

SWARTLAND MUNICIPALITY

CREDIT CONTROL AND DEBT COLLECTION POLICY

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MUNICIPALITY OF SWARTLAND

POLICY RELATING TO CREDIT CONTROL AND DEBT COLLECTION

PREAMBLE

In terms of section 96 of the Local Government: Municipal Systems Act, 2000 a Municipality shall-

- collect all money due and payable to it, subject to the provisions of the Act and any other applicable legislation; and
- for this purpose, implement and maintain a credit control and debt collection system which is not in conflict with its rates and tariffs policies and which complies with the provisions of the Act.

In order to give effect to the foregoing provisions of the Act, the council of the Municipality of Swartland has adopted a policy relating to credit control and debt collection as set out hereinafter.

CHAPTER 1

DEFINITIONS

1. For purposes of this policy, and unless inconsistent with the context, any word or phrase to which a specific meaning was ascribed by the Act, will have that meaning and

“**account**” includes-

- (1) levies, surcharges or service charges in respect of the following services:

electricity consumption;
water consumption;
refuse removal;
sewage services;

- (2) rates;

- (3) rental;

- (4) loan instalments

- (5) interest on arrears;

(6) any other levies and money owing to the Municipality;

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

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

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

“**council**” means the municipal council of the Municipality of Swartland;

“**date of payment**” means the same as the definition in paragraph 5 hereof in respect of the respective monies,

“**indigent household**” means a household registered as such with the Municipality and which-

(1) complies with the qualification requirements in paragraph 20 hereof; and

(2) occupies premises within the area of jurisdiction of the Municipality;

“**Director: Financial Services**” means a person appointed by the council in that capacity to administer the council’s finances and includes any person –

(1) who is in an acting capacity in that position;

(2) to whom the Director: Financial Services delegated a power, function or duty in respect of such delegated power, function or duty;

“**Municipal Manager**” means the person appointed in that capacity by the council in accordance with section 82 of the Local Government Act: Municipal Structures No 117 of 1988 and includes any person –

(1) acting in that position;

(2) to whom the Municipality delegated a power, function or duty in respect of such delegated power, function or duty;

“**municipal services**” means the provision of water, the provision of electricity, the removal of domestic waste, the disposal of sewage or any one or combination of these services;

“**Municipality**” means the Municipality of Swartland;

“**owner**” in respect of immovable property means-

- (1) the person in whom ownership vests;
- (2) in the event of the person in whom the ownership vests being insolvent or deceased, or subject to any legal disqualification, the person under whose control and administration such immovable property vest in his/her capacity as curator, trustee, executor, administrator, judicial manager, liquidator or any other lawful representative;
- (3) 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;
- (4) in the event of immovable property in respect of which a lease agreement of 30 years or longer had been concluded, the lessee thereof;
- (5) 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. 59 of 1986), the developer or the governing body in respect of the joint property;
 - (ii) a portion of land as defined in this Act, the person in whose name that portion is registered in accordance with a title deed, including the lawfully appointed representative of such person;
- (6) any persona, including but not limited to:
 - (i) a company registered in accordance with the Companies' Act, 1973 (Act No 61 of 1973), 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;
 - (ii) any government department;
 - (iii) any council or governing body established in accordance with any legislation in force in the Republic of South Africa; and
 - (iv) any embassy or other foreign entity;

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

- (1) 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

(2) a sectional title plan registered in accordance with the Sectional Titles Act, 1986 (Act No 95 of 1986);

“standard rate of interest” means a rate of interest one percent higher than the rate payable by the Municipality to its bank in respect of an overdraft.

CHAPTER 2

CUSTOMER CARE AND MANAGEMENT

2.1 COMMUNICATION AND THE CONVEYANCE OF INFORMATION

2.1.1 In order to give effect to the provisions of section 95 (a), (b), and (c) of the Act, the Municipality shall do everything within its power to-

- establish a customer care forum where members of the community and members of the council may meet;
- hold ward meetings where representatives of the Municipality and other service providers may consult with ward members and their ward representative;
- ensure that users of municipal services and/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.

In order to achieve these aims-

- there will, amongst others, be public meetings convened during the budget process, in which political parties, ratepayers' associations, residents' associations, community organisations, chambers of commerce, the general public, and any other interested party shall be involved and during which the priorities, principles, and frameworks of budgets will be discussed and analysed;
- workshops to identify needs will be held within wards in order to-
 - (1) identify, within wards, the needs which are legally the responsibility of the Municipality;
 - (2) involve the community in the prioritising of such needs;
 - (3) involve the community in the Municipality's planning of projects and what the Municipality is and other government levels are doing; and

(4) inform communities what the levels of payment and non-payment are in respect of municipal services, rates and other money due to the Municipality within that ward, and to establish strategies in this regard.

