

## ELIAS MOTSOLEDI LOCAL MUNICIPALITY



### DRAFT CREDIT CONTROL AND DEBT COLLECTION BY-LAW

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## Contents

<b>CREDIT CONTROL AND DEBT COLLECTION BY-LAW</b> .....	4
1. <b>PURPOSE</b> .....	4
2. <b>DEFINITIONS</b> .....	4
3 <b>RESPONSIBILITY FOR CREDIT CONTROL &amp; DEBT COLLECTION</b> .....	7
3.1.1 <b>oversee and monitor:</b> .....	7
3.2 <b>Implementing Authority</b> .....	7
3.3 <b>Unsatisfactory Levels of Indebtedness</b> .....	7
4 <b>FINANCIAL MATTERS</b> .....	8
4.2 <b>Control over Deposits of Security</b> .....	8
4.3 <b>Rendering of Accounts</b> .....	8
4.4 <b>Actions to Secure Payment</b> .....	9
4.5 <b>Dishonored Payments</b> .....	9
4.6 <b>Interest Charges</b> .....	9
4.7 <b>Accounts Administration</b> .....	9
4.8 <b>Power to Restrict or Disconnect Supply of Services</b> .....	9
4.9 <b>Arrangement to Pay Outstanding and Due Amounts in Consecutive Instalments</b> .....	11
5 <b>PERSONNEL AND FINANCIAL IMPLICATIONS</b> .....	11
6 <b>FRAUD, TAMPERING AND OTHER CRIMINAL ACTIVITY</b> .....	12
7 <b>AGENTS, ATTORNEYS AND OTHER COLLECTION AGENTS</b> .....	12
8 <b>CREDIT CONTROL POLICY TO BE APPLIED FOR INDIGENT HOUSEHOLDS(See also Indigent Management Policy)</b> .....	12
8.4 <b>Aims of the by law</b> .....	13
8.5 <b>Obligation to Pay</b> .....	13
9 <b>CREDIT CONTROL AND DEBT COLLECTION RULES FOR ELECTRICITY AND METER READING.</b> .....	13
9.2 <b>AGENT AND OCCUPIER RIGHTS</b> .....	15
10 <b>CREDIT CONTROL AND DEBT COLLECTION RULES FOR ASSESSMENT RATES, REFUSE AND SUNDRY DEBTORS</b> .....	16
11 <b>STANDARD OPERATING PROCEDURE: ELECTRICITY CUT-OFF</b> .....	16
11.2 <b>Customer notification</b> .....	16
11.3 <b>Dispatch of the cut-off list</b> .....	17
11.4 <b>Reconnection of cut-off accounts</b> .....	17
12 <b>BAD DEBT WRITE OFF</b> .....	17
13 <b>PROVISION FOR CONSUMER DEBTORS IMPAIRMENT (POLICY AND METHODOLOGY)</b> .....	18
14 <b>ARRANGEMENTS FOR ARREAR DEBT</b> .....	21
B) <b>BY BUSINESSES</b> .....	22
15 <b>CONSUMER CARE</b> .....	22
<b>HOUSEHOLD APPLICATIONS</b> .....	23
<b>BUSINESS APPLICATION</b> .....	23
<b>APPLICATION FOR BUILDING PLANS AND REZONING</b> .....	24
16 <b>PAYMENT METHODS</b> .....	24
17 <b>ARREARS</b> .....	25
17.2 <b>ADMINISTRATION ORDERS – PAYMENT OF ARREARS</b> .....	25
17.3 <b>INHOUSE DEBT COLLECTION</b> .....	25
17.4 <b>DEBT COLLECTORS</b> .....	26
17.5 <b>ATTORNEYS</b> .....	27

17.6	Other debt collection methods .....	27
18	ISSUING OF THE CLEARANCE CERTIFICATE .....	28
19	APPLICATION OF THE PREPAID ELECTRICITY .....	28
20	ACCOUNTS.....	29

# CREDIT CONTROL AND DEBT COLLECTION BY-LAW

## PREAMBLE

**WHEREAS** section 156(2) of the Constitution of the Republic of South Africa, 1996 requires a municipality to make and administer by-laws for the effective administration of the matters which it has the right to administer;

**AND WHEREAS** section 98 of the Local Government: Municipal Systems Act

2000, requires a municipality to adopt by-laws to give effect to the municipality's credit control and debt collection policy, its implementation and enforcement;

**AND WHEREAS** section 13 of the Local Government: Municipal Systems Act 2000, read with section 162 of the Constitution require a municipality to promulgate municipal by-laws by publishing them in the gazette of the relevant province;

**AND WHEREAS** section 96 of the Municipal Systems Act 2000, requires a municipality to collect all monies due and payable to the municipality and to provide for the matters incidental thereto;

**NOW THEREFORE BE IT ENACTED** by the Council of the Elias Motsoaledi Local Municipality, as follows:

## 1. PURPOSE

To give effect to the municipality's credit control and debt management policy, its implementation and enforcement as outlined in section 98 of the Local Government Municipality Systems Act, 2000 (Act 32 2000).

## 2. DEFINITIONS

Account" any account rendered for municipal services provided;

"Act" the local Government: Municipal System Act, 2000 (Act No. 32 of 20000, as amended from time to time

"Arrears" means any amount due, owing and payable by a consumer in respect of municipal services not paid on the due date.

"Authorized agent" means-

- (a) any person authorized by Municipal Council to perform any act, function or duty in terms of, or exercise any power under these Bylaws; and/or
- (b) any person to whom the Municipal Council has delegated the performance of certain rights, duties and obligation in respect of providing revenue services; and/or
- (c) any person appointed by the Municipal Council in terms of a written contract as a service provider to provide revenue services to customers on its behalf, to the extent authorized in such contract;

"CFO" Chief Financial Officer.

