

MORETELE LOCAL MUNICIPALITY



CREDIT CONTROL AND DEBT COLLECTION POLICY

Policy Adoption Date : 31 May 2022
Policy Number : BTO-10-2022
Resolution Number : 1200101-05-2022
Expected review Date : 31 May 2023
Version control number : BTO-10-06-2022


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1. PRE-AMBLE

The Municipal Finance Management Act (MFMA), Act 56 of 2003, aims to modernise budget and financial management practices in municipalities in order to maximise the capacity of a municipality to deliver services to all residents, customers and users. It also gives effect to the principle of transparency as required by sections 215 and 216 of the Constitution. The Council of the municipality, in adopting this policy on credit control and debt Collection, recognizes its constitutional obligations as set out in Chapter 7 of the Constitution and Chapter 9 of the Municipal Systems Act, Act No. 32 of 2000, to Develop the local economy and to provide acceptable services to its residents. It Simultaneously acknowledges that it cannot fulfill 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 indigence relief measures for those who have registered as indigents in terms of the Council's approved indigence management policy

- This is a mandatory policy in terms of Section 96 of the Municipal Systems Act and it is also a budget-related policy in terms of the definition of such policies in Section 1 of the MFMA. This policy must therefore be reviewed, and revised if necessary, as part of each annual budget process.
- The accounting officer (municipal manager) is charged with the responsibility for managing the revenues of the municipality (Section 64 of the MFMA), and the municipal manager is therefore responsible for the implementation and administration of this policy. Section 100 of the Municipal Systems Act in fact specifically assigns the legal responsibility for implementing this policy to the municipal manager (see Part 17 of the policy).
- In terms of Section 98 of the Municipal Systems Act the council must adopt by-laws to give effect to this policy.

2. DEFINITIONS

"Account" means written notification in the form of a statement of account in respect of municipal services, rates, sundry charges and other charges, addressed to a person liable for payment thereof;

"Acknowledgement of debt" means an admission of liability and written undertaking by a debtor to repay an amount owing to the Municipality, and includes a consent to judgement and for the purposes of this policy it also means a Credit Authority;

"Agent" means a person authorised by the Customer to act on his or her behalf;

"Arrears" means any amount which is due, owing and payable and which remains unpaid by due date;

"Authorised Official" means the Head: Revenue or his delegate in terms of the Municipality's System of Delegations;

"Availability Fee" means the tariff referred to under Tariff Type in the eThekweni Municipality's Tariff Policy;

"Bulk Customer" means a Customer who consumes large amounts of electricity for commercial or industrial purposes;

"By-law" means eThekweni Municipality: Credit Control and Debt Collection By-Law, as amended;

"Category of Owners" means any department of state or administration in the national, provincial or local sphere of government which has a good credit history with the Municipality.

"CFO" means a person employed by the Municipality in terms of section 57 of the Systems Act as the Chief Financial Officer of the Municipality, and includes any person to whom the Chief Financial Officer has delegated or sub-delegated a power, function or duty in accordance with the system of delegation developed by the Municipal Manager in terms of section 79 of the Municipal Finance Management Act and section 59 of the Systems Act;

"Collection Charges" means the charges which the Municipality is entitled to recover in terms of section 75A(1) of the Systems Act, and includes the administrative cost–

(a) of reminding any ratepayer or Customer of arrears;

(b) for the termination, restriction or reinstatement of any Municipal service to a defaulting ratepayer or Customer;

(c) of any notice rendered, sent, delivered or published to a ratepayer or Customer in terms of the By-law or any other law;

(d) of any merchant fee; and

(e) in respect of any other charge which the Municipality is by law entitled to recover;

"Company" shall bear the same meaning as "Company" in the Companies Act, 2008 (Act 71 of 2008);

“Consolidated account” means a monthly account reflecting municipal service fees, charges, surcharges on fees, property rates, sundry charges and other municipal taxes, levies and duties and all consolidations in terms of section 102 of the Systems Act;

