

SWARTLAND MUNICIPALITY

CREDIT CONTROL AND DEBT COLLECTION BY-LAW

REVIEWED AND AMENDED

MARCH 2019

Preamble

Subject to section 156 of the Constitution of the Republic of South Africa, 1996 ("The Constitution"), the Swartland Municipality enacts as follows-

And whereas section 95 of the Local Government: Municipal Systems Act, 32 of 2000 ("The Act") requires the municipality to:

- (a) establish a sound customer management system;
- (b) establish mechanisms for users of services and ratepayers to give feedback to the municipality regarding the quality of services;
- (c) take reasonable steps to ensure that users of services are informed of the cost of services, the reason for the payment of services, and the manner in which monies are utilized by the municipality;
- (d) take reasonable steps to ensure accurate reading of utilized services;
- (e) to ensure persons liable for the payment of services receive regular and accurate accounts that indicate the basis on how such services are calculated;
- (f) to provide accessible mechanisms by which person can query and verify accounts and metered consumption, and appeal procedures which allow such persons to receive prompt response on inaccurate accounts;
- (g) to provide accessible mechanisms for dealing with complaints together with prompt replies and corrective action by the municipality;
- (h) to provide mechanisms to monitor the response time of such complaints;
- (i) to provide accessible pay points and other mechanisms for settling accounts or for making pre-payments of accounts

And whereas section 96 of the Act requires the municipality to:

- (a) collect all money that is due and payable;
- (b) and for the above mentioned purpose adopt, maintain and implement a credit and debt collection policy ;

And whereas section 97 of the Act requires the policy to provide for :

- (a) credit control procedures and mechanisms;
- (b) debt procedures and mechanisms
- (c) indigent debtors;
- (d) realistic targets;
- (e) interest on arrears;
- (f) extensions on payment of accounts;
- (g) termination of services or restriction of provisions when accounts are in arrears;
- (h) matters related to the unauthorized use of services, theft and damages;
- (i) any other matters prescribed by regulation and guidelines in terms of section 104 of the Act

Table of contents

1. Definitions
2. Duty to collect debts
3. Provision of services
4. Consumer services deposit
5. Interest charges
6. Municipal staff and councillor arrears
7. Arrangement to pay arrears
8. Agreements with employer
9. t Power to restrict or disconnect supply of services
10. Recovery of debt
11. Recovery of cost
12. Attachment
13. Full and final settlement payments
14. Consolidation of accounts and appropriation of payments
15. Indigent support
16. Delegation
17. l Clearance certificates
18. Appeal
19. Offences, penalties and the power of inspection
20. Repeal of by-laws
21. Short title and commencement

1. Definitions

In this by-law, the English text prevails in the event of any conflict with the Afrikaans text, and unless the context otherwise indicates:

“**account**” includes –

- (a) levies, surcharges, service charges and availability charges in respect of the following services –
- (b) electricity supply;
- (c) water supply;
- (d) refuse removal;
- (e) sewerage services;
- (f) rates;
- (g) rental;
- (h) loan instalments
- (i) interest on arrears; and
- (j) any other levies and monies due and payable to the municipality;

and “**municipal account**” has a corresponding meaning;

“**Act**” shall mean the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000);

“**arrears**” shall mean any amount due and payable to the municipality which has not been paid on or before the date of payment;

“**availability charges**” shall mean charges that may be levied against immovable property with or without improvements, which is not connected to any municipal service works where such property can be reasonably so connected;

“**consumer**” –

- (a) with effect from 1 July 2015 and with regard to property zoned for residential purposes, the owner of the property shall be regarded as the consumer, irrespective of who the tenant or occupier is, provided that where a lease agreement in respect of such property exists on 1 July 2015, the tenant or occupier shall still be regarded as the consumer until expiration of the agreement, subject to the provisions of paragraphs 4(3) and (4)(4) of the policy;
- (b) with regard to any other property, the person who receives or uses municipal services or benefits there from; and
- (c) with regard to municipal property that is leased, the person who receives or uses municipal services or benefits there from;

“**council**” shall mean the municipal council of the municipality of Swartland;

“**debt**” shall mean any monies owing to the municipality in respect of the rendering of municipal services, and includes monies owing in regard to property rates, housing, motor vehicle registration and licensing, terminated leases, and any other outstanding amounts, inclusive of any interest thereon, owing to the Municipality;

“**default**” –

- (a) if, at the end of a financial year of the municipality, an owner owes the municipality any amount of money in respect of rates or availability charges; or
- (b) if, after 31 October of a year, an owner is in arrears with payment of rates; or
- (c) where an owner is in arrears for a period of 60 days or more with payments for availability charges;

“due date” shall mean the final date on which payment, as shown on the municipal account, must be made;

“illegal practises” shall mean any practise or trade exercised on premises which is in contravention of any National or Provincial legislation or any by-laws or regulations of the municipality;

“indigent ” shall mean a person or household as contemplated in the Indigent Policy of Swartland Municipality;

“financial year” shall mean the period from 1st July until 30th June of each year;

“municipal manager” shall mean the person appointed in that capacity by the council in terms of section 54A of the Act;

“municipal services” shall mean *“municipal services”* as defined in section 1 of the Act, and includes a function or a combination of functions listed in Schedules 4B and 5B of The Constitution of the Republic of South Africa, 1996, and any other service rendered by the municipality;