"Consumer Deposit" or "Deposit"

is an amount paid by customer, to be held by the municipality as security for the consumption of services. This consumer deposit will remain in place from the opening of an account until closure or termination of the account. It will be refunded on termination provided that the

customer does not owe the municipality any debt on the said account or other accounts.

“Council”	means the Municipal Council of Elias Motsoaledi Local Municipality in terms of section 18 of the Municipal Structures Act, 1998 as amended and or section 157(1) of the Constitution;
“Councilor”	means member of the council of Elias Motsoaledi Local Municipality
“Credit control”	means all the functions relating to the collection of monies owed by ratepayers and the user of municipal services.
“Customer”	means a person with whom the Municipality or its authorized agent has concluded an agreement for the provision of municipal services and is liable for rates and taxes, other charges;
“Defaulter”	any customer in arrears;
“Due date”	means the date on which an amount payable in respect of an account becomes due, owing and payable by the customer as indicated on the account. The due date shall be the last day of each month.
“Elias Motsoaledi Municipality”	means such municipality established in terms of section 12 of the Local Government Municipal Structures Act, 1998 (Act 117 of 1998);
“Financial Year”	means the municipality’s financial year starting on the 1st July and ending at 30 June of the following year;
“Illegal Connection”	means any connection or reconnection of a property or premises to the electricity reticulation network of the municipality, in contravention of this policy and related By-law, any other By-law of the municipality, act or regulation
“indigent debtor”	means: (a) the head of an indigent household: (i) who applied for and has been declared indigent in terms of the by-law for the provision of services from the municipality; and (ii) who makes application for indigent support in terms of these by-laws on behalf of all members or his or her household. (b) orphaned minor children duly represented by their legal and/ or de facto guardians. “indigent support program” means a structured program for the provision of indigent support subsidies to qualifying indigent debtors in terms of the Council’s indigent support policy. “indigent support policy” means the indigent support policy adopted by the Council of the municipality.
“interest”	means a charge levied on all arrear monies and calculated.
Municipal Manager”	means the person appointed as Municipal Manager in terms of section 82 of the Local Government: Structures Act, 1998, (Act 117 of 1998) and include any person acting in that position or to whom authority was delegated.
“Municipal services”	means those services provided by the municipality, such as, inter alia the supply of electricity, refuse removal, property rates and for which services charges are levied.
“Occupier”	means a person who occupies a property, dwelling or premises or any part thereof, whether such occupation is lawful or otherwise;
“Owner”	means a person, being the registered owner of a property in terms of the Deeds Registries Act; 1937 (Act 47 of 1937) and in relation to immovable property means the person in whom is vested the legal title thereto provided that:-

- The lessee of immovable property which is leased for a period of not less than thirty years, whether the lease is registered or not, shall be deemed to be the owner thereof;
- the occupier of immovable property occupied under a service servitude or right analogous thereto, shall be deemed to be the owner thereof;
- if the owner is dead or insolvent or has assigned his or her estate for the benefit of his creditors, has been placed under curator ship by order of court or is a company being wound up or under judicial management, the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be, shall be deemed to be the owner thereof;

“Property”

means a property registered under separate title in terms of the Deeds Registries Act, 1937 (Act 47 of 1937);

“Service agreement” means an agreement between the Municipality or an institution

or persons mentioned in section 76(b) of the Local Government: Municipal Systems Act 32 of 2000 and a customer.

### **3 RESPONSIBILITY FOR CREDIT CONTROL & DEBT COLLECTION**

#### **3.1 Supervisory Authority**

The Municipality's Mayoral Committee must, in terms of s.99 of the Act –

##### **3.1.1 oversee and monitor:**

3.1.1.1 the implementation and enforcement of the Municipality's credit control and debt collection policy and any by-laws enacted; and

3.1.1.2 the performance of the Municipal Manager in implementing the policy and any by-laws.

3.1.2 When necessary, evaluate, review or adapt the policy and any by-laws, or the implementation of the policy and any such by-laws, in order to improve efficiency of its credit control and debt collection mechanisms, processes and procedures; and

3.1.3 Report quarterly to a meeting of the Council.

#### **3.2 Implementing Authority**

The Municipal Manager must in terms of s.100 of the Act –

3.2.1 Implement and enforce the Municipality's credit control and debt collection policy as well as indigent support scheme and any by-laws enacted in terms of the Act;

3.2.2 In accordance with the credit control and debt collection policy and any such by-laws establish effective administrative mechanisms, processes and procedures to collect money that is due and payable to the Municipality; and

#### **3.3 Unsatisfactory Levels of Indebtedness**

3.3.1 If the level of indebtedness in a particular ward or part of the Municipality exceeds the level of the acceptable norm as determined in this policy, the supervisory authority must, without delay, advise the councilor for that ward. The councilor concerned:

3.3.1.1 Must without delay convene a meeting of the ward committee, if there is one, or convene a public meeting and report the matter to the committee or meeting for discussion and advice; and

3.3.1.2 make appropriate recommendations to the supervisory authority.

## **4 FINANCIAL MATTERS**

### **4.1 Service Agreement**

- 4.1.1 Before a service is supplied, a consumer must enter into a contract of agreement and such contract should provide for a deposit to be paid as security.
- 4.1.2 An application form signed by the owner should be submitted on application of services.
- 4.1.3 The signed application form sets out terms and conditions.

