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

[32] HOUSING

[32.1] General Principles

[32.1.1] Interest may be charged on all overdue accounts at an interest rate that shall be determined by Council from time to time.

[32.1.2] Interest charges on arrears may be frozen subject to a rescheduled debt arrangement being consistently honoured.

[32.1.3] A debt rescheduling arrangement requires the payment of the current account plus an acceptable amount towards the arrears each month.

[32.1.4] The first payment of the debt should be made at the time the debt rescheduling arrangement is entered into.

- [32.1.5] If an arrangement is not honoured, the debt collection process/legal action will resume from where it was suspended and not restart at the beginning of the administrative process.
- [32.1.6] The Ward and Proportional Representative (PR) Councillors will be informed of defaulting debtors following the issuing of a Letter of Demand to and Judgement Order against the occupant.
- [32.1.7] Home visits will be undertaken by officials or representatives on behalf of Council following the issue of the Letter of Demand to the debtor and again, once a Judgement Order has been granted. The visiting official or representative will make every effort to encourage the defaulting debtor to pay his current account and enter into an arrangement for the payment of arrears.
- [32.1.8] The debtor is responsible for all legal costs and will have to pay such costs before any legal action may be stopped. An acceptable debt rescheduling agreement must also be entered into before any legal action may be stopped.
- [32.1.9] The following minimum payments are required from the debtor prior to cessation of the legal process:
- | | |
|------------------------------------|-----------------------------------|
| Following issue of Summons | 3 X total monthly housing charge |
| Following issue of Judgement Order | 6 X total monthly housing charge |
| On day of eviction | 12 X total monthly housing charge |
- In each case, the payment required will be limited to the lesser of the outstanding balance or the amount calculated above.
- [32.1.10] If the debtor defaults on an arrangement made on the day of eviction, a re-issued Warrant of Ejectment will be obtained and the subsequent eviction process may only be stopped if all outstanding arrears, plus any legal costs, are paid.
- [32.1.11] Once an eviction has been carried out by the Sheriff of the Court, no re-instatement of the evicted debtor will be considered.

[32.2] The Housing Collection Process

[32.2.1] Rental Schemes

- [32.2.1.1] Rental is payable in advance by the due date.

- [32.2.1.2] If payment is not received by the due date on the account, a First Contact Letter requesting payment and offering the debtor an opportunity to make an arrangement within 14 days, must be sent to the defaulting debtor.
- [32.2.1.3] If no response to the First Contact Letter is received, a Letter of Demand must be issued allowing the defaulter 7 days as a final opportunity to make an arrangement.
- [32.2.1.4] If the debtor fails to respond to the aforesaid Letter of Demand, the legal collection process will commence and the debtor will be liable for all legal costs.
- [32.2.1.5] The legal collection process will commence with the issue of a letter demanding payment within a stipulated period of 10 days.
- [32.2.1.6] If the debtor fails to respond within the allowed time, summons will be issued, which in turn will be followed by default judgement and ultimately, the sanction of eviction will follow.

[32.3] Home-ownership Schemes

- [32.3.1] Loan Instalments and other housing charges are payable by the due date.
- [32.3.2] If payment is not received by the due date, a First Contact Letter must be served on the debtor requesting payment and offering the debtor an opportunity to make an arrangement for payment within 14 days from the date of such letter.
- [32.3.3] If there is no response to the First Contact Letter, a Letter of Demand must be issued, allowing the defaulter 7 days as a final opportunity to make an arrangement for payment.
- [32.3.4] If the debtor fails to respond to this notice, the legal collection process will commence and the debtor will be responsible for all legal costs incurred by the Council.
- [32.3.5] If the amount due on the day of eviction is not paid, repossession of the property will take place and arrangements must be made for resale of the property.

[33] IRRECOVERABLE DEBT

[33.1] Debt will be regarded as irrecoverable if:

- [33.1.1] All reasonable notifications and cost effective measures to recover a specific outstanding amount have been exhausted; or

- [33.1.2] If the amount to be recovered is too small to warrant further endeavours to collect it; or
- [33.1.3] The cost to recover the debt does not warrant further action, i.e. to summons in another country; or
- [33.1.4] The amount outstanding is the residue after payment of a dividend in the rand from an insolvent estate; or
- [33.1.5] A deceased estate has no liquid assets to cover the outstanding amount; or
- [33.1.6] It has been proven that the debt has prescribed; or
- [33.1.7] The debtor is untraceable or cannot be identified so as to proceed with further action; or
- [33.1.8] It is impossible to prove the debt outstanding; or
- [33.1.9] The outstanding amount is due to an administrative error by Council.

[33.2] Authorisation

- [33.2.1] As rates are deemed to be recoverable in all instances, all requests to write-off debt in respect of rates must be presented as individual items to the Financial Officer.
- [33.2.2] In respect of other debt, schedules indicating the debtor account number, the debtor's name, the physical address in respect of which the debt was raised, address erf number, if applicable, amount per account category as well as the steps taken to recover a debt and a reason to write off the amount, must be compiled and submitted to the Council for consideration with a view to writing off such debt as irrecoverable.
- [33.2.3] Notwithstanding the above, Council or its authorised officials will be under no obligation to write off any particular debt and will always have the sole discretion to do so.

[34] OFFENCES AND PENALTIES

- [34.1] The Council acknowledges that, in terms of Section 119 of the Local Government: Municipal Systems Act 2000 it is an offence for:
 - [a] A Councillor to attempt to influence the Municipal Manager or any staff member of the Municipality not to enforce an obligation in terms of this Policy;