“municipality” shall mean the municipality of Swartland and includes any delegated official or service provider of the municipality;

“occupier” shall mean any person who occupies or has control over any premises;

“owner” –

- (a) in relation to property referred to in paragraph (a) of the definition of “property”, shall mean a person in whose name ownership of the property is registered;
- (b) in relation to a right referred to in paragraph (b) of the definition of “property”, shall mean a person in whose name the right is registered;
- (c) in relation to a land tenure right referred to in paragraph (c) of the definition of “property”, shall mean a person in whose name the right is registered or to whom it was granted in terms of legislation; or
- (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of “property”, shall mean the organ of state which owns or controls that public service infrastructure;

provided that a person mentioned below shall for the purposes of this by-law be regarded by the municipality as the owner of a property in the following cases–

- (i) a trustee, in the case of a property in a trust excluding state trust land;
- (ii) an executor or administrator in a deceased estate;
- (iii) a trustee or liquidator in an insolvent estate or in liquidation;
- (iv) a judicial manager in the estate of a person under judicial management;
- (v) a curator in the estate of a person under curatorship;
- (vi) a usufructuary or other person in whose name a usufruct or other personal servitude is registered that is subject to a usufruct or other personal servitude;

- (vii) a buyer, in the case of a property that was sold and of which possession was given to the buyer pending registration of ownership in the name of the buyer;
- (e) in any event where the council is unable to determine the identity of such a person, the person who is entitled to the beneficial use of such immovable property;
- (f) in the event of immovable property in respect of which a lease agreement of 30 (thirty) years or longer had been concluded, the lessee thereof;
- (g) in respect of –
 - (i) a portion of land demarcated on a sectional title plan and registered in accordance with the Sectional Titles Act, 1986 (Act No 95 of 1986), the developer or the governing body in respect of the joint property;
 - (ii) a portion of land, the person in whose name that portion is registered in accordance with a title deed, including the lawfully appointed representative of such person;
 - (iii) any person, including but not limited to –
 - (aa) a company registered in accordance with the Companies Act, 2008 (Act No 71 of 2008), a trust *inter vivos*, a trust *mortis causa*, a close corporation registered in accordance with the Close Corporations Act, 1984 (Act No 69 of 1984), and a voluntary association;
 - (bb) any government department;
 - (cc) any council or governing body established in accordance with any legislation in force in the Republic of South Africa; and
 - (dd) any embassy or other foreign entity;

“person” includes –

- (a) a natural person;
- (b) a juristic person;
- (c) for the purposes of this by-law any industrial or commercial undertaking; and
- (d) an organ of State;

“policy” shall mean the Credit Control and Debt collection Policy of the municipality as reflected in the Schedule to this by-law which Schedule refers;

“premises” shall mean any portion of land, situated within the area of jurisdiction of the municipality, and of which the outer boundaries are demarcated on–

- (a) a general plan or diagram registered in accordance with the Land Survey Act, 1927 (Act No 9 of 1927) or the Deeds Registries Act, 1937 (Act No 47 of 1937); or
- (b) a sectional title plan registered in accordance with the Sectional Titles Act, 1986 (Act No 95 of 1986);

“property” shall mean –

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

“standard rate of interest” shall mean a rate of interest equal to the prime rate as determined by the Reserve Bank of South Africa plus a percentage determined by council annually during the budget process;

“this by-law” includes the policy reflected in the Schedule;

“water demand management meter” shall mean a meter designed to manage the water consumption or needs of a residential property.

2. Duty to collect debts

All debt owing to the municipality must be collected in accordance with relevant National and Provincial legislation, and by-law.

3. Provision of services

New applications for services and the provision of new services must be dealt with as prescribed in the policy.

4. Consumer services deposit

The municipality shall require the payment of a deposit for the provision of services and any adjustment to the basic deposit will be determined by the debtor’s municipal payment record.

5. Interest charges

The Municipality must charge and recover interest in respect of any arrear debt, as prescribed by the policy.

6. Municipal staff and Councillor arrears

6.1 Staff arrears will be dealt with in accordance with Schedule 2 of the Systems Act, and in terms of any procedures, method or actions referred to in the Policy. Notwithstanding any other procedure, method or action that may be taken in terms of the Policy, the municipality shall deduct any outstanding amount from such staff members’ salary after a 3 (three) month period.

6.2 In accordance with Schedule 1, item 12A of the Systems Act, a Councillor of the municipality may not be more than 3 (three) months in arrears for municipal service fees, surcharges on fees, property rates or any other municipal taxes, levies and duties levied by the Municipality. Notwithstanding any other procedure, method or action that may be taken in terms of the Policy, the Municipality shall deduct any outstanding amount from such Councillor’s remuneration after a 3 (three) month period.

7. Arrangements to pay arrears

7.1 The municipal manager may make arrangements with a consumer to pay any arrear debt under conditions as prescribed in terms of the policy.

7.2 Should any dispute arise as to the amount of the arrear debt, the consumer must nevertheless continue to make regular payments in terms of the arrangement until such time as the dispute has been resolved satisfactorily and in compliance with the provision of this by-law and all relevant legislation.