- further public meetings will be held after the drafting of the concept budget at which the implementation of tariffs and the manner in which the budget is to be applied, will be discussed;
- ward members will be encouraged to hold regular ward meetings at which, amongst others, particular attention will be given to customer care and matters relating to debt.

2.1.2 Other methods of communication are to include-

- the utilisation of municipal accounts as a highly effective method of communication to convey all kinds of information;
- the distribution of a quarterly newsletter in which prominence is to be given to customer care and issues relating to debt;
- encouragement to the press to give prominence to the Municipality's customer care and issues relating to debt and to encourage the press to attend council meetings at which these issues are discussed.

2.2 MEASURING OF MUNICIPAL SERVICES

2.2.1 The Municipality shall on a continuous basis ensure that electrical energy and water provided to users shall be measured by accurate and verifiable metering systems as and when these services are provided.

2.2.2 Meters will, as far as is possible, be read at intervals of one month.

2.2.3 Should premises on which measuring mechanisms are installed be locked or for whatsoever reason be inaccessible to the official responsible for reading meters, the Municipality shall be entitled to render to the user an account based on the estimated use, as estimated by the Director: Financial Services.

2.2.4 Wherever a meter has been installed, it will be assumed that the electrical energy or quantity of water registered by that meter has been delivered; provided that for any period that a meter is out of order, the electrical energy or water so delivered shall be calculated on the basis of the average quantity delivered over three months immediately preceding the period in question.

2.2.5 Where a user is assessed for estimated usage in accordance with paragraph 2.2.3, the difference between the actual usage and estimated usage must be set off as soon as a metered reading is obtained.

2.2.6 Should a user request that a special meter reading be taken, such reading may be obtained against payment of a prescribed tariff.

2.3 MUNICIPAL ACCOUNTS

In so far as it is possible, the Municipality shall ensure that a person liable for payment of municipal services and rates shall receive monthly statements on which the following shall be reflected:

- all outstanding amounts and the balance brought forward;
- amounts owing;
- total amount due;
- meter reading.

2.4 ENQUIRIES, APPEALS, AND SERVICE COMPLAINTS

2.4.1 Should a person be convinced that his or her account for municipal services is inaccurate, he or she may direct a request to the Municipality to have that account reviewed.

2.4.2 In the meantime, the person must pay an amount equal to the average usage for the preceding three months, where the history of that account is available. Where such history is not available, the person must pay an estimated amount, as determined by the Director: Financial Services, before the date of payment and until the matter has been resolved.

2.4.3 The Municipal department concerned shall, within one month of receipt of such a request, investigate the matter and inform the person concerned of the outcome of such an investigation.

2.4.4 Failure to pay the amount determined in accordance with paragraph 2.4.2 on or before the date of payment, will render such a person liable to have his or her electricity or water supply suspended.

2.4.5 A person may appeal against the findings of the Municipality referred to in paragraph 2.4.3.

2.4.6 An appeal in accordance with paragraph 2.4.3 must be made and delivered to the Municipal Manager within 21 days of the appellant becoming aware of the finding referred to in paragraph 2.4.3 and shall-

- (1) set out the grounds of the appeal, and
- (2) where applicable, include the fees determined by the Municipality for the testing of the metering mechanism.

2.5 PAYMENT FACILITIES

2.5.1 The Municipality shall provide and maintain strategically situated accessible payment offices and cash points throughout its area of jurisdiction.

2.5.2 The following alternative payment facilities shall also be provided or be available:

- electronic bank transfers (A.C.B. system);
- internet transfers;
- direct depositing of money into the Municipality's approved bank account;
- payments at different accredited business undertakings and other agencies.

2.5.3 Where any of the alternative payment facilities is 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, where such incorrect allocations are due to a mistake on the part of such person.

2.5.4 Where payment of the money due is made by way of a direct deposit into the Municipality's approved bank account, the onus rests on the debtor to notify the Municipality of such deposit in writing or facsimile to reach the Municipality not later than the date of payment of such moneys, as envisaged in paragraph 5 hereof.

2.6 ALLOCATION OF REVENUE

In accordance with section 102 of the Act, a Municipality may-

- consolidate any separate accounts of persons liable for payments to the Municipality; and
- credit a payment by such a person against any account of that person.

Payments received by the Municipality shall accordingly be allocated in the following order of priority:

- (1) interest on arrears;
- (2) payments made by way of monthly installments in accordance with an agreement with the Municipality;
- (3) rates;
- (4) availability fees;

- (5) sewage fees;
- (6) rentals in respect of housing and other leases;
- (7) repayments of loans;
- (8) diverse fees and levies;
- (9) fees for refuse removals;
- (10) water;
- (11) electricity.