### **4.2 Control over Deposits of Security**

- 4.2.1 The deposit to be paid must be as per the approved Tariff structure, the deposit amount should be payable on all services rendered in respect of electricity except prepaid and in areas where such deposits were not payable at the date of introduction of this policy
- 4.2.2 Where the services are not readily available and the Municipality must incur additional costs to provide such services, the Municipality may require bank guarantees for the provision of municipal services.
- 4.2.3 Deposits received must be reviewed annually and a register must be maintained for this purpose. The total sum of deposits received shall constitute a short-term liability in the books of the Municipality. No interest shall accrue in favour of the depositors thereof. Upon termination of the debtor's agreement with the Municipality, the deposit will first be offset against any outstanding balance (if any) owed to the Municipality, and the remainder thereof will be refunded to the customer, within 30 days.
- 4.2.4 The Municipality will pay no interest on deposits.
- 4.2.5 No Occupier accounts will be opened and Current Occupiers Accounts will phased out where possible.

### **4.3 Rendering of Accounts**

- 4.3.1 Although the Municipality undertakes to render a monthly account for the amount due by a debtor, failure thereof shall not relieve a debtor of the obligation to pay the amount.
- 4.3.2 The responsibility to advise Council of any address change remains with the consumer/ratepayer and the fact that an account was not received does not exempt the consumer/ratepayer from paying the account. The responsibility remains with the consumer/ratepayer to see to it that all payments reach the municipality on or before the last date of payment (called the due date).
- 4.3.3 Accounts to ratepayers and users of municipal services must contain at least the following particulars:
  - 4.3.3.1 the name of the Municipality;
  - 4.3.3.2 The name of the ratepayer / user of the service;
  - 4.3.3.3 The service levies or rates in question;
  - 4.3.3.4 The period allowed for the payment of services and rates;
  - 4.3.3.5 The property and address in respect of which the payment is required;



- 4.3.3.6 The date before which payment must be made;
- 4.3.3.7 Any discount for early or prompt payment (if applicable);
- 4.3.3.8 Interest on late payment;
- 4.3.3.9 Consequences of non-payment;
- 4.3.3.10 Amount brought forward;
- 4.3.3.11 Consumption for the current month reflecting units consumed and cost per service
- 4.3.3.12 Total amount payable.

#### **4.4 Actions to Secure Payment**

- 4.4.1 The Municipality and service providers may, in addition to the normal civil legal procedures to secure payment of accounts that are in arrears, take the following actions to secure payment for municipal rates and services:

- 4.4.1.1 Termination and restriction of the provision of services; and

- 4.4.1.2 Allocating a portion of payments or pre-payment purchases to service charges' arrears or future charges.

#### **4.5 Dishonored Payments**

- 4.5.1 Where any payments made to the Municipality is later dishonored by the bank, the Municipality may levy such costs and administration fees against an account of the defaulting debtor in terms of the Municipality's tariff provisions. The municipality will require a regular defaulter to pay by cash only.

#### **4.6 Interest Charges**

- 4.6.1 Interest on arrear accounts will be based on the Bank Prime Rate as on 30 June of the previous financial year plus 1% per annum.
- 4.6.2 Any outstanding amount on accounts excluding VAT, which remain unpaid after the due date shall attract interest irrespective of the reason for non-payment.

#### **4.7 Accounts Administration**

- 4.7.1 In terms of s.64(2)(e) MFMA, the Municipality must maintain a management, accounting and informal system which recognises revenue when earned, accounts for debtors and accounts for the receipt of all revenue collected.
- 4.7.2 Consolidate any separate accounts of persons liable for payments to the Municipality;
- 4.7.3 Credit any payment by such a person against any account of that person; and
- 4.7.4 Implement any of the debt collection and credit control measures provided for in these regulations in respect of any arrears on any of the accounts of such a customer.

#### **4.8 Power to Restrict or Disconnect Supply of Services**

- 4.8.1 The Municipality may restrict or disconnect the supply of electricity or discontinue any other service to any premises whenever a user of any service:
- 4.8.2 Fails to make full payment on the due date or fails to make acceptable arrangements for the repayment of any arrear amount for services, rates or taxes;
- 4.8.3 Fails to comply with a condition of supply imposed by the municipality;
- 4.8.4 Obstructs the efficient supply of electricity and any other municipal services to another customer;
- 4.8.5 Supplies such municipal service to a person who is not entitled thereto or permits such service to continue;
- 4.8.6 Causes a situation which in the opinion of the municipality is dangerous or a contravention of relevant legislation;
- 4.8.7 Is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, Act No. 24 of 1936; and
- 4.8.8 If an administration order is granted in terms of section 74 of the Magistrates Court Act, Act No. 32 of 1944 in respect of such user.
- 4.8.9 The Municipality shall reconnect and or restore full levels of supply of any of the restricted or discontinued services after the payment of full or arranged amount. Any other costs of such disconnection and reconnection.
- 4.8.10 The right to restrict, disconnect or terminate service due to non-payment shall be in respect of any service rendered by the Municipality and shall prevail notwithstanding the fact that payment has been made in respect of any specific service and shall prevail notwithstanding the fact that the person who entered into agreement for supply of services with the municipality and the owner are different entities or persons, as the case may be.

#### **4.9 Arrangement to Pay Outstanding and Due Amounts in Consecutive Instalments**

- 4.9.1 A debtor may enter into a written agreement with the Municipality to repay any outstanding and due amounts to the Municipality under the following conditions:
- 4.9.2 The outstanding balance, costs and any interest thereon shall be consolidated and an amount paid in regular and consecutive monthly instalments, not exceeding a period of 12 months;
- 4.9.3 The subsequent current monthly amounts must be paid in full; and
- 4.9.4 The written agreement has to be signed on behalf of the Municipality by the Chief Financial Officer or his/her duly authorised delegate.
- 4.9.5 To ensure the continuous payment of the arrangement the amount determined must be affordable to the consumer, taking into account that subsequent payment of the monthly current accounts is a prerequisite for concluding an arrangement. The main aim of an agreement will be to promote full payment of the current account and to address the arrears on a consistent basis.
- 4.9.6 Should any dispute arise as to the amount owing by a consumer in respect of municipal services the consumer shall, notwithstanding such dispute, proceed to make regular minimum payments based on the calculation of the average municipal debits for the preceding three months prior to the arising of the dispute and taking into account interest as well as the annual amendments of tariffs of the Municipality.
- 4.9.7 Interest on overdue accounts as in 3.6 will not be charged debtors with arrangements, unless the conditions of the arrangement are defaulted.