8. Agreement with employer

8.1 The municipal manager may –

- (a) with the consent of a consumer who is in arrears with payments, enter into an agreement with that person's employer to deduct from his or her salary or wages –
 - (i) any outstanding amounts due by the consumer to the municipality; or
 - (ii) regular monthly amounts as may be agreed; and
- (b) provide special incentives for –
 - (i) employers to enter into such agreements; and
 - (ii) consumers who consent to such agreements.

9. Power to restrict or disconnect supply of services

9.1 The municipality may restrict or disconnect the supply of any service to any premises whenever such consumer –

- a) Fails and neglect to make payment on the due date;
- b) Fails and neglect to comply with an arrangement;
- c) Fails and neglect to comply with a condition of supply imposed by the municipality;
- d) damages the infrastructure of the municipality for the supply of such service and/or tampers with any meter used regarding that service.

9.2 The municipality may re-connect the restricted or discontinued services only –

- a) after the arrear debt, and all costs as prescribed in the policy have been paid in full and any and/or all other conditions have been complied with; or
- b) after an arrangement with the consumer has been concluded for payment of the amounts contemplated in sub paragraph (a); and
- c) payment by the consumer of all levies as determined in the municipality's Tariff Policy with regard to tampering and/or of damaging of metering equipment.

9.3 The municipality may restrict, disconnect and/or discontinue any service in respect of any arrear debt.

10. Recovery of debt

10.1 Subject to section 7, the municipal manager must, with regard to rates, and may, with regard to any other debt due and owed –

- a) by legal action recover any debt;
- b) recover debt from any organ of state with due consideration of the provisions of Chapter 3 of The Constitution of the Republic of South Africa, 1996; and
- c) may refer debt to third party debt collection agencies if and so required and subject to operational requirements

11. Recovery of costs

11.1 Where costs are incurred by or on behalf of the municipality in order to recover monies owed to it, the municipal manager may recover such costs, including but not limited to –

- a) costs and administration fees where payments made to the municipality by negotiable instruments are dishonored by banks when presented for payment;
- b) legal and administration costs, including attorney-and-client costs and tracing fees incurred in the recovery of debts;
- c) restriction, disconnection and reconnection fees, where any service has been restricted or disconnected as a result of non-compliance with the by-law;
- d) any losses the municipality may suffer as a result of tampering with municipal equipment or meters; and
- e) any collection commission incurred.

12. Attachment

The municipal manager may, in order to recover debt, approach a competent court and within the relevant jurisdiction for an order to attach movable or immovable property of a consumer.

13. Full and final settlement payments

13.1 Any amount tendered in defrayment of a debt, shall be accepted at any cash receiving office of the municipality.

13.2 No offer of payment in full and final settlement of a debt, when such amount is less than the outstanding amount may be accepted, unless confirmed in writing by the municipal manager

13.3 Notwithstanding paragraph 13.2, the payment so offered must nevertheless be credited against the consumer's account, without prejudice to the municipality's rights.

14. Consolidation of accounts and appropriation of payments

14.1 The following steps shall apply in accordance with Section 102 of the Act –

- a) any separate accounts of persons liable for payments to the municipality may be consolidated at the sole discretion of the municipality;
- b) a payment by such a person may be credited against any account of that person; and
- c) any of the debt collection and credit control measures provided for in this policy may be implemented in relation to any arrears on any of the accounts of such a person.

14.2 Paragraph 14.1 shall not apply where there is a dispute between the municipality and a person referred to in those subsections concerning any specific amount claimed by the municipality from that person.

15. Indigent support

Financial assistance may be granted by the municipality to a person that meets the criteria as laid down in the Indigent Policy of the municipality.

16. Delegation

The municipal manager and/or chief financial officer may delegate and/or sub-delegate his or her powers in terms of this by-law to any official or service provider of the municipality, if and when so required

17. Clearance certificates

On the sale of any property the municipality shall issue the required clearance certificate as prescribed in the policy.

18. Appeal

A person whose rights are affected by a decision of the municipality in terms of delegated powers, may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

19. Offences , penalties and the power of entry and inspection

19.1 A person who –

- a) obstructs or hinders any councilor or official of the municipality in the execution of his or her duties under this by-law or the policy;
- b) unlawfully uses or interferes with municipal equipment or consumption of services supplied;
- c) tampers with any municipal equipment or breaks any seal on a meter or damages a meter;
- d) fails to comply with a notice served in terms of this by-law or the policy;
- e) refuses an official of the municipality access to any premises; or
- f) gives false information regarding the supply of services or with regard to an application for assistance as an indigent;

shall be guilty of an offence and on conviction liable to the payment of a fine or imprisonment or to such imprisonment without the option of a fine or to both such fine and such imprisonment.

20. Repeal of by-laws

The provisions of any by-laws of the municipality relating to credit control and debt collection are hereby repealed insofar as they relate to matters provided for in these by-laws.