“Credit Authority” means any arrangement made by agreement between the Municipality and a Customer for the payment of any arrears in instalments. Such arrangement may take the form of an agreement or an acknowledgment of debt;

“Customer” means any person or their agent with whom the Municipality or an Authorised Official has entered into an agreement for the provision of any Municipal service to the premises;

“Defaulter” means a Customer whose account is in arrears;

“Deposit” means a monetary amount raised by the Municipality in relation to the consumption of a Municipal service and mitigation of credit risk to the Municipality, irrespective of the existence of an agreement;

“Disconnection” means a termination or restriction of a Municipal service supplied to a meter;

“Due date” means the date on which a Customer’s account becomes payable, which in the case of monthly accounts is twenty-one days from the date of the account, and in the case of annual accounts is the 31 October each year;

“Effective Date” means the date on which this Policy comes into effect which shall be 1 July 2017;

“Fee” means a prescribed amount charged by the Municipality to a Customer for the provision of any Municipal service;

“Financial Guarantee” means an irrevocable written undertaking issued by a registered South African Bank in favour of the Municipality, to honour all obligations (present or future) owed by a person to the Municipality, should that person be in breach of any or such obligation;

“Fines” means any lawfully determined pecuniary penalty which is payable by a person to the Municipality in terms of applicable legislation, arising from the commission of an act or an omission that is punishable by law;

“Flow limiter” means an electronic device installed in the water connection which allows for a normal flow rate but restricts the daily volume of water to a present amount of 300 litres per day;

“Flow restrictor” means a washer which is installed in the water connection which allows a daily consumption of approximately 360 litres of water in a six hour period but at an extremely low flow rate;

“Housing Substitution Policy” means a policy where the children of a social housing tenant who is deceased, are substituted as tenants;

“Illegal connection” means any connection or reconnection to a system through which Municipal services are provided, which is not authorised or approved by the Municipality or an Authorised Official;

“Juristic person” includes a partnership, a proprietor, association or other body of persons, corporate or unincorporated and includes a trust and organ of state;

“Leak period” means the metering period immediately prior to the date of repair of the leak and the metering period during which the leak is repaired. Each of these two periods will not exceed 65 days;

“Meter” means any device which measures any demand or quantity of either electricity energy or water passing through such meter;

“Metering period” means the time interval between two successive billed meter readings but shall exclude previous leak periods;

“MPRA” means the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004), as amended;

“Multi-property owner” means an owner of 50 or more registered properties in the Municipality’s area of jurisdiction;

“Municipal charges” means municipal service fees, surcharge on fees, penalties, interest, property rates, and other municipal taxes, levies and duties, as well as any other charges in terms of Legislation, Policy or an agreement including Sundry Charges and Collection charges;

“Municipal service” means a service provided by the Municipality in terms of its powers and functions to or for the benefit of the local community, irrespective of whether or not –

(a) such service is provided by the Municipality itself or by engaging an external mechanism contemplated in section 76 of the Systems Act; or

(b) any fees, charges or tariffs are levied in respect thereof;

“Net salary” means the gross salary minus pension and statutory deductions;

“Owner” means: (a) In relation to a property referred to in paragraph

(a) of the definition of “property” in the MPRA, a person in whose name ownership of the property is registered;

(b) The administrator of the body corporate of a sectional title scheme where the common property of a sectional title scheme is at issue and there are no elected trustees of the body corporate;

(c) The administrator, where the owner of a property is a mental health care user as defined in section 1 of the Mental Health Act, 2002 (Act No. 17 of 2002);

(d) The business rescue practitioner, where the owner of a property has been placed under business rescue;

(e) The managing agent, where the owner of a property is absent from the Republic of South Africa or where the Municipality has, after reasonable attempts, not been able to determine his or her whereabouts;

(f) Every person who is entitled to occupy or use a building, or who does occupy or use a building, where – (i) The owner of the property is absent from the Republic of South Africa;

(ii) The Municipality has, after reasonable attempts, not been able to determine the whereabouts of the owner of the building; and