#### **5 PERSONNEL AND FINANCIAL IMPLICATIONS**

- 5.1 Where a credit control and debt collection function does not exist, this implies that a dedicated structure be established with a credit control officer in charge. In view of the fact that credit control and debt collection must always be able to operate in isolation to any customer management service, it is imperative that a staff establishment for this function be implemented.
- 5.2 The establishment of a credit control and debt collection division will have to be financed from the operating budget, which will have an incremental impact on the budget. However, this will be offset by improved cash inflows as a result of an efficient collection system.

## **6 FRAUD, TAMPERING AND OTHER CRIMINAL ACTIVITY**

- 6.1 The Municipality may not interfere where criminal activity is evident. The legal penalties and criminal justice system may not be subject to conflicting resolutions by the municipality. All such cases must be prosecuted to the fullest extent of the law.
- 6.2 The Municipality may not supply electricity to a customer who is found guilty of or if it is admitted that fraud, theft or any other criminal action involving the use of these services existed, until the total costs, penalties, other fees and tariffs and rates due to the municipality have been paid in full.
- 6.3 All charges to rectify any tampering with municipal services, service charges, call fees and other related tampering charges must be paid in full before arrangements can be made for other debts on the account.

## **7 AGENTS, ATTORNEYS AND OTHER COLLECTION AGENTS**

- 7.1 All external agents acting on behalf of the Municipality are to be named, together with their details and contact information. Likewise, all agents are to be supplied with a copy of the credit control and debt collection Policy and measures.
- 7.2 Clear instructions to agents and other arrangements must be explained for the customers' benefit. Under no circumstances may agents negotiate terms, extend payment periods or accept cash on behalf of municipality, unless specifically instructed in writing to do so. The agent must produce this instruction on request by consumers.
- 7.3 The costs to the Municipality and to the debtor must be detailed for each stage of the credit control and debt collection measures and for all possible actions. The liability for the costs of legal action and other credit control actions must be for the account of the debtor.

## **8 CREDIT CONTROL POLICY TO BE APPLIED FOR INDIGENT HOUSEHOLDS (See also Indigent Management Policy)**

### **8.1 Purpose of Policy**

- 8.2 The key purpose of an indigent support policy is to ensure that indigent households are not denied a reasonable service, and on the other hand, the municipality is not financially burdened with non-payment of services: Provided that sufficient budgetary provision exists, the Indigent management policy should remain intact.
- 8.3 To achieve this purpose, it is important to set a fair threshold level, and then to provide a fair subsidy of tariffs. The consumer, in order to qualify

for indigence, needs to complete the prescribed documentation as required.

#### **8.4 Aims of the by law**

- 8.4.1 The credit control and debt collection by law aim to achieve the following:
- 8.4.2 To distinguish between persons who can and those who genuinely cannot pay for services;
- 8.4.3 To let persons who cannot pay register with the municipality so that the services rendered to them can be subsidized;
- 8.4.4 To enable the municipality to determine and identify defaulters in order to ensure appropriate credit control procedures;
- 8.4.5 To establish an indigence directory of all persons who qualify therefore

#### **8.5 Obligation to Pay**

The subsidy received may not be enough to cover the full account of the subsidized consumer. In such an event, the consumer is still responsible for the balance between the full account and the subsidy received. Where applicable, credit control must still be applied for these outstanding amounts.

### **9 CREDIT CONTROL AND DEBT COLLECTION RULES FOR ELECTRICITY AND METER READING.**

- 9.1 Where consumers fail to pay their electricity accounts by the last day of the month, following the date of the account, the following actions will be taken:
  - 9.1.1 Final notices/accounts may be delivered or posted after the final date of payment. The final notice/account will contain a note that the client may arrange to pay the outstanding balance in terms of the Credit Control and Debt Collection Policy. Information that this account constitutes a final notice and failure to settle the account on the due date will lead to disconnection of services at any date thereafter, without further notice, must however form an integral part of such account.
  - 9.1.2 An Acknowledgement of Debt must be completed in respect of all arrangements for paying off arrear accounts.
  - 9.1.3 Debit orders may be completed for the monthly payment of an agreed amount or at least the current amount, as far as possible. If the arrangement is dishonored, the full balances will immediately become due and payable.

- 9.1.4 Only account holders with positive proof of identity or an authorized agent with a Power of Attorney will be allowed to complete an Acknowledgement of Debt.
- 9.1.5 No person will be allowed to enter into a second agreement if the first agreement was dishonored, except in special cases of merit as authorized by the Chief Financial Officer or Deputy Chief Financial Officer or Revenue manager.
- 9.1.6 Where arrangements were not made and electricity supply is disconnected due to non-payment, it will be restored only upon payment of the full outstanding balance.
- 9.1.7 In case where the arrangement had been made and was defaulted, the whole amount in arrears must be recovered. And, such defaulter will only be allowed to make arrangement after the Debit order proof is forwarded to the municipality for the period of the arrangement.
- 9.1.8 Merit cases, where special circumstances prevail, must be treated individually and could amongst others include the following categories:
- 9.1.8.1 Deceased estates
  - 9.1.8.2 Outstanding enquiries on accounts only misallocated payments, journals, incorrect levies, etc.
  - 9.1.8.3 Certain categories of Pensioners
- 9.1.9 Further extension for payment of arrears in respect of merit cases should preferably not exceed 12 months (1 year) or any other period in the discretion of the Chief Financial Officer or Deputy Chief Financial Officer or Revenue manager.
- 9.1.10 Only the Chief Financial Officer or Deputy Chief Financial Officer or Revenue manager may agree to such merit extensions and these must be supported by documentary proof: Defaulters previous payment record will be taken into consideration.
- 9.1.11 Where the consumer has not entered into a service agreement with the Municipality, electricity will be disconnected until such time as a service agreement has been signed and the applicable deposits paid. That consumer will be fully responsible for any electricity consumed before disconnection.