CHAPTER 3

CREDIT CONTROL AND DEBT COLLECTION MEASURES

3. APPLICATION FOR MUNICIPAL SERVICES

- 3.1 No one will be allowed access to municipal services, or may use or consume municipal services, unless application was made on a prescribed form, attached hereto as Annexure A, and the Municipality granted such application.
- 3.2 If, at the commencement of this policy or at any other time, municipal services are provided in the absence of a written agreement providing therefore, it shall be deemed that-
 - (1) an agreement in accordance with the provisions of paragraph 3.6 actually exists; and
 - (2) the standard or level of service thus provided is the standard or level of service preferred by the consumer or the person making use of the services;until such time as the Municipality and the person concerned entered into an agreement as envisaged in paragraph 3.1.
- 3.3 Upon receipt of an application for the provision of municipal services, the Municipality shall inform the applicant concerned of the different levels or standards of services and the applicable tariffs or fees payable in respect of each level of service.
- 3.4 The Municipality will only be obliged to provide a specific level of a municipal service requested, if it is already provided by the Municipality in the normal course of events,

and then only if the Municipality possesses the means and capacity to provide such a level of service.

- 3.5 A person may at any time apply to change the level of a municipal service originally agreed upon, provided that the level of service requested is available, and that the costs and disbursements incidental to such change, be borne by the applicant.
- 3.6 The application form referred to in paragraph 3.1, properly completed and signed by the applicant, and the Municipality's approval thereof, shall constitute a binding agreement between the Municipality and such a person and will take effect on the date indicated on the form.
- 3.7 At completion of an application form for municipal services, the Municipality shall ensure that the owner, consumer, or any other person thus making application, fully understands the document and the process of interaction with him or her, and he or she must be made aware of the option of registering as an indigent household.
- 3.8 In the case of an illiterate or similarly disabled person, the Municipality shall take the necessary steps to ensure that the person is aware of and understands the contents of the application form and that he or she is assisted with the completion thereof.
- 3.9 If the Municipality-
 - (1) refuses an application for the provision of municipal services or a specific service or level of service;
 - (2) is not in a position to provide such municipal service or level of a service on the date on which it is requested;
 - (3) is not in a position to provide such municipal service or level of a service at all;

the Municipality shall, within a reasonable time, inform the applicant of such refusal or inability to provide the service, the reasons therefor, and, if applicable, when the Municipality will be in a position to deliver such municipal service or specific service or level of service.

4. LIABILITY FOR PAYMENT OF MONEY DUE AND PAYABLE TO THE MUNICIPALITY

- 4.1 The person responsible for the payment of money due and payable to the Municipality will be the following in the instances mentioned hereafter:
 - (1) rates and sewage – the owner of the premises concerned;
 - (2) municipal services (excluding disposal of sewage) – the consumer or person to whom the service was provided, provided that if the owner is not the consumer or

the person to whom the service is provided, and the Municipality has taken reasonable steps to procure payment of monies due by such a consumer or person, without being successful in collecting such monies, the owner of such premises shall be liable for payment of such amounts as may be due and payable by such a consumer or person to the Municipality;

- (3) rental payable in respect of the letting of state-financed housing and other municipal property – the person with whom the lease was concluded and where no agreement of lease was concluded, the person who applied to rent the premises, or, if no such person can be identified, the head of the household occupying such premises or any other person who accepts responsibility for the payment of rental due, irrespective of whether such a person occupies the premises or not;
- (4) repayment of housing loans – the person or persons with whom a loan agreement or an instrument of debt has been concluded;
- (5) any other services – the person to whom such services were delivered.

4.1 Where a company, trust, close corporation or a governing body in terms of the Sectional Titles Act, 1986 (Act No 95 of 1986) -

- is the owner of immovable property and/or;
- is the applicant in terms of paragraph 3.1 for the provision of municipal services, and such services are being or were in fact provided;

the obligation of such entity for the payment of rates on immovable property and/or any amounts payable in respect of municipal services, shall be extended to its directors, trustees or members, as the case may be, who as such will be held liable jointly and severally.

4.2 Where an account is not paid in full, any lesser amount offered and accepted by the Municipality shall not be deemed to be in 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.

4.3 The onus rests on the debtor to obtain a statement of his or her accounts so that they may be paid on or before the date of payment.

5. DATE OF PAYMENT OF MONEY DUE

5.1 Rates are due and payable on 1 July of the financial year for which such rates are determined and payment thereof must be made on or before the last day of the month of October of that year.

In the event of immovable property becoming taxable after 1 July of a financial year, the rates levied on such property shall become due and payable on the date that notice of the assessment of such rates is served on the owner of such property, and payment of the rates thus levied shall in that event be made not later than 3 months after the rates become due.