- (iii) There is no managing agent;
- (g) Trustees and beneficiaries jointly, in the case of property in a trust;
- (h) An executor or administrator, in the case of property in a deceased estate;
- (i) A trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- (j) A judicial manager, in the case of a property in the estate of a person under judicial management;
- (k) A curator, in the case of property in the estate of a person under curatorship;
- (l) A person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude, as joint owner together with the registered owner;
- (m) A lessee, in the case of a property that is registered in the name of the Municipality and is leased by it;
- (n) A buyer or a developer, in the case of a property that was sold by the Municipality and of which possession was given pending registration of ownership in the name of the buyer, beneficiary, or a developer;
- (o) A fideicommissary as joint owner together with the fiduciary; Credit Control and Debt Collection Policy 2017-2018
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- (p) Ingonyama Trust in respect of the land vested in the (p) Ingonyama Trust in respect of the land vested in the Ingonyama Trust by virtue of the Ingonyama Trust Act of 1994, as amended, or any other law;
- (q) The National Government of the Republic of South Africa, in the case of a property that is registered in the name of a deregistered company or close corporation and where ownership thereof has accrued to the state by operation of law (bona vacantia);
- (r) An owner of a property in the name of any other juristic person not mentioned in this definition of an owner; and
- (s) A child or children in charge of a property in the case of a child headed household as contemplated in this Policy and the Rates Policy of the Municipality; "Person" means a natural person or Juristic Person;
- "Property" means– (a) immovable property registered in the name of a person, including, in the case of sectional title scheme, a sectional title unit registered in the name of a person;
- (b) a right registered against immovable property in the name of a person;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation, excluding a permission to occupy; or
- (d) a public service infrastructure;
- "Prescribed" means a determination set or laid down by law, or by the Municipal Council or the CFO from time to time;
- "Prescribed Form" means any document that may be prescribed by law or approved by Municipal Council or required by the CFO from time to time;

“Rates” means a municipal rate on property envisaged in terms of section 229(1) (a) of the Constitution and levied by the Municipality in terms of the MPRA, expressed as cents in the rand;

“Rates Regulations” means the Municipal Property Rates Regulations, 2006 as amended;

“Residential property” means a dwelling, in any building, premises, structure, or any other place, or any part thereof, used predominantly as a place of residence or abode of any natural person excluding a dwelling where the dominant use is for any purpose other than residential, or where it is used in the supply of commercial accommodation;

“Revenue Clearance Certificate” means a certificate of the kind referred to in Section 118(1) of the Systems Act;

“Services Account” means an account which relates to water and or electricity consumption and related charges;

“Service Agreement” means an agreement entered into between the Customer and the Municipality for the provision of a Municipal service which includes but is not necessarily limited to water and electricity;

“Social Worker” means a person employed by the Municipality who is registered as a social worker under the Social Service Professions Act, 1978 (Act No 110 of 1978);

“Sundry charge” means an amount charged to a Person which is not directly linked to a property and includes but is not limited to–

- (a) charges arising from damage to municipal property and equipment;
- (b) monies owed for Municipal services other than rates, water, electricity and sanitation;
- (c) monies awarded to the Municipality through court orders and judgments;
- (d) fines; and
- (e) monies owed to the Municipality by the Municipality staff (staff debts);

“Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as amended;

“Tenderer” means a contractor, service provider or supplier who has submitted a tender for the provision of services or the delivery of goods to the Municipality;

“Water services” means the supply of potable water and, where a municipal sewerage reticulation system exists, the disposal of sewage;

3. OBJECTIVE: CONSTITUTIONAL OBLIGATIONS

The council of the municipality, 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. This is required in terms of MFMA section 64 (2)(a) and MSA 75A(b). 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 indigence relief measures for those who have registered as indigents in terms of the council's approved indigent management policy.

4. EXPECTED FUTURE PAYMENT LEVELS

- To promulgate credit control and debt collection by-laws which deal stringently with defaulters, but at the same time – through the formal political structures of the municipality, and in the administration's general dealings with the public
- to make the community aware of its legal obligations towards the municipality
- To emphasize the negative consequences for all of non-payment. The municipality's ward committees are particularly charged with this responsibility.