- 9.1.12 Where services are illegally restored legal action will be taken.
- 9.1.13 Where electricity amounts remain outstanding or unpaid for more than 90 days, without response, the account will be handed over to debt collectors for the collection and/or for legal action to the legal department.
- 9.1.14 Such clients will have to make further arrangements with the attorneys and/or the debt collectors for payment of the arrear amounts. Current monthly accounts must however be paid directly to the Municipality.
- 9.1.15 Once an account has been handed over for collection, the case will not be withdrawn unless there was a mistake or oversight on the part of the Municipality.
- 9.1.16 Electricity shall not be supplied if the consumer's account is not paid in full or satisfactory arrangements in terms of this Policy have been made and honored.
- 9.1.17 After installation of a prepaid meter, electricity shall not be sold to consumers, unless the full amount on the consumer's account has been paid or an agreement for the settlement of arrears has been concluded, a service agreement entered into, connection fees and the applicable deposits paid, in terms of this Policy. If rates are in arrears, consumer's electricity will be disconnected.
- 9.1.18 In a case of inability to read the meter, such electricity account will be billed on average until the meter is fully accessible.
- 9.1.19 The average calculation will be based on the last 3 months' consumptions or the last 30 days' consumption. Corrections will be made to such an account in the billing system only after the meter is back to correct readings. The Council shall ensure that corrections are made in the correct financial year.

## **9.2 AGENT AND OCCUPIER RIGHTS**

- 9.2.1 A municipality may, despite the Estate Agents Affairs Act, 76 (Act No. 112 of 1976), recover the amount due for rates on a property in whole or in part from the agent of the owner, if this is more convenient for the municipality.
- 9.2.2 A municipality may recover the amount due for rates from the agent of the owner only after it has served a written notice on the agent.
- 9.2.3 The amount a municipality may recover from the agent is limited to the amount of any rent or other money received by the agent on behalf of the owner, less any due agent.
- 9.2.4 The agent must, on request by a municipality, furnish the municipality with a written statement specifying all payments for rent on the property and any other money received by the agent on behalf of the owner during a period determined by the municipality.

## **10 CREDIT CONTROL AND DEBT COLLECTION RULES FOR ASSESSMENT RATES, REFUSE AND SUNDRY DEBTORS**

10.1 Where consumers fail to pay their accounts in respect of assessment rates, refuse, sundry debtors and unmetered properties by the due date of every month, the following actions will be taken:

- 10.1.1 Final notices/accounts will be posted or delivered where accounts are in arrears for 60 days (2 months) or more. The final notice/account will contain a note that the client may arrange to pay the outstanding balance in terms of this Policy. Information that this account constitutes a final notice and failure to settle the account on the due date will lead to disconnection of services where applicable and any date thereafter, without further notice, must however form an integral part of the account. In the case of assessment rates, the defaulter must be advised that the Council intends instituting legal process which could lead to his/her property being sold in execution.
- 10.1.2 The same procedure in respect of arrangements for paying off of arrears or extension of payments for electricity will apply.
- 10.1.3 If no response has been received within 14 days after the final account had been sent, those accounts still outstanding will be handed over to debt collectors for collection and/or for legal action to the legal department.
- 10.1.4 Where an account remains unpaid on a property that is unmetered, the above procedures will also apply.
- 10.1.5 As part of the legal actions involved to collect outstanding taxes, legal department may obtain an attachment order on the applicable property on behalf of the Municipality only after having received written instruction in this regard from the Chief Financial Officer.
- 10.1.6 Where there is a query on the account, for instance on electricity, the customer must continue to pay other items on the customer bill e.g. property rates, refuse etc.

## **11 STANDARD OPERATING PROCEDURE: ELECTRICITY CUT-OFF**

### **11.1 Preparation of the cut-off list**

The credit control accountant prepares cut-off list from the Age analysis and the customers that are owing 30 days and older are then included in the cut-off list.

The manager or senior accountant revenue will then verify and approve the cut-off list before it is dispatched to the Electricians for execution.

### **11.2 Customer notification**

The customers will be notified by either SMS or telephone or email or hand delivered letters about the electricity cut-off.



### **11.3 Dispatch of the cut-off list**

11.3.1 The prepared cut-off list will be dispatched before 10h00 every morning for execution.

11.3.2 No cut-off list will be dispatched on Fridays or a day before public holiday unless by the owner's instructions.

### **11.4 Reconnection of cut-off accounts**

11.4.1 The reconnections will be made within 12 hours after the full settlement is made. Payments made after working hours will only be reconnected the following day. In a case where relevant municipal officials are informed of any payment made before 7 pm the reconnection will be made, any communication made after 7 pm then the reconnection will be the following day.

11.4.2 Where there is illegal connection council shall terminate the service immediately, take legal actions and levy a penalty fee on the affected account as per approved tariff.

## **12 BAD DEBT WRITE OFF**

12.1 The objective to write off irrecoverable debt is to have a debt book that does not reflect irrecoverable debt

12.2 Council's approval must be obtained to write off irrecoverable debt.

12.3 The proposal to write off irrecoverable debt will be prepared by the Municipal Manager or his delegated official.

12.4 In the submission to Council to write off debt Council must be provided with details of: -

12.4.1 The debt collection procedures implemented to recover the debt;

12.4.2 The reasons why the debt collection procedures were not successful and had to be abandoned;

12.4.3 The debtor's financial position, if known;

12.4.4 Reasons why the debt or a portion thereof is regarded as being irrecoverable Debt can be regarded as irrecoverable under the following circumstances: -

12.4.4.1 Debt that was subjected to all the debt collection procedures provided for in this policy and still was unsuccessful to collect the debt and where the debt collection process had to be abandoned.