5.2 If the owner of taxable property gives notice in writing to the Director: Financial Services at the very latest on the 31st day of May of any financial year, or the later date within such financial year as to which the Director: Financial Services may agree, that he or she wishes to pay all rates in respect of such property by way of installment, such owner shall be entitled to pay all rates for the immediately ensuing financial year, and until such notice is similarly withdrawn by him or her, also for every subsequent financial year, by way of twelve installments which shall be—

- as equal as is possible, and
- due and payable on the last day of each month in respect of which a payment is payable.

Payment of installments thus imposed, must be made not later than the last day of the month following on the month in which such installments became due and payable.

5.3 Moneys payable in respect of municipal services are due and payable on the date indicated as such on the account delivered each month in respect of those services and such payment must be made on or before the last day of the month in which such account was delivered in accordance with paragraph 5.6.

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

5.5 Payment of amounts due to the Municipality, other than those for rates, fees due in respect of municipal services and lease and loan installments, must be made on the date indicated on the account rendered to such debtor in respect of such amount owed, which date will be no more than 30 days after the rendering of the particular service.

5.6 Where the last date of payment of any amount due to the Municipality falls on a day on which the Municipality's offices are closed, the final date of payment of those amounts will be deemed to be the last day preceding the date on which such amounts are payable, on which the offices are open.

6. ACTIONS TO BE TAKEN WHERE DEBTORS FALL IN ARREARS OR FAIL TO PAY MONEYS DUE ON OR BEFORE THE DATE OF PAYMENT

6.1 RATES IN ARREARS

- 6.1.1 In accordance with the provisions of paragraph 7, interest will be imposed and payable on all amounts in arrears.
- 6.1.2 In the event of any rates, other than rates payable in monthly installments, remaining unpaid after the date of payment as indicated in paragraph 5.1, a written demand by the Director: Financial Services shall be served on the owner as principal debtor and every other person held liable jointly or severally, in which such owner or person, as the case may be, is called upon to pay the amount due and owing within 14 days after service thereof.
- 6.1.3 If, during any financial year, at least three installments (in those instances where rates are paid in monthly installments) remain unpaid or are paid after the date of payment as indicated in paragraph 5.2, irrespective of whether such failures to pay or to pay timeously were consecutive or not, the Director: Financial Services must, by written notice served on the owner, withdraw his or her right to pay rates by way of monthly installments. In such an event, the provisions of section 90(2)(b) of Ordinance 20 of 1974 must be complied with.
- 6.1.4 In the event of any rates, other than rates payable in monthly installments, remaining unpaid after expiry of the 14 days referred to in paragraph 6.1.2, the Director: Financial Services must without delay and with due consideration of the provisions of paragraph 10.3, institute legal proceedings in order to recover such rates.
- 6.1.5 In the event of rates payable in monthly installments not being paid in full after expiry of a period of 12 months from the date on which such rates became due and payable, the Director: Financial Services shall-
- serve a written notice on the owner in which he or she is called upon to pay the amount due and payable by him or her within 14 days of service of the notice; and
 - if, after expiry of the aforementioned period of 14 days, such rates have not been paid, without delay and with due consideration of the provisions of paragraph 10.3, institute legal proceedings in order to recover such rates.

6.2 FEES AND LEVIES IN ARREARS IN RESPECT OF MUNICIPAL SERVICES

- 6.2.1 In accordance with the provisions of paragraph 7, interest shall be levied and be payable on all amounts in arrears.

6.2.2 Should any amount owing in respect of municipal services, or any portion thereof, remain unpaid after the date of payment indicated in paragraph 5.3,

(1) the electricity supply to those premises shall be disconnected, and

(2) the Director: Financial Services shall be able to exercise his discretion to

- restrict the supply of water to those premises by installing a water control mechanism on the service connection to those premises which will allow the passage of approximately 6 kiloliter water per month;

or

- disconnect the provision of water;

or

- with due consideration of the particular debtor's payment record, postpone the restriction or disconnection of the water supply for a period not exceeding 14 days.

6.2.3 If a person is unable to pay fees in arrears in respect of municipal services, the Municipality may enter into an agreement with such a person in terms of which he or she is permitted to pay the fees in arrears in monthly installments, only and on condition that such a person willingly agreed to the Municipality concluding an agreement with that person's employer, as envisaged by section 103 of the Act, and that that employer agreed to conclude such an agreement, provided that –

- settlement of the fees in arrears shall not take place over a period exceeding 12 months from the date of such agreement; and
- the person regularly pays all future accounts in respect of rates, municipal services, rentals and loan installments due to the Municipality on or before the date of payment;
- the person acknowledges that interest on such amounts in arrears shall be payable at the prescribed rate of interest and he or she agrees to pay such interest;
- the person acknowledges that should he or she at any time fail to comply with the provisions of such an agreement, the agreement shall be deemed to be null and void; no further negotiations with that person shall be possible, and immediate steps shall be taken to have the electricity and water supplies to the premises in question disconnected or restricted, after which legal proceedings shall follow.