21. Short title and commencement

This by-law shall be known as the Credit Control and Debt Collection By-law and shall come into effect on 1 July 2019

SCHEDULE
SWARTLAND MUNICIPALITY
CREDIT CONTROL AND DEBT COLLECTION POLICY

In terms of section 95, 96 and 97 of the Local Government: Municipal Systems Act, 2000, (Act 32 of 2000) read with section 156 of the Constitution the municipality of Swartland hereby adopts the following Credit Control and Debt Collection Policy:

Table of contents

CHAPTER 1: OBJECTIVES OF POLICY

1. Objectives of policy

CHAPTER 2: CUSTOMER CARE AND MANAGEMENT

2. Communication
3. Measuring of municipal services and defective meters
4. Municipal accounts
5. Enquiry, dispute and appeal
6. Payment facilities
7. Consolidation of accounts and allocation of revenue

CHAPTER 3: CREDIT CONTROL AND DEBT COLLECTION MEASURES

8. Application for municipal services
9. Liability for payment
10. Due date
11. Accounts in arrears
12. Levying of interest
13. Disconnection and re-connection of services
14. Payment of consumer services deposits
15. Institution of legal proceedings
16. Writing off outstanding debt

CHAPTER 4: GENERAL PROVISIONS

17. Collection costs
18. Dishonored payments
19. Access to premises
20. Safe accommodation of service connections and appliances
21. Unauthorized use of services
22. Signing and certification of documents
23. Prima facie evidence
24. Clearance Certificates

CHAPTER 1: DEFINITIONS AND OBJECTIVES

1. Objectives of the policy

1.1 The objectives of this policy are to –

- (a) focus on all outstanding debt due and payable to the municipality;
- (b) provide for innovative, cost effective, efficient and appropriate and relevant methods for credit control, debt collection and indigent relief;
- (c) promote a culture of good payment habits and to create a sense of responsibility towards the payment of municipal accounts and reduction of municipal debt; and
- (d) to provide for the subsidisation of services to indigent households where applicable

CHAPTER 2: CUSTOMER CARE AND MANAGEMENT

2. Communication and the conveyance of information

2.1 In order to give effect to the provisions of section 95(a), (b) and (c) of the Act, the municipality may –

- (a) establish a customer care forum where members of the community and members of the council may meet;
- (b) hold ward meetings where representatives of the municipality and other service providers may consult with ward members and their ward representative; and
- (c) implement measures to ensure that consumers of municipal services or any other service, ratepayers and residents in general, are properly informed with regard to the delivery of services and in particular the costs of the provision of services.

3. Measuring of municipal services and defective meters

3.1 The municipality must ensure the measurement of electricity and water provided to consumers through accurate and verifiable metering systems.

3.2 Meters must, as far as possible, be read at intervals of one month or a period as determined by the municipality.

3.3 If for any reason meters cannot be read or have not been read, the municipality shall be entitled to render an account based on the estimated consumption calculated on the last 3 months' average consumption preceding the date on which the meter was last read, provided that the difference between the actual usage and estimated usage must be set off as soon as a metered reading is obtained.

3.4 It may be assumed that the electricity or water usage registered by a meter has in fact been delivered, provided that for any period that a meter is out of order, the electricity or water so delivered may be calculated on the basis of the average usage over the three months preceding the period in question.

3.5 A consumer may request a special meter reading against payment of the prescribed tariff.

3.6 Defective metering equipment shall be dealt with in terms of the municipality's by-laws relating to water services and electricity supply.

3.7 The provisions of the by-laws mentioned in sub paragraph (6) with regard to ownership of metering equipment apply with the necessary changes.

4. Municipal accounts

- 4.1 The municipality shall render a monthly account to a consumer of municipal services.
- 4.2 The account shall reflect the following –
- a) all outstanding amounts and the balance brought forward;
 - b) amounts owing;
 - c) total amount due; and
 - d) meter readings where applicable.
- 4.3 In respect of accounts rendered to a consumer who is not the owner of the relevant property, and where a lease agreement exists between the owner and the tenant, the municipality shall switch the account to the owner of the property upon expiration of the lease agreement.
- 4.4 An account contemplated in sub paragraph (3) shall be switched to the owner of property if –
- a) change in ownership takes place; or
 - b) a tenant or occupier fails to pay his or her account on three occasions, irrespective of the period of lease.
- 4.5 The provisions of sub paragraph (4) (b) shall also apply in the case of non-residential consumers.
- 4.6 Where the owner of a block of flats fails to pay his or her account, the municipality shall notify the tenants of such failure and grant the owner 14 days to settle the account, failing upon which the municipality may restrict or discontinue services to the premises.
- 4.7 Deposits previously paid by a tenant or occupier shall upon switching of an account in terms of subsections (3) and (4) be refunded to the relevant tenant or occupier after calculation of the final outstanding balance.
- 4.8 The municipality shall supply an owner who rents property with a copy of the monthly account provided to the tenant or occupier of the property. The cost of such a duplicate account, to be determined annually by Council, may be debited against the owner's account, provided that e-mail accounts will be rendered at no cost.
- 4.9 An owner who leases property must, at the request of a tenant or occupier, provide such tenant or occupier with a copy of the monthly account rendered to him or her by the municipality.
- 4.10 The provisions of sub paragraphs (3) and (4) shall not apply to –
- a) occupiers of municipal property in terms of a lease agreement; or
 - b) state owned property where one department pays the rates and another pays the services account.

5. Enquiry, dispute and appeal

5.1 Enquiry –

- (a) A consumer may request the municipality to review an account.
- (b) While such an account is under review, the consumer must pay an amount equal to the average usage for the preceding 3(three) months where the history of that account is available.
- (c) Where such history is not available, the consumer must pay an estimated amount before the due date until the matter has been resolved.
- (d) The municipality must resolve the matter within 10 (ten) working days of receipt of such a request and inform the consumer concerned of the outcome of such an investigation.