12.4.4.2 Debt of indigent debtors that cannot be collected after the implementation of the debt collection procedures applicable to indigent consumers provided for in this policy.

12.4.5 Debt of deceased estates –

12.4.5.1 Claims must have been submitted to the estate of the deceased.

12.4.5.2 The executor of the estate advised Council in writing that there are no funds in the estate.

12.4.6 Debt of debtors who have emigrated

### **13 PROVISION FOR CONSUMER DEBTORS IMPAIRMENT (POLICY AND METHODOLOGY)**

- 13.1 The objective of the provision for bad debt is to make a realistic provision annually in the Revenue budget to cater for charges raised in terms of the budget that cannot be collected.
- 13.2 The calculation of the provision for bad debt will be based on an extract of Council's debtors' book as at the last day of the financial year.
- 13.3 Only debtors with positive balances will be considered for impairment
- 13.4 The extract of Council's debtors' book must reflect detailed ageing of the debt within the following debt categories at a minimum: -
- a) Debt per service
  - b) Debt per type of debtor
- 13.5 A provision for bad debt amount will be calculated in terms of debt per type of the consumer and per service and will be submitted to the Chief Financial officer for consideration of the provision amount to be included in the Revenue Budget.
- 13.6 When calculating the provision for bad debt on consumer debtors at least the following must be identified: -
- a) The debt as per the following service groups must be identified:
    - i. Rates
    - ii. Electricity
    - iii. Refuse
    - iv. Other (These are consumer debtors that are not Rates, Electricity and Refuse)
  - b) The debt per the following debtors by customer classification must be identified:
    - i. Consumers
    - ii. Industrial/ commercial
    - iii. National and provincial government
  - c) Classification between exchange and non-exchange transactions for all services.
  - d) Account status either Active or Inactive.
  - e) Owner type either occupier or owner.
  - f) Ageing period as follows: Current (0 -30 days), 31 - 60 days, 61 - 90 days, 91 - 120 days, 121 - 365 days and >365 Days.

- g) Total debtors.
- h) Total debtors available for impairment, these are debtors older than 91 days with a positive total balance. Debtors older than 91 days indicate objective evidence that a financial asset or group of financial assets must be impaired.
- i) High risk is 2 and low risk is zero, management applied professional judgement and experience to determine the risk scores below. Higher risk means that the probability of collecting the debt is low
- j) The following risk scores must be identified for consumer debtors per service per account in order to be able to estimate the present value of expected future cash flow for GRAP 104:
  - a. Account type risk score will be assessed at year end. Management will perform risk assessment using payments received during the year as past experience shows that certain debtor's types of payments are riskier than others.

Type of Account	Acc type risk score
PSI	-
TO BE DEFINED	-
GOVERNMENT	-
MUNICIPAL	-
EDUCATIONAL	-
STATE	-
INDUSTRIAL	-
BUSINESS	-
RESIDENTIAL	-
RELIGIOUS	-
VACANT	-
AGRICULTURE	-
PUBLIC BENEFIT	-
SMALL HOLDINGS	-

- b. Account Status risk score. Active accounts are considered low risk since the consumer is still active. Inactive accounts are high risk since the consumer is not active and may not even consider settling the account.

Status	STATUS_RISK_SCORE
ACTIVE	-
INACTIVE	2.00

- c. Ownership Type risk score. An owner has property right compared to an occupant that can leave overnight without a trace.

The owner's property can be attached to the sale of the property and get the payable amount back. The clearance certificate also gives the municipality a recovery process as a result owner occupied risk is low while occupier risk is high.

Owner /Occupier	TYPE_RISK_SCORE OWNERSHIP
OWNER	-
OCCUPIER	2.00

- d. Total payment risk score (The sliding scale on payment risk score will be applied on the age of the debt commencing with debt that is above 90 days. The risk must be increased when progressing to the oldest debt occurrence. The probability of collecting the debt in the oldest occurrence will be zero, therefore the provision must be 100%). Generally, the older the debt the probability of collecting that debt is low.

91 - 120 days	121 - 365 days	>365 Days	Total Payment risk score
1.00	1.50	2.00	4.50

- e. Total risk score is made up of the total of the risk scores identified from a to d above and the maximum total risk per account per service type is 12 equivalents to 100%. Risk score of 100% implies that the probability of collecting the debt is zero and there are no expected future cash inflows from that debtor.

ACC_TYPE_RISK_SCORE	+	STATUS_RISK_SCORE	+	TYPE_RISK_SCORE OWNERSHIP	+	Total Payment risk score	=	Total risk score/factor is
2.00		2.00		2.00		6.00		12.00

- f. Collection rate is calculated as follows:

<b>12 - Total risk score</b>	X	<b>100</b>
<b>Maximum Total Factor/Total risk score (12)</b>		

- g. Interest rate on debtors per day is calculated by using the effective rate charged by municipality on outstanding debtors divide by 12
- h. Present value at year-end (CA) is the actual debt outstanding at yearend.
- i. Expected future cash flow value is the amount owing at year end (available for impairment) multiply by the collection rate.
- j. Days until payment is estimated within 365 days using the probability of collecting the debt. 365 days multiply by the probability of collecting the debt. The probability of collecting the debt is the same as the collection rate as a percentage.
- k. Impairment is calculated per GRAP 104 by comparing the present value of future cash inflows vs the current present value at year end based on amounts available for impairment.
- l. The movement from last year total provision will be accounted via the Statement of Financial Performance as Debt Impairment.