6.2.4 When a person is served with an account of which the amount due in respect of municipal services is exceptionally high and it is the result of –

- an act or omission on the part of the Municipality; or
- a leakage of water from a water-pipe conduit or stopcock installed on such premises and which does not form part of the Municipality's service connections

and provided that such amount in arrears is legally due and payable by that person, the Municipality may, in the discretion of the Director: Financial Services, enter into an agreement with that person in terms of which he or she is permitted to pay the amount owing by way of monthly installments, subject to the provisos contained in paragraph 6.2.3 and provided that where such a high account is the result of an act and/or omission on the part of the Municipality, no interest shall be payable in respect of that outstanding amount.

6.2.5 If fees, or any portion thereof, due in respect of municipal services remain unpaid for a period exceeding 30 days calculated from the date of payment, and an agreement as envisaged in paragraphs 6.2.3 and 6.2.4 has not been entered into with the debtor, the Director: Financial Services must, subject to the provisions of paragraph 10.3 –

- hand the account thus due and payable to a debt collector or attorney for collection, if, in his opinion, there is a fair chance that the debt may indeed be collected; (for purposes hereof a debt collector will be deemed to include any official of the council who is vested with the authority to collect debts)

or

- institute legal proceedings against the debtor for the recovery of the debt.

6.3 RENTALS AND/OR LOAN INSTALMENTS IN ARREARS

6.3.1 Where lease or loan agreements provide for interest payable on rentals or loan installments in arrears, interest will be levied in accordance with the provisions contained in such lease or loan agreements.

6.3.2 Where rentals and/or loan installments due to the Municipality are not paid on or before the date of payment, a letter of demand is sent to the person involved in which he or she is requested to pay such arrears, together with interest, if any, within 14 days of the date of such notice.

- 6.3.3 An agreement to pay the arrears by way of monthly installments may at any time be entered into with the person so in arrears, subject, however, to the terms and conditions contained in paragraph 6.2.3, which terms shall apply *mutatis mutandis*.
- 6.3.4 Where no agreement has been concluded to pay arrears by way of monthly installments, and such amounts still remain in arrears after more than 30 days calculated from the date of payment, the Director: Financial Services shall take the steps as set out in paragraph 6.2.5.

6.4 FEES DUE OTHER THAN THOSE IN RESPECT OF RATES, MUNICIPAL SERVICES, RENTALS AND LOAN INSTALMENTS

The provisions of paragraphs 6.3.2, 6.3.3 and 6.3.4 in respect of rentals and/or loan installments in arrears are applicable *mutatis mutandis*.

7. LEVYING OF INTEREST

- 7.1 Interest at the standard rate can be levied and collected in respect of all amounts in arrears due and payable to the Municipality, for each month that such amount remains unpaid after the date referred to in paragraph 7.2 provided that a portion of a month is deemed to be a month.
- 7.2 Interest is levied from the day following the date on which the amounts in arrears are payable but still unpaid.
- 7.3 Waiving of such interest may be authorized by the Director: Financial Services, Municipal Manager and Internal Auditor, in deliberation with the Executive Mayor.

8. DISCONNECTION AND RESUMPTION OF SERVICES

- 8.1 In the event of the disconnection of the water or electricity supply to premises in accordance with the provisions of paragraph 6.2.2, the supply of such water or electricity shall only be resumed as soon as –
- (1) the amounts in arrears together with interest have been paid in full or an agreement for the payment thereof has been concluded with the debtor in accordance with the terms and conditions contained in paragraph 6.2.3 and 6.2.4; and
 - (2) the disconnection and/or reconnection fees, as determined in the Municipality's tariff policy, have been paid.
- 8.2 (deleted)

9. COLLECTION OF DEPOSIT

- 9.1 When a person applies for municipal services pursuant to the provisions of paragraph 3.1, and before such services are provided, a deposit is collected from that person to serve as security or partial security for the payment for municipal services provided to that person.
- 9.2 A deposit as envisaged in paragraph 9.1 is utilised to extinguish or reduce debts owed by a person to the Municipality for municipal services rendered, in the event of such person disappearing and being difficult to trace, or being declared insolvent or who, for whatever reason, refuses to meet his or her obligations towards the Municipality.
- 9.3 The amount of the deposit is from time to time determined for the following categories-
- (1) new applicants for municipal services (excluding large-scale electricity consumers);
 - (2) new applicants for municipal services (excluding electricity consumers);
 - (3) new applicants for municipal services where the electricity consumer is a large-scale consumer.
- 9.4 The Director: Financial Services is vested with the discretion to increase the deposit payable by a person in pursuance of paragraph 9.3, on every occasion at which any municipal service is disconnected or restricted in accordance with paragraph 6.2.2, provided that a deposit may only thus be increased to a maximum amount calculated as follows:
- 2½ times the amount of the highest account rendered to the concerned person for municipal services in any month during the 12 months preceding the date of disconnection of service or restriction of supply. Where municipal services have at any stage not yet been provided to a person for 12 months, the amount of the highest monthly account for any month during such shorter period shall be the determining amount.
- 9.5 When a person, having paid a deposit to the Municipality, moves from one premises within the area of jurisdiction of the Municipality to another premises within the area of jurisdiction of the Municipality –
- (1) no increase in the deposit shall be necessary if there is no change of the category determined in accordance with paragraph 9.3;
 - (2) a deposit shall be increased to an amount as determined by the Council of the Municipality for the different categories in accordance with