- (e) Failure to pay the amount determined in terms of subparagraph (1)(b) or (c) on or before the due date may result in the restriction or disconnection of the consumer's services.

5.2 *Dispute* –

- (a) A consumer may dispute any part or all of an account received in which case Section 102 of the Act shall apply.
- (b) The provisions of subparagraph (1)(b) and (c) apply with the necessary changes in case of a dispute.

5.3 *Appeal* –

- (a) A person who feels aggrieved by a decision of the municipality in terms of delegated authority may appeal against that decision by giving written notice in terms of Section 62 of the Act to the municipal manager within 21 (twenty one) days of the date of the notification of the decision.
- (b) The grounds for appeal must be clearly indicated by the aggrieved person; and
- (c) Where applicable, the fees for testing of any metering equipment must be included.

6. Payment facilities

- 6.1 The municipality shall provide and maintain strategically situated, accessible payment offices and cash points throughout its area of jurisdiction.
- 6.2 The following alternative payment facilities shall also be provided / be available –
- (a) electronic bank transfers (A.C.B. system);
 - (b) internet transfers;
 - (c) direct depositing of money into the municipality's approved bank account;
 - (d) payments at different accredited business undertakings and other agencies; and
 - (e) where available, credit- and debit cards to a maximum of R5000 per account per month in respect of residential property.
- 6.3 Where any of the alternative payment facilities are used, the onus is on the person using such facilities to provide proof of payment, and the municipality does not accept liability for the non-receipt of such payments, or for incorrect allocations which are due to a mistake on the part of such person.
- 6.4 Where payment of the money due is made by way of a direct deposit into the municipality's approved bank account, the consumer must submit proof of the deposit not later than the due date.

7. Consolidation of accounts and appropriation of payments

- 7.1 The municipality, in terms of section 102 of the Act, considers all separate accounts of a consumer to be consolidated regardless of the fact that separate accounts for such owner or tenant may be rendered and includes all pre-paid services for which no account is rendered.
- 7.2 Payments received by the municipality may be appropriated in the order as determined by the municipality annually during the budget process.
- 7.3 Payments received shall be appropriated in terms of oldest debt first by means of instalments as determined annually by the council in order to prevent prescription.

CHAPTER 3:
CREDIT CONTROL AND DEBT COLLECTION MEASURES

8. Application for municipal services

- 8.1 No person may receive or consume municipal services without approval of the municipality.
- 8.2 The municipality may render services to consumers in terms of special agreements where circumstances require special measurements.
- 8.3 A consumer who wants to receive or use municipal services must apply in writing for approval in terms of paragraph 8(1).
- 8.4 In respect of non-residential property, if the owner is not the consumer, he or she must consent in writing to the supply of the services requested.
- 8.5 Upon approval of an application for the provision of services, the municipality must inform the applicant of –
- (a) the different levels or standards of services and the applicable tariffs or fees payable in respect of each level of service;
 - (b) the due date for payment of all amounts owed to the municipality;
 - (c) the service hours of cashiers where payments may be made and the conditions for payment at vendor points;
 - (d) the various alternative payment facilities and the conditions and requirements relating thereto;
 - (e) the municipality's right to terminate or restrict water or electricity services in case of non-payment of an account (**or any part thereof**) or tampering with municipal metering equipment;
 - (f) the consumer's responsibility for any damages caused to metering equipment or other municipal property;
 - (g) his or her obligation to pay for services despite possible non-delivery of an account;
 - (h) the owner will be held responsible for the occupier's/tenant's arrears for municipal services;
 - (i) the municipality's right to consolidate accounts of the consumer;
 - (j) the municipality's right to install a prepayment meter, on a property where the electricity supply has been disconnected for non-payment or tampering in which case the meter remains the property of the municipality
 - (k) the installation of pre-paid meters, with the written permission of the owner, is encouraged but those debtors whose electricity supply has been disconnected three times for non-payment, will be compelled to install a pre-paid meter before the supply is reconnected. All energy dispensers are installed at the owner's or tenant's expense;
 - (l) the municipality's right to install a water demand management meter, on a property for non-payment or tampering in which case the meter remains the property of the municipality;
 - (m) the right to withhold or to limit units purchased for a prepayment meter or to offset a portion of any payment against arrears as result of non-payment of debt owed to the municipality;
 - (n) the municipality's right to levy interest on amounts not paid by the due date as stipulated on an account;
 - (o) the municipality's right to attach movable and immovable property;
 - (p) the municipality's assistance to indigents; and
 - (q) the municipality's client service charter.

- 8.6 The municipality will only be obliged to provide a specific level of a municipal service requested –
- (a) if it is already provided by the municipality in the normal course of events; and
 - (b) if the municipality possesses the means and capacity to provide such a level of service.
- 8.7 A consumer may at any time apply to change the level of a municipal service originally approved, provided that the level of service requested is available and that the costs and disbursements incidental to such change be borne by the applicant.
- 8.8 In the case of an illiterate or similarly disabled person, the municipality must ensure that he or she is aware of and understands the contents of the application form and that he or she is assisted with the completion thereof.
- 8.9 Where the municipality –
- (a) refuses an application for the provision of municipal services or a specific service or level of service; or
 - (b) is not in a position to provide such municipal service or level of a service on the date on which it is requested; or
 - (c) is not in a position to provide such municipal service or level of a service at all; it must inform the applicant of such refusal or inability to provide the service and the reasons therefore.
- 8.10 An approval for the provision of services or any undertaking or arrangement in terms of this policy does not constitute a credit facility envisaged in terms of section 8(3) of the National Credit Act but is deemed to be incidental credit as envisaged in terms of section 4(6)(b) read with section 5(2) and (3) of the National Credit Act, 2005.