## 14 ARRANGEMENTS FOR ARREAR DEBT

### A) BY HOUSEHOLD OTHER THAN BUSINESS

- 14.1 A consumer may only be allowed to make arrangement for the period not exceeding 12 months to settle the outstanding amount.
- 14.2 A customer is required to pay 50% of the whole outstanding out prior of making the above arrangement.
- 14.3 No verbal arrangements will be accepted by Council, only written arrangements on a prescribed format as provided by Council will be accepted.
- 14.4 In a case where the arrangement is made (occupier), the owner must also sign the agreement to authorize such arrangement made.
- 14.5 No arrangements will be entertained by Council on debt that has been handed over to debt collectors.
- 14.6 The consumer, by signing the arrangement agreement to payoff arrear debt acknowledges the following: -
- i. That debt is owed to Council;
  - ii. That on default to honour the arrangement agreement, interest on arrears will be charge on the amount due; electricity supply will be disconnected to the property of the consumer or the consumer will be blocked from the purchase of electricity on the prepayment system and supply to the property of the consumer will be restricted and legal proceedings will be instituted to collect the debt;
  - iii. That the consumer will be liable for all cost, which includes legal costs, incurred to collect the debt.

## **B) BY BUSINESSES**

- 14.1 At the date of the arrangement a minimum of 50% of the total outstanding amount must be paid immediately.
- 14.2 The balance of the debt, which includes the capital amount and interest, may be paid over a period of 3 months, interest free, provided payments are made monthly by the due date.
- 14.3 In a case where the arrangement is made (occupier), the owner must also sign the agreement to authorize such arrangement made.
- 14.4 The total monthly instalment must include the current monthly charges plus, the amount to pay off arrear debt.
- 14.5 Arrangement by businesses to pay off arrear debt will only be entertained for debt on which debt collection actions have been taken and which actions are in an advance stage.

## **15 CONSUMER CARE**

## **APPLICATION FOR THE PROVISIONS OF MUNICIPAL SERVICES**

- 15.1 A consumer who requires the provision of municipal services must apply for the service from the Council.
- 15.2 On application for provision of service the applicant will be required to complete the application form provided by the council accompanied by the following documents.

### **HOUSEHOLD APPLICATIONS**

- 15.3 The copy of applicant's identity document, lease agreement or offer to purchase / Signature or letter from the owner (not all owners are making use of lease agreements)

### **BUSINESS APPLICATION**

- 15.4 The copy of the applicant's identity document and company registration documents and lease agreement where the applicant had leased the property.
- 15.5 By completing the prescribed application form for the provision of municipal services the consumer of services enters into an agreement with the Council.
- 15.6 The application for the provision of municipal services must be made by the registered owner of an immovable property or by a tenant only if he/she can produce a written consent from the owner of the property which clearly gives consent to occupy the property as well as accepting liability for any future outstanding fees for 60 days or older on the tenant's account should the tenant fail to honor his/her debts.
- 15.7 The Council will not consider a new application for the provision of municipal services from a tenant of a property, if the property account is in arrears.
- 15.8 The only exception to (13.5) above is that individuals and businesses with lease agreements to lease properties from the Municipality and Government departments will be allowed to open an account in the name of the lessee of the property.
- 15.9 An agent may with a proxy open an account in the name of the owner taking into consideration the provisions of (13.5) above.
- 15.10 The agreement with Council makes provision for the following: -

- i. An undertaking by the owner that he or she will be liable for collection costs including administration fees, interest, penalty fees and any other legal costs occasioned by his or her failure to settle accounts by the due date;
- ii. An acknowledgement by the owner that accounts will become due and payable by the due date notwithstanding the fact that the owner did not receive the account; and
- iii. That the onus will be on the owner to ensure that he or she is in possession of an account before the due date.
- iv. The undertaking by the Municipality that it shall do everything in its power to deliver accounts timely.
- v. The application for the provision of municipal services shall be made at least two (2) working days prior to the date on which the services are required to be connected.
- vi. The first account for services will be rendered after the first meter reading cycle to be billed following the date of signing the service agreement.
- vii. in the case whereby an existing client wishes to move from conventional electricity to prepaid electricity the current account should be settled in full.

#### **APPLICATION FOR BUILDING PLANS AND REZONING**

15.11 As part of the credit control and debt collection policy, building plans and rezoning applications should be rejected if rates account is in arrears.

## **16 PAYMENT METHODS**

16.1 The Council will accept the following methods of payments: cash, direct deposit and EFT.

16.2 All payments, whether made by cash, electronic payments or payments made through agents must be receipted by Council on a daily basis.

16.3 On application for the provision of municipal services the prescribed consumer deposit and connection fee shall be paid.



- 16.4 Existing consumers moving to a new address are required to pay the prescribed consumer deposit on application for the provision of municipal services at the new address.
- 16.5 The minimum deposit payable is determined annually by Council and is contained in the approved tariff structure produced annually. And this will also affect existing customers in the Municipality.
- 16.6 Any increase to the deposit will be determined by the debtor's municipal payment history.
- 16.7 The consumer has no right to prescribe the sequence of allocation of payments made. When the payment is made to a consumer account, the system will automatically settle the oldest debt first.

## **17 ARREARS**

### **17.1 MUNICIPAL STAFF AND COUNCILORS– PAYMENT OF ARREARS**

Section 10 of schedule 2 of the Local Government: Municipal System Act, No. 32 of 2000 provides the following: -

- a) A staff member/councilor of a municipality may not be in arrears to the municipality for rates and service charges for a period longer than three (3) months, and a municipality may deduct any outstanding amounts from a staff member's salary after this period."
- b) Arrear debt relating to rates and service charges will be collected from staff in terms of collection arrangements approved by the Municipal Manager from time to time.
- c) All councilors and officials should support the implementation of the credit control and debt collection policy by reporting any detected breaches of by laws.