paragraph 9.3, if such removal from one premises to another results in a change of the category and a higher deposit is attached to such new category pursuant to the provision of paragraph 9.3.

- 9.6 When a person, having paid a deposit to the Municipality, requests in writing that the municipal services provided to him or her be terminated and that the deposit thus kept by the Municipality be refunded to him or her, such deposit or any portion thereof which has not been utilised in accordance with paragraph 9.2, shall be refunded to such person.
- 9.7 The Municipality is not liable for the payment of interest on deposits held by the Municipality.

10. INSTITUTION OF LEGAL PROCEEDINGS

10.1 The institution of legal proceedings includes, but is not limited to-

- (1) the suing of a debtor for payment of amounts in arrears;
- (2) the attachment of rent payable in respect of a property;
- (3) the attachment of a debtor's remuneration;
- (4) the attachment and sale in execution of movable things;
- (5) the attachment and sale in execution of immovable property;
- (6) the evacuation of a tenant from a rented property in the event of rental due to the Municipality in respect of such leased property.

10.2 The institution of legal proceedings is undertaken with due consideration of all legal requirements and in compliance with the applicable regulations and procedural rules.

10.3 Discretionary powers vest in the Director: Financial Services to decide whether –

- (1) an account should be handed over to a debt collector or an attorney for collection and if
- (2) legal proceedings should be instituted against a debtor

in those instances where the total indebtedness of the debtor is R250,00 or less.

In the exercise of his powers the Director: Financial Services determines as a sole consideration whether it will be cost-effective to hand over the account for collection and/or to institute legal proceedings against the debtor or not.

- 10.4 The Director: Financial Services shall be empowered to determine which of the judicial measures listed in paragraph 10.1 will be the most appropriate and effective in respect of each and every debtor against whom legal proceedings are to be instituted in accordance with this policy of the Council.
- 10.5 Discretionary power is given to the Director: Financial Services to write off outstanding debt after all the steps have been taken to collect such outstanding debts, resulting from financial impotence of debtors as well as indigent households, on condition that –
- (1) a list of irrecoverable debt is submitted by the Director: Financial Services or his deputy to the Executive Mayor's Committee quarterly; and
 - (2) the reason for the write off of every single debt is fully motivated by the Director: Financial Services or his deputy and workshopped with members of the Executive Mayor's Committee before write-off.

CHAPTER 4

GENERAL PROVISIONS

11. COLLECTION COSTS

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

12. DISHONOURED PAYMENTS

Should any payment made to the Municipality by means of a negotiable instrument be dishonoured by a bank at a later stage, the Director: Financial Services may –

- (1) impose costs and administration fees on the account of that debtor at a rate to be determined by the council from time to time; and
- (2) after payment tendered by a debtor is dishonoured for a third time by a bank, notify that person in writing that all future payments may only be made in cash.

13. ACCESS TO PREMISES

An occupier of premises in the area of jurisdiction of the Municipality must give an authorised representative of the Municipality or of a service provider access at all reasonable hours to the premises in order to read, inspect, instal or repair any

meter or service connection for reticulation, or to disconnect or restrict the provision of a municipal service.

14. SAFE ACCOMMODATION OF SERVICE CONNECTIONS, METERS, STOPCOCKS, APPLIANCES, ETC.

Where water and/or electricity are/is provided to premises, the user of such service(s) 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 those premises, and the user shall also be liable to compensate the Municipality for any costs or losses incurred or damages suffered by the Municipality in respect thereof.