9. Liability for payment

- 9.1 A consumer who receives, uses or benefits from the services offered or rendered by the municipality in terms of its functions as listed in Schedules 4B of 5B of the Constitution, is responsible for the payment of any monies due and payable to the municipality in respect of such consumption or benefit.
- 9.2 If for any reason service charges have not been levied, the municipality shall be entitled to render an account as from the date of registration of such property in the Deeds Office.
- 9.3 Rental payable in respect of the letting of state-financed housing and other municipal property is payable by –
- (a) the person with whom the lease was concluded; or
 - (b) the person who applied to rent the premises, where no agreement of lease was concluded; or
 - (c) if no such person can be identified, the head of the household occupying such premises; or
 - (d) any other person who accepts responsibility for the payment of rental due, irrespective of whether such a person occupies the premises or not.
- 9.4 The person or persons with whom a loan agreement or an instrument of debt has been concluded is responsible for repayment of housing loans.
- 9.5 Where an account is not paid in full, any lesser amount offered and accepted by the municipality shall not be regarded as full and final settlement of such account unless the municipal manager in writing accepts such lesser amount as being in full and final settlement of the account in question.

9.6 Non-delivery of an account or an error or omission in an account shall not exempt a consumer from payment of any amounts owing to the municipality.

10. Due date

Accounts for rates or services offered or rendered by the municipality become due and payable as follows –

10.1 Rates –

- (a) rates become due and payable on the 1st day of July of each year for which such rates are determined;
- (b) the municipality shall recover the rates levied in 12(twelve) equal instalments which shall be payable on the date indicated on the account statement;
- (c) by prior arrangement the municipality will recover the rates levied in a single amount, which is payable on the date determined by the municipality in respect of annual payments at end of October in the year in which the amount is levied.
- (a) where property becomes taxable after the 1st July of a financial year of the municipality, the rates levied shall become due and payable on the date of notice to such owner of his or her liability for payment thereof;
- (b) the provisions of sub paragraphs (b) and (c) will apply with the necessary changes in respect of rates levied in terms of sub paragraph (d);
- (c) applications to pay rates in a single amount must be submitted to the municipality before 31 May of each year.

10.2 *Availability charges* –

- (a) availability charges become due and payable on the 1st day of July of each year for which such fees are determined;
- (b) the municipality will recover the availability charges levied in 12 (twelve) equal instalments which will be payable on or before the last working day of each month in respect of which payment must be made;
- (c) where the levy becomes payable after the 1st July of a financial year, the levy shall become due and payable on the date of notice to such owner of his or her liability for payment thereof.

10.3 *Municipal services* –

Moneys payable in respect of municipal services are due and payable on the date indicated as such on the account delivered each month and payment must be made on or before the last working day of the month in which such account was delivered.

10.4 *Rental or loan instalment* –

Payment of rental or loan instalments due in respect of state-financed housing or other municipal property must be made on the dates and in accordance with the provisions contained in the relevant lease and loan agreements.

10.5 *Other fees or instalments* –

Payment of moneys other than those contemplated in sub paragraphs (1) to (5) must be made on the date indicated on the account which date will be no more than 30 (Thirty) days after the rendering of the particular service.

11. Accounts in arrears

11.1 Rates:

- (a) where rates which are payable in a single amount remain unpaid after the due date, the Director Financial Services shall serve a written notice on the owner demanding payment thereof within 14(fourteen) days from the date of notification.
- (b) upon failure to comply with a notice contemplated in sub paragraph (a), the Director: Financial Services shall, subject to the provisions of paragraph 15, institute legal proceedings to recover such rates.
- (c) where an owner, who pays rates in monthly instalments, defaults on payments the Director: Financial Services shall, by written notice, withdraw his or her right to pay monthly instalments in which event the full amount of outstanding rates shall become due and payable immediately.
- (d) where rates payable in monthly instalments are not paid in full after expiry of the period of 12 (twelve) months from the date on which such rates became due and payable, the Director: Financial Services shall act in terms of sub paragraphs (a) and (b).
- (e) the provisions of sub paragraphs (a) and (b) shall apply with regard to recovery of rates as contemplated in sub paragraph (c).

11.2 Availability charges:

The provisions of sub paragraphs (c) and (d) apply with the necessary changes to an owner who defaults on payments in respect of availability charges.