5. NOTICE OF DEFAULT AND INTENDED TERMINATION OR RESTRICTION OF SERVICES

Within 7 (seven) calendar days after each monthly due date for payment of municipal accounts for property rates and/or service charges, the municipal manager shall dispatch to every defaulting accountholder, that is, every accountholder who as at the date of the notice has not paid the monthly account in full or has not made an acceptable arrangement with the municipal manager for partial or late payment, a notice stating that unless full payment is received or an acceptable arrangement made with the municipal manager for partial or late payment, the municipal water supply to the property to which the account in arrears relates shall be terminated or restricted 14 (fourteen) calendar days after the date of the notice concerned.

If no water is provided by the municipality or its agent to the accountholder concerned, the municipal manager shall, after the expiry of twenty eight (28) calendar days after the date of the notice concerned, and provided the arrear

account has not been settled or satisfactory arrangements made in terms of part 9 below, immediately proceed with the actions contemplated in part 8 below.

6. RECONNECTIONS OR RE-INSTatement OF RESTRICTED SERVICES

Services to defaulting accountholders terminated or restricted in terms of part 3 above shall be reconnected or reinstated by the municipal manager only when all the following conditions have been met:

- the arrear account has been paid in full, including the interest raised on such account; or an acceptable arrangement has been made with the municipal manager for the payment of the arrear account, including the interest raised on such account;
- a service contract has been entered into with the municipality, as contemplated in part 10 below

7. PERIODS FOR RECONNECTIONS OR REINSTATEMENTS

The municipal manager shall reconnect or reinstate terminated or restricted services within 24 hours after the date on which the conditions set out in part 4 have been met, unless the municipal manager is unable to do so because of circumstances beyond the control of the municipality. In the latter event the municipal manager shall promptly inform the mayor and the client of such circumstances and of any actions required to overcome the circumstances concerned.

8. ILLEGAL RECONNECTIONS

The municipal manager shall, as soon as it comes to the notice of the municipal manager that any terminated or restricted service has been irregularly reconnected or reinstated, report such action to the South African Police Service, disconnect or restrict such service(s), and not reconnect or reinstate such service(s) until the arrear account, including the interest raised on such account, the charges for the notice sent in terms of part 3 and the charges for both the original and subsequent reconnection or reinstatement of the service(s) together with such penalty as may be determined by the council from time to time. In addition, all metered consumption since the date of the illegal

reconnection, or the estimated consumption if a reliable meter reading is not possible, shall also be paid in full before any reconnection or reinstatement is considered.

9. RESTRICTIONS OF SERVICES

If the municipal manager is of the opinion that the termination of services, in the case of a particular property in respect of which the account is in arrear, is not in the best interests of the community – specifically because of the potential endangerment of the life of any person, whether resident in or outside the property concerned – the municipal manager may appropriately restrict rather than terminate the services in question.

10. SERVICES NOT RECONNECTED OR RE-INSTATED AFTER TWO WEEKS

If services have been terminated or restricted in the case of a property in respect of which the account is in arrear, and the accountholder has not paid such arrears, including the interest raised on such account, or made an acceptable arrangement with the municipal manager for the payment of the arrear account, including the interest raised on such account, within a period of twenty eight (28) calendar days after the date of termination or restriction of the service(s) concerned, the municipal manager shall forthwith hand such account over for collection and such further action as is deemed necessary to the municipality's attorneys or any debt collecting agency appointed by the council.

11. ARRANGEMENTS FOR PAYMENT OF ARREAR ACCOUNTS

11.1 ARRANGEMENTS FOR PAYMENT OF NORMAL CONSUMER ACCOUNTS

Allowing defaulting accountholders to make arrangements for the payment of arrear accounts shall be at the discretion of the municipal manager or delegated municipal official.

Each defaulting accountholder shall be allowed to make a payment to pay an arrear account, together with the interest raised on such account, and it shall be a condition for the conclusion of any arrangement that the accountholder is bound to pay every month.