15. THEFT, DAMAGE AND UNAUTHORISED USE OF WATER AND ELECTRICITY

15.1 No person may:

(1) in any manner or for any reason whatsoever tamper with, damage or break, meddle with or remove any service connection, meter, stopcock, appliance or equipment for the safeguarding of services, or seals or main supply lines which had been installed to measure, provide or restrict the supply of water and/or electricity;

(2) directly or indirectly connect, attempt to connect, or allow or permit the connection of any water pipeline or piping or network or an electrical installation, to the Municipality's main supply lines or service connection, unless such person was specifically and in writing authorised by the Municipality to do so;

(3) reconnect, attempt to reconnect, or allow or permit the reconnection, of any water supply or electrical installation which had been disconnected, for whatsoever reason, by the Municipality, to the Municipality's main supply lines or service connection, unless such person was specifically and in writing authorised by the Municipality to do so; or

(4) use water or electricity which had been obtained unlawfully.

15.2 The Municipal Manager shall, as soon as it is brought to his attention and he is possessed of sufficient factual evidence that a transgression of any of the provisions of paragraph 15 has been committed, institute a criminal prosecution of the person so suspected of having committed such transgression.

15.3 Additionally and despite criminal prosecution and the imposition of a term of imprisonment and/or a fine pursuant to any by-law promulgated by the Municipality, or any other Act, regulation or by-law, on any person guilty of the transgression of any of the provisions mentioned in paragraph 15.1, the Municipality shall be entitled to –

- (1) recover from such person all costs or damages or losses which the Municipality may incur, suffer or have had inflicted as a result of such transgression, and
- (2) hold a person who had consumed water and/or electricity unlawfully, responsible for payment for such unlawful consumption in accordance with the provisions of paragraph 2.2.4;
- (3) summarily disconnect the provision of water and/or electricity to the premises in question.

16. SIGNING OF NOTICES AND DOCUMENTS

A notice or document issued by the Municipality pursuant to a by-law promulgated by the Municipality and signed by a staff member of the Municipality is deemed to have been properly issued and shall be accepted by the court as evidence of that fact upon the mere submission thereof.

17. CERTIFICATION OF DOCUMENTS

Any order, notice or other document which needs to be certified by the Municipality, is deemed to have been sufficiently certified if it is signed by the Municipal Manager or a duly authorised official of the Municipality to whom such powers were delegated by means of a decision of the Municipality's council or pursuant to a by-law.

18. 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 suitably qualified official authorised thereto by the Municipal Manager, shall be accepted by the court as *prima facie* evidence that the amount is due.

CHAPTER 5

FINANCIAL ASSISTANCE TO INDIGENT HOUSEHOLDS

19. SOURCE OF FINANCIAL ASSISTANCE

Financial assistance to an indigent household is financed from –

- (1) financial allocations by the National Government to the Municipality for that specific purpose;

- (2) a grant for that specific purpose by the Municipality, the extent of such grant being determined annually by the Council during the drafting of the Council's budget.

20. REQUIREMENTS FOR REGISTRATION AS AN INDIGENT HOUSEHOLD

A household wishing to register as an indigent household and be considered for financial assistance in accordance with the council's policy in this regard, may only be registered as such if –

- (1) the total income of all the members of the household normally resident on the premises, inclusive of the income of any other person who lives with the household on the premises, is equal to or less than twice the age grant paid by the State to qualifying beneficiaries as from time to time determined by the Minister of Welfare, plus 10% however, the Director: Financial Services shall have discretionary power to increase the foregoing income limitation to three times the old age grant paid by the State to qualifying beneficiaries, plus 10% in cases where extraordinary circumstances prevail such as, for example, where there are a great number of dependents without an income in any particular indigent household and/or where such a household has to cope with an extraordinary financial burden such as, for instance, due to the care for dependents and/or family members who suffer from a chronic or terminal illness, etc.

Where discretionary powers are exercised the Executive Mayoral Committee must at the earliest opportunity be furnished with the full details of each and every case for its information.

The aforesaid discretionary power may be delegated to a designated senior official in the budget and treasury office.

- (2) the head of the household and his/her family must live on the property for which the application is made, or that proof must be given that the personal details of the head of the household for which the application is made appears on the Swartland Municipality's official housing waiting list;
- (3) the head of the household and/or his or her spouse and/or their lawful children who live with their parents on premises, is or are not the lawful owner or owners of another house; and
- (4) application for registration has been made on a form prescribed by the Municipality for this purpose and which is obtainable from any Municipal office.

21. APPLICATION FOR REGISTRATION

- 21.1 A household wishing to apply for qualification as in indigent household, must complete the application form attached hereto as Annexure B.