11.3 Municipal Services:

- (a) Where a consumer fails to pay any amount or portion thereof in respect of municipal services on the due date, the municipality may–
 - (i) disconnect the electricity supply to the premises concerned;
 - (ii) restrict the water supply to such premises by installing a water demand management meter on the service connection which will allow the passage of at least 6 (six) kilolitre water per month or as permitted by such management meter;
 - (iii) install a prepayment meter where the electricity supply has been disconnected for non-payment;
 - (iv) withhold or limit units purchased for a prepayment meter or to offset a portion of any payment against arrears as result of non-payment of debt owed to the municipality;
- (b) Notice to a consumer in respect of an account in arrears or outstanding debt may be given via direct electronic media which include but is not limited to: e-mail, SMS or any other available method of electronic communication;
- (c) The municipality may enter into an agreement with a consumer who is unable to pay his or her account or portion thereof in terms of which he or she will be permitted to pay the outstanding amount in monthly instalments as determined annually by council.
- (d) Where applicable, the municipality may enter into an agreement with the consumer's employer in terms of section 103 of the Act.
- (e) Upon failure to comply with the conditions in sub paragraph (c) or (d), the municipality may cancel the agreement and institute any of the debt collection measures provided for in sub paragraph (2)(a).
- (f) Where a consumer is served with an account of which the amount payable is exceptionally high as a result of –
 - (i) an act or omission on the part of the municipality; or

- (ii) a leakage of water from a water installation or electricity installation on the premises which is not part of the municipality's service connection; the municipality may enter into an agreement with the consumer to pay the amount owed in monthly instalments.
- (g) Where a period exceeding 30 (thirty) days after the due date has expired and no agreement, as envisaged in sub paragraph (c) has been entered into, the Director: Financial Services shall, subject to the provisions of paragraph 15 institute legal proceedings against the consumer for the recovery of the debt.
- (h) Where a basic levy, availability charge, rates or any other cost is levied on premises of which the owner cannot be traced, the Municipal Manager, and the Director: Financial Services in consultation with the Internal Auditor and the Executive Mayor may cease such levies, provided that if the owner is traced, such levies may be recovered retrospectively.

11.4 *Rentals or loan instalments:*

- (a) Interest payable on rentals or loan instalments in arrears shall be levied in accordance with the provisions contained in such lease or loan agreements.
- (b) Where rentals or loan instalments are not paid on or before the due date, a notice demanding payment thereof, together with interest, shall be served on the person responsible for payment.
- (c) The municipality may enter into an agreement to pay the arrears by way of monthly instalments subject to the conditions contained in sub paragraph 2(b) which terms shall apply with the necessary changes.
- (d) Where no agreement has been concluded to pay the arrears and such arrears are in excess of 30(thirty) days, the Director: Financial Services shall take the steps in terms of sub paragraph (2).

11.5 *Other fees or instalments:*

The provisions of paragraph 11.4 shall apply with the necessary changes.

12. Levying of interest

- 12.1 The standard rate of interest must be levied and collected in respect of all amounts due and payable for each month, provided that for the purposes of calculation, a portion of a month shall be regarded as a month.
- 12.2 Interest is levied from the first working day following the date on which the amounts in arrears are payable.
- 12.3 Waiving of such interest may be authorised by the Director: Financial Services, Municipal Manager and Internal Auditor, in consultation with the Executive Mayor.

13. Disconnection and re-connection of services

- 13.1 Services disconnected in terms of paragraph 8(1) shall only be re-connected upon payment of –
 - (a) the amount in arrears together with interest or if an agreement for the payment thereof has been concluded in terms of paragraph 8(2)(b);
 - (b) the re-connection fees;
 - (c) any other fees as determined in terms of the municipality's Tariff Policy.
- 13.2 The onus shall always be on the debtor to request reconnection and to prove that the full amount required was paid or that an agreement was entered into for the payment thereof.

- 13.3 Restricted or disconnected services will be restored within a reasonable period of time after the debtor produces proof of payment of the required amount and subject to the municipality's capacity at the time to restore such service.
- 13.4 Services disconnected in terms of paragraph 21 shall only be re-connected upon payment of –
- (a) the re-connection fees;
 - (b) the cost of damages to equipment;
 - (c) the cost of re-placement of damaged equipment; and
 - (d) any other fees as determined in the municipality's tariff policy.
- 13.5 No standby service shall be rendered for re-connection of services in case of non-payment or tampering with metering equipment.

14. Payment of deposit

- 14.1 A consumer, as contemplated in paragraphs (b) and (c) of the definition of 'consumer' in section 1 of this by-law, shall on application for the provision of municipal services, pay a deposit as determined by the municipality prior to delivery of the required services.
- 14.2 The municipality may increase the deposit where a consumer, as contemplated in sub paragraph 14.1, fails to pay his or her total outstanding debt for municipal services or where services are disconnected or restricted in terms of paragraph 9.1.
- 14.3 The increase shall be equal to the average consumption by the owner over a period of 12 (twelve) months.
- 14.4 Where a consumer, as contemplated in sub paragraph 14.1, moves to other premises within the area of jurisdiction of the municipality, the deposit may be increased if such move requires a higher deposit.
- 14.5 Upon termination of services on request of a consumer, or when accounts are switched in terms of paragraph 4, the deposit may be utilised to extinguish or reduce debt owed by the owner and the remainder, if any, be refunded.
- 14.6 The municipality may annually increase a deposit held in terms of sub paragraph 14.1 which increase shall be equal to the average of the services consumed over a period of 12 (twelve) months.
- 14.7 The deposit will be forfeited and applied towards any unpaid municipal accounts in those instances where a consumer vacates the premises.
- 14.8 The municipality is not liable for the payment of interest on deposits held.