If an accountholder breaches any material term of an arrangement, the balance of the arrear account, if the accountholder defaults on such payment, the municipal manager shall terminate or restrict water services to the property in question (if such services are provided by the municipality or its agent) and shall forthwith hand such account over for collection as envisaged in part 8.

An accountholder who has breached an arrangement as set out above shall not be allowed to make any further arrangements for the payment of arrear accounts, but shall be proceeded against, after the dispatch of the initial notice of default as envisaged in part 3 and failure by the accountholder to pay the arrear account, together with interest raised on such arrears as required in terms of such notice, as though such accountholder had breached a material term of an arrangement.

11.2 ARRANGEMENT WITH MUNICIPALITY OFFICIALS FOR THE PAYMENT OF THEIR ACCOUNTS

All accounts for the municipality officials and employees may not be in arrears for longer than 3 months (Municipal Systems Act Schedule 2(10) and Schedule 1(12A)). Where a municipality staff member is in arrears for a period longer than three months, an arrangement will be made to deduct the outstanding amount from the salary of the staff member in total or in regular monthly amounts that may be agreed on. Special incentives to encourage the municipality staff to enter into such arrangements for payment of outstanding amounts will be offered on discretion of the CFO.

All councillors or ward committees shall not leave their accounts to be in arrears for longer than 3 (three) months. Arrangement should be made with the municipality to pay accounts that are in arrears.

12. SERVICE CONTRACT

A service contract shall henceforth be entered into with the municipality for each property to which the municipality is expected to provide all or any of the following services:

- water
- refuse collection
- sewerage.

Such contract shall set out the conditions on which services are provided and shall require the signatory to note the contents of the municipality's credit control and debt collection policy, a copy of which shall be provided to such signatory, as well as the provision of the Municipal Systems Act in regard to the municipality's right of access to property.

Where the signatory is not the owner of the property to which the services are to be provided on request, a properly executed letter from such owner indicating that the signatory is the lawful occupant of the property shall be attached to the service contract.

Current consumers and users of the municipality's services who have not entered into a service contract as envisaged above, must do so within 2 years from the date on which the by-laws to implement the present policy are published, and failure to do so shall be considered as a default equivalent to non-payment in terms of part 3 above.

PART 11 PAYMENTS OF DEPOSITS Council shall not charge a service connection deposit under the tribal land households. Council will review the determination of connections deposit annually.

13. ALLOCATIONS OF PART-PAYMENTS

If an accountholder pays only part of any municipal account due, the municipal manager shall allocate such payment with the following steps:

- firstly, to any unpaid charges levied by the municipality in respect of unacceptable cheques, notices, legal expenses and reconnections or reinstatements of services in respect of the account or property concerned;
- secondly, to any unpaid interest raised on the account;
- thirdly, to any unpaid sewerage charges;
- fourthly, to any unpaid refuse collection charges;
- fifthly, to any unpaid property rates; and
- sixthly, to any unpaid water charges.

This sequence of allocation shall be followed notwithstanding any instructions to the contrary given by the accountholder.

14. QUERIES BY ACCOUNTHOLDERS

In the event of an accountholder reasonably querying any item or items on the monthly municipal account, no action shall be taken against the accountholder as contemplated in part 3 provided the accountholder has paid by due date an amount equal to the monthly average monetary value of the three most recent unqueried accounts in respect of the service under query, as well as all unqueried balances on such account, and provided further such query is made in writing by the accountholder or is recorded in writing by the municipal manager on behalf of the accountholder on or before the due date for the payment of the relevant account. Any query raised by an accountholder in the

circumstances contemplated in part 14 below shall not constitute a reasonable query for the purposes of the present paragraph.

15. INABILITY TO READ METERS

If the municipality is unable to read any meter on any property because the meter has been rendered inaccessible the municipal manager shall estimate the consumption of the service concerned by:

- The Season Control Method will be used to establish the months that are to be used in determining the differences between winter and summer averages.
 - If the month in which the levy is going to be raised = August and the consumption is normally in July, then August must be marked as a “winter” month. (= 2)
- It will use the last 12 (billed) normal readings, apply the season control and then add the consumptions together divided by the number of billing months involved.