### **17.2 ADMINISTRATION ORDERS – PAYMENT OF ARREARS**

- a) A person can apply for the administration of its estate in terms of section 74 of the Magistrates Court Act, 1944.  
On notification that the order had been granted, Council will manage the debt that is part of the administration order separately to the current account.
- b) The debtor will be responsible for the payment of the current monthly account and if the debtor defaults on the payment of the account, debt collection action will be implemented

### **17.3 INHOUSE DEBT COLLECTION**

17.3.1 Any debt that is aging below 90 days will be dealt with internally by applying cut-off of services in terms of the credit control policy.

**17.3.2** All the government debts including the municipal debts will be dealt with internally through the intergovernmental debt collection forum.

## 17.4 DEBT COLLECTORS

17.4.1 Debt that could not be collected by the disconnection of electricity supply to a property, blocked from the purchase of pre-payment electricity and that are outstanding over 90 days may be handed over to debt collectors.

17.4.2 Handover to debt collectors is pre-legal action and if the debt collectors are unsuccessful in collecting the debt, the debt will be handed over to attorneys for legal collection.

- i. The following types of debt will be handed over to the debt collectors: -
  - a) Debt that is 90 days and older
  - b) The amount of the debt per debtor to be handed over is the amount that will be determined from time to time.
  - c) Debt that relates to non-indigent debtors living in RDP houses.
  - d) Low income non-indigent consumers living in a property with a certain municipal value that generally relates to consumers with low income.
  - e) Debt for which no payment arrangements were made.
- ii. The following types of debt will not be handed over to debt collectors: -
  - a) Debt of indigent debtors that are registered as indigent at the date of handover.
  - b) Government debt including the municipal debts
  - c) Debt that is been paid off as per arrangement with debtor.
  - d) Debt that is under query
- iii. The process of collecting debt by debt collectors includes: -
  - a) The phoning of debtors
  - b) Sending out demand letters
  - c) Making arrangement with debtors to pay off debt in terms of Council's credit control and debt collection policy.
  - d) Making follow-ups with debtors

17.4.3 The debt book to be handed-over on monthly basis will be prepared by Manager Revenue and verified by the Chief Financial Officer before submitted to the debt collector for collection processes.

17.4.4 The debt collector will perform the debt collection processes only on the accounts as officially handed-over by the municipality in accordance with this policy and the commission as agreed upon with the debt collector will be payable on the subsequent payment by the responsive customers.

17.4.5 The debt collections costs and any other related fees will be debited to the customer's account.

## **17.5 ATTORNEYS**

- i. Debt that could not be collected by debt collectors and debt that requires urgent legal attention will be handed over to attorneys for legal collection.
- ii. The following types of debt will be handed over to attorneys: -
  - a) Debt that is 90 days and older
  - b) The amount of debt per debtor to be handed over is the amount that will be determined from time to time.
  - c) Debt for which no payment arrangement was made.
  - d) Debt that relates to non-indigent debtors living in RDP
  - e) Low income non-indigent consumers living in a property with a certain municipal value that generally relates to consumers with low income.
- iii. The process of legal collection includes:
  - a) Final demands for payment to debtors.
  - b) Emolument attachment orders on debtor's salaries.
  - c) Summons issued for debt to be paid.
  - d) Default judgement be obtained against the debtor.
  - e) The attachment of moveable properties and sale in execution of moveable property.
  - f) The attachment of immovable property and the sale of immovable property.

## **17.6 Other debt collection methods**

The debt collection methods mentioned in paragraph (a) to (h) above are not an exhaustive list of methods that can be applied to collect debt and any other methods that can be initiated, will be implemented with the consent of Council, to collect debt.

## **18 ISSUING OF THE CLEARANCE CERTIFICATE**

### **1. Section 118 of Local Government: Municipal Systems Act No 32 of 2000:**

- i. Council will issue a certificate required for the transfer of immovable property in terms of Section 118 of Local Government: Municipal Systems Act No 32 of 2000, which is lodged with Council in the prescribed manner, only when all amounts that became due in connection with that 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.
  - ii. Debt older than two years on the property irrespective of whether the owner of the property had accumulated the debt will also have to be paid before any clearance can be issued and the transfer of the property by the owner can be done.
  - iii. If the owner refuses to pay the debt which is older than two years, then Council will apply to a competent Court for an order in the following terms: -
    - a) In the case where there is already a judgement for the payment of the amount, an order that the judgement debt be paid out of the proceeds of the sale, before the mortgage debt is settled.
    - b) In case where there is no judgement debt, for an order staying transfer of the property pending the finalization of a civil action to be instituted against the person who is in law liable for the payment of the outstanding debt.
    - c) The above action must be taken before the property is transferred as the statutory lien created by Section 118(3) of Act only endures until the property has been transferred and in terms of Section 118(5) of the Act can the new owner of the property not be held liable for the debt that became due before a transfer of a residential property took place.
2. Clearance request will be attended within two working days.

## **19 APPLICATION OF THE PREPAID ELECTRICITY**

The prepaid electricity must only be installed to customers or applicants with R nil or credit balance in the accounts, therefore customers or applicants with debit balance (amount due) must first settle their accounts before the installation. And only owners are allowed to apply.

## **20 ACCOUNTS**

1. A municipality may-
  - a) consolidate any separate accounts of persons liable for payments to the municipality;
  - b) credit a payment by such a person against any account of that person; and
  - c) implement any of the debt collection and credit control measures provided for in this Chapter in relation to any arrears on any of the accounts of such a person.
2. Subsection (1) does not apply where there is a dispute between the municipality and a person referred to in that subsection concerning any specific amount claimed by the municipality from that person.