15. Institution of legal proceedings

- 15.1 The institution of legal proceedings includes, but is not limited to –
- (a) the issuing of summons for payment of amounts in arrears;
 - (b) the attachment of rent payable in respect of a property where applicable;
 - (a) the attachment of a consumer's remuneration;
 - (b) the attachment and sale in execution of movable property;
 - (c) the attachment and sale in execution of immovable property;
 - (d) the eviction of an occupier of any municipal property and/or attachment of movable property in terms of a *hypothec lien*.
- 15.2 The institution of legal proceedings must be undertaken with due consideration of all legal requirements and in compliance with the applicable regulations and court rules contained in the Magistrate Court Act 32 of 1944 (As Amended) and Supreme Court Act 59 of 1959 (As Amended)

- 15.3 Where a consumer's debt is less than R500-00 and older than 90 days, the Director: Financial Services may decide whether –
- (a) an account should be handed over for collection; or
 - (b) legal proceedings should be instituted against the consumer.
- 15.4 The Director: Financial Services may determine where debt is more than R500-00 and older than 90(ninety) days, which of the judicial measures listed in sub paragraph 15.3 will be the most appropriate and effective in each case.

16. Writing off of outstanding debt

This will be dealt with on a case by case basis on the recommendation of the Director of Financial Services, and subject to council approval.

CHAPTER 4: GENERAL PROVISIONS

17. Collection cost

All legal costs, collection commission, and any other expenses incurred by the municipality in order to recover monies owing by a consumer, shall be debited against that owner or tenant's account and collected from him or her.

18. Dishonoured payments

- 18.1 The municipality shall impose costs and administration fees on the account of the consumer where any payment by means of a negotiable instrument is dishonoured by a bank.
- 18.2 Where cheque payment has been dishonoured for a third time within a financial year, no future payments per cheque shall be accepted by the municipality

19. Access to premises and the power to inspect

Authorised officials of the municipality or of a service provider shall have access at all reasonable hours to premises for the purposes of implementation of this policy provided that such official must provide the necessary identification upon request by the owner, tenant and/or lawful occupant which shall exclude the unlawful possessor or holder of the property.

20. Safe accommodation of service connections and appliances

A consumer shall be responsible for the safe accommodation of any service connections, meters, stopcocks, as well as appliances and equipment for the safeguarding of services on their premises, and shall be liable for any costs or losses incurred, or damages suffered by the municipality in respect thereof.

21. Unauthorised use of services

- 21.1 A consumer who –
- (a) uses or gains access to municipal services without approval in terms of paragraph 8(1); or
 - (b) tampers with, breaks or damages any seal, or removes any appliance or equipment which had been installed to measure, provide or restrict the supply of services,
- shall be held liable for payment of any unauthorised consumption of services.

- 21.2 The municipality has the right to disconnect water or electricity supply to premises –
- (a) if such services are used without approval as contemplated in sub paragraph 21.1 (a); and
 - (b) if metering equipment has been wilfully damaged or tampered with as contemplated in sub paragraph 21.1 (b).
- 21.3 Without prejudice to the municipality's right to institute criminal proceedings, a consumer who tampers with or damages any appliance or equipment as contemplated in sub paragraph 21.1 (b) shall be liable to pay the costs as contemplated in paragraph 13.4.
- (4) In the case of tampering with or damaging of any metering equipment, the owner shall be regarded as being responsible for such tampering with or damaging thereof unless he or she can prove otherwise.

22. Signing and certification of documents

Any order, notice or other document which needs to be signed or certified by the municipality shall be regarded as sufficiently signed and certified if done by the municipal manager or a duly authorised official of the municipality.

23. Prima facie evidence

In lawsuits initiated by the municipality, the mere submission of a certificate reflecting the amount due and payable to the municipality and signed by the municipal manager or a an official authorised thereto, may be accepted by the court as *prima facie* evidence that the amount is due.

24. Clearance certificates

- 24.1 On the sale of any property the municipality shall withhold the required clearance certificate in terms of section 118(1) of the Act until all amounts that became due and payable in connection with that property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the 2(two) years preceding the date of application for the certificate have been fully paid.
- 24.2 All payments shall be allocated to the seller's municipal accounts and all refunds shall be made to such seller.
- 24.3 No interest shall be paid in respect of such payments.
- 24.4 The clearance certificate validation period is 60(sixty) days and the amount due shall be calculated as follows –
- (a) applications received on 30 June shall include 3 (three) months' advance payments;
 - (b) applications received on 1st July shall include –
 - (i) rates and availability charges in advance for the full financial year; and
 - (ii) 3 (three) months advance payments for water, electricity, sewerage and refuse removal.
 - (c) all other applications shall include 3 (three) month's advance payments.
- 24.5 Payments in terms of sub paragraphs (a) to (c) shall include all outstanding debt due and payable on the property.

- 24.6 In terms of section 118(3) of the Act, an amount due for municipal services, surcharges on fees, property rates and other municipal taxes, levies fees and charges is a charge upon the property in terms of which the amount is owed and enjoys preference over any mortgage bond registered against the property.
- 24.7 The amount owing shall be for the account of the registered owner regardless of who incurred the debt.
- 24.8 The municipality may, after obtaining an appropriate court order, sell any property in execution to recover outstanding debt due and payable as contained in the order of court.