Example:

In this scenario there are 12 consecutive billings

Yellow = Summer-month billing

Green = Winter-month billing

Thus:

For summer: = 14+17+15+6+15+15+19+16+16

$$= 133 / 9$$

$$= 14.7$$

$$= 15$$

For Winter: = 18+27+18

$$= 63 / 3$$

= 21

Metr.Book: **KLDORP** Route: **1000055000** Inst-No: **55** Inst-Type: **MW08**

<u>Taken on</u>	<u>Type</u>	<u>Reading</u>	<u>Factor</u>	<u>Consumption</u>	<u>RC</u>	<u>Rmk</u>	<u>Process-On</u>	<u>Reader</u>
2010/05/20	3	3324.000	1.00000	18.000	C	0	2010/08/26	May
2010/04/23	3	3306.000	1.00000	14.000	C	0	2010/05/21	
2010/03/23	3	3292.000	1.00000	17.000	C	0	2010/04/24	
2010/02/19	3	3275.000	1.00000	15.000	C	0	2010/03/21	
2010/01/22	3	3260.000	1.00000	6.000	C	0	2010/02/25	
2009/12/18	3	3254.000	1.00000	15.000	C	0	2010/01/29	
2009/11/18	3	3239.000	1.00000	15.000	C	0	2009/12/29	
2009/10/19	3	3224.000	1.00000	19.000	C	0	2009/11/26	
2009/09/18	3	3205.000	1.00000	16.000	C	0	2009/10/23	
2009/08/21	3	3189.000	1.00000	16.000	C	0	2009/09/26	
2009/07/20	3	3173.000	1.00000	27.000	C	0	2009/08/25	Aug
2009/06/22	3	3146.000	1.00000	18.000	C	0	2009/08/04	July

- In the absence of 12 meter readings the estimates will continue reading the type 3 records until it reaches a type 0 (initial reading) and apply the same rules as above.

Another Method for applying the estimates:

The 1st scenario:

This scenario depicts a meter where all the readings have been received each month. The 1st row is the month working back from now into history, the 2nd row are the meter readings each month and the 3rd row is the consumption from one month to the next.

Month	201 0/05	201 0/04	201 0/03	201 0/02	201 0/01	200 9/12	200 9/11	200 9/10	200 9/09	200 9/08	200 9/07	200 9/06	200 9/05	200 9/04
Reading	272 21	261 97	252 26	241 86	232 28	222 81	211 75	201 51	191 83	179 91	130 78	118 86	104 38	867 3
Cons	102 4	971	104 0	958	947	110 6	102 4	968	119 2	491 3	119 2	144 8	176 5	867 3
Read Type	3	3	3	3	3	3	3	3	3	3	3	3	3	3

For the calculation of an interim, the 12 months actual consumptions will be used, split into seasons and the average calculated.

- The 2nd scenario is based on the absence of a reading:

Month	201 0/05 (S)	201 0/04 (S)	201 0/03 (S)	201 0/02 (S)	201 0/01 (S)	200 9/12 (S)	2009/1 1 (S)	200 9/10 (S)	200 9/09 (S)	200 9/08 (W)	200 9/07 (W)	2009/0 6 (W)	200 9/05 (W)	200 9/04 (S)
Reading	272 21	261 97	252 26	241 86	232 28	222 81	No Reading	201 51	191 83	179 91	130 78	No Reading	104 38	867 3

Consumptions	1024	971	1040	958	947	2130	=(22281-20151)/2	968	1192	4913	2640	=(13078-10438)/2	1765	8673
Average						1065	1065				1320	1320		
Reading Type	3	3	3	3	3	3		3	3	3	3		3	3

For this scenario when one of the months have been skipped for a reading, then the latest reading (type 3) will be used, and the previous actual reading will be deducted to determine the consumption for the X amount of months. This consumption is then divided by this X amount of months and the average is used for the applicable months. (This is to ensure that if the readings are representative of more than 1 month that it is not used as if it is only 1 month's consumption but represents 2 months consumption as per the example)

Thus:

Winter: = 4913+1320+1320 (because the reading in 2009/07 was 2 months consumption) = 7553 / 3
= 2518

Summer: = 1024+971+1040+958+947+1065+1065+968+1192
= 9230 / 9
= 1026

In the instance where there might be an incorrect clock over influencing the average then the following rules are applied: **2) Compute consumptions between valid readings by subtracting readings. If clock over take previous reading and subtract from max-digits then add to reading. In the instance that neither of the scenarios are applicable , the default interim reading shall be set to not exceed 12kl per month.**

16. DELEGATION OF RESPONSIBILITIES BY MUNICIPAL MANAGER

The municipal manager, including any person acting in such capacity, shall be responsible to the council for the implementation of this policy and its attendant by-laws but – without in so doing being divested of such responsibility – may delegate in writing all or any of the duties and responsibilities referred to in these by-laws to any other official or officials of the municipality, and may from time to time in writing amend or withdraw such delegation(s).

17. ROLE OF MUNICIPAL MANAGER

Section 100 of the Municipal Systems Act 2000 (see part 24 below) clearly assigns the legal responsibility for implementing the credit control and debt collection policies and by-laws to the municipal manager.

The municipal manager will therefore have to ensure that a proper internal reporting structure is established and consistently implemented so that the day-to-day actions of and results from the credit control and debt collection programme are properly monitored and supervised.

The municipal manager shall report monthly to the mayor and the executive committee, and quarterly to the council on the actions taken in terms of the by-laws, and on the payment levels for the periods concerned. Such reports shall, as soon as practicably possible, provide the required information both in aggregate and by municipal ward.

In addition, such monthly and quarterly reports shall indicate any administrative shortcomings, the measures taken or recommended to address such shortcomings, and any actions by councillors which could reasonably be interpreted as constituting interference in the application of the by-laws.

Notwithstanding all the foregoing references to the accountability of the municipal manager in regard to these by-laws, it is incumbent on all the officials of the municipality, certainly all those who are at management level, as well as more junior officials who are directly or indirectly involved with the community and the municipality's general customer relations, to promote and support both this credit control and debt collection policy and the application of the attendant by-laws. The responsibilities of all officials include reporting to the municipal manager any evident breaches of these by-laws, whether by members of the community, other officials or councillors of the municipality.

18. ROLE OF COUNCILLORS

Section 99 of the Systems Act 2000 places the important legal responsibility on the mayor and executive committee, of monitoring and supervising the application of the present policy and the attendant by-laws, and of reporting to the council on the extent and success of credit control actions.

The municipality's ward committees must also be actively involved in implementing the credit control and debt collection programme, and must therefore receive monthly reports on the status of the municipal manager's credit control actions. The ward committees must also actively promote the present policy, and ensure at the same time that the municipality's customer relations are of a standard acceptable to the community.

In order to maintain the credibility of the municipality in the implementation of the present policy and the attendant by-laws, it is essential that councillors lead by example. Councillors, by adopting this policy, therefore pledge, not only their unqualified support for the policy, but their commitment to ensuring that their own accounts will at no stage fall into arrears (MSA schedule 1(12A)).

19. INTEREST ON ARREARS AND OTHER PENALTY CHARGES

The due date for all municipal accounts is the 7th day of every month.

Interest shall be charged on all arrear accounts at a rate of 3% per annum , not compounded.

In considering each annual budget the council shall review the adequacy of its interest charges, and shall determine the following for the financial year concerned:

- charges for disconnection or restriction of services (part 3)
- charges for reconnection or reinstatement of services (part 4)
- charges for notices of default (part 3)
- penalty charges for illegal reconnections (part 6)
- penalty charges for dishonoured cheques (part 15).

20. INDIGENCY MANAGEMENT

In regard to the payments expected from registered indigents, and the credit control and debt collection actions contemplated in respect of such residents, this policy must be read in conjunction with the municipality's approved policy on indigence management.

21. IRRECOVERABLE ARREARS

The effective implementation of the present policy also implies a realistic review of the municipality's debtor's book at the conclusion of each financial year. The municipal manager shall as soon as possible after 30 June each year present to the council a report indicating the amount of the arrears which it is believed is uncollectable, together with the reasons for this conclusion.

The council shall then evaluate possible means of recovering all unpaid monies, thereafter they will approve the write off of such arrears, if it is satisfied with the explanations provided.

All indigent consumer's accounts will not be written off but will be subsidised by a portion of equitable share.

22. ARREARS WHICH HAVE ARISEN PRIOR TO THE ADOPTION OF THE PRESENT POLICY

The council shall separately consider arrears which arose prior to the adoption of the present policy, and shall advise accountholders of their respective obligations in regard to such arrears. In determining such obligations, the council shall have regard to the quantum of such arrears, to the period over which the default occurred, and to whether the accountholder concerned has registered as an indigent in terms of the municipality's policy on indigency management. The council shall further consider an incentive scheme which will appropriately encourage accountholders to settle all or a stated percentage of these arrears.

23. BY-LAWS TO BE ADOPTED AND REVISION OF POLICY

By-laws shall be adopted to give effect to the council's credit control and debt collection policy.

The by-laws shall comply with the requirements of the Municipal Systems Act 2000, the Water Services Act 1997 and the Municipal Finance Management Act 2003.

The credit control and debt collection policy shall be reviewed by the council as part of the process of preparing each annual budget, and any amendments approved of in regard to such policy shall be consequentially effected in respect of the by-laws.

24. EXPECTED FUTURE PAYMENT LEVELS

In terms of the budgets approved by the council, and in accordance with commonly accepted best practice, this municipality aims to strive to its utmost ability 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 – are maintained at an annual average of at least 25%.

It is generally accepted by this council that payment levels averaging below 20% per month are untenable, and are a certain forerunner of financial disaster for this municipality. Even with payment levels of 25% it means that the council will annually have to provide on its expenses budget a contribution to bad debts of 75% of the aggregate revenues legitimately owing to this municipality – a contribution that is made at the direct cost of improved service delivery and developmental projects.

The only solution to the ongoing problem of non-payment by residents who can afford their monthly commitments to the municipality is to introduce a twofold approach: to promulgate credit control and debt collection by-laws which deal stringently with defaulters, but at the same time – through the formal political structures of the municipality, and in the administration's general dealings with the public – to make the community aware of its legal obligations towards the municipality, and to emphasise the negative consequences for all if non-payment continues. The municipality's ward committees are particularly charged with this responsibility.

25. ANNEXURE: 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 administration must 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 from the Municipal Systems Act, specifically Sections 95 to 103 and Section 118, are therefore appended to this policy, as are Sections 28 and 29 of the Property Rates Act. The immediately relevant extracts from the Water Services Act 1997 and the Municipal Finance Management Act are also included in the annexure.

26. ANNEXTURE PARAPHRASE OF LEGAL REQUIREMENTS

SECTION I: WATER SERVICES ACT NO. 108 OF 1997

SECTION 21: BY-LAWS

The Act requires a municipality, in its capacity as water services authority, to make by-laws which contain conditions for the provision of water services and which provide for the following (inter-alia):

- the standard of the services;
- the technical conditions of supply, including quality standards, units or standards of measurement, the verification of meters, acceptable limits of error and procedures for the arbitration of disputes relating to the measurement of water services provided;
- the determination and structure of tariffs;
- the payment and collection of moneys due for the water services consumed;
- the circumstances under which water services may be limited or discontinued and the procedure for such limitation or discontinuation; and
- the prevention of unlawful connexions to water services works and the unlawful or wasteful use of water.

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 connexion 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 III: 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, except 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, are 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 IV: 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.

27.POLICY IMPLEMENTATION:

The policy will be implemented retrospectively (with the exception of interest rates) aligned to the term of council.