- 21.2 An application form, or any other form, declaration or certificate required by the Municipality must be signed or certified by the head of the household unless the contrary is indicated on such form, declaration or certificate. For purposes hereof the head of the household is deemed to be the lawful owner or the lawful lessee of the premises or the person who otherwise exercises control over such premises.
- 21.3 An application shall be accompanied by the following particulars:
- (1) documentary proof of the gross income of all the persons resident on the premises, such as a letter from an employer in which the gross salary or wage of the person concerned is stated or certified, a pay slip, a pension card, an unemployment insurance card;
 - (2) an affidavit by the persons living on the premises who have no income, in which it is stated that the deponent is unemployed and that he or she has no income of any nature;
 - (3) a certified copy of the applicant's identity document; and
 - (4) the names and identity numbers of all persons 18 years and older who are resident on the premises in question.
- 21.4 It shall be required of the head of the household who applied for registration as an indigent household to declare that all information furnished in the application form and other documentation is true and correct.
- 21.5 The Municipality or its authorised agent may through its authorised representative take any steps that may be necessary to check the correctness of information furnished by an applicant and/or to verify the correctness thereof, including interviews with and the taking of statements from members of a household.

22. CONSIDERATION OF APPLICATIONS

- 22.1 The Municipality shall consider an application received in accordance with the provisions of paragraph 21.1, and if the Municipality is satisfied that the applicant qualifies in terms of the provisions of paragraph 20, such household shall be registered as an indigent household.
- 22.2 The Municipality shall be entitled to deny an application if the annual grant for financial assistance to indigent households referred to in paragraph 19, is at any stage depleted or being depleted.
- 22.3 If a household is registered as an indigent household, financial assistance is provided to that household in accordance with the provisions of paragraph 23.1, provided however that –

- (1) the household, on a four-monthly basis, calculated from the date on which the financial assistance was granted, provide proof to the Director: Financial Services to his satisfaction, that the household in question still complies with the prerequisites contained in paragraph 20.
- (2) if a household at any stage after completion of the cycle of four months failed or refused to provide proof or satisfactory proof in respect of the qualification requirements referred to in paragraph 20, in terms of sub-paragraph (1) above, all financial assistance to such a household is immediately suspended until such time as such proof, subject to the provisions of paragraph 25.1(2), is delivered.

23. APPROPRIATION OF AND LIMITATION ON FINANCIAL ASSISTANCE

23.1 Subject to its sustainability and affordability and with consideration of the provisions of paragraph 22.2, financial assistance to an indigent household that has qualified for such assistance, shall be limited to and appropriated for the settlement or partial settlement of the following municipal services and tariffs:

- (1) 50 kWh electricity per month for a household in respect of which the electricity connection is limited to 20 ampère;
- (2) sewage fees in respect of the first sewage pan or the fees payable in respect of the pumping of a suction tank to an amount equal to the tariff determined for a first sewage pan.
- (3) fees for refuse removal.
- (4) the rates payable in respect of the premises in question are limited to a maximum amount calculated as follows:

the tariff from time to time determined by the Municipality multiplied by 100 000,00.

23.2 At least once per year during the budgetary process, but also as an interim measure at any other stage, the Municipality shall be entitled to determine or re-determine the degree to which financial assistance may be provided to qualifying indigent households, including the rate at which and the municipal services in respect of which such financial assistance will be provided.

23.3 Where a pre-paid electricity meter is installed on premises occupied by an indigent household, and if the electricity connection is limited to 20 ampère, such household will likewise be considered for financial assistance in respect of the use of electricity and to the extent determined by paragraph 23.1(1).

Credit earned on such an account will be employed for the settlement of rates due or amounts due in respect of any of the other municipal services.

24. LEVYING OF ADMINISTRATION FEES

24.1 (deleted)

24.2 (deleted)

25. CANCELLATION OF REGISTRATION

25.1 Registration as an indigent household is cancelled under the following circumstances and such household will forfeit all financial assistance granted to it for the non-expired portion for which the assistance was granted:

- (1) where it is found that false information had been furnished in the application form or other documentation and/or statements;
- (2) if the head of the indigent household after expiry of a period of 30 days following on the suspension of financial assistance in accordance with paragraph 22.3, refuses, neglects or fails to provide the information required by paragraph 21.3 to the Municipality;
- (3) if it is found that circumstances have changed to such an extent that the indigent household no longer complies with one or more of the prerequisites for registration mentioned in paragraph 20;
- (4) if the household fails or refuses to pay the administration fee payable pursuant to paragraph 24, for a particular month on or before the date mentioned in paragraph 24.2.

25.2 The onus is on the head of the indigent household to inform the Municipality if at any stage circumstances have changed to such an extent that there is no longer compliance with the requirements set out in paragraph 20, while at the same time providing full particulars of such changed circumstances to the Municipality.

25.3 Over and above the criminal prosecution of the head or any member of an indigent household, and notwithstanding anything to the contrary contained herein, the Municipality shall be entitled to reclaim the financial assistance which has been appropriated in terms of the provisions of paragraph 23 –

- (1) in the instance mentioned in paragraph 25.1(1) and (2) – from the date on which the financial assistance was granted; and
- (2) in the instance mentioned in paragraph 25.1(3) – from the date on which the circumstances referred to in paragraph 25.1(3) changed or, if such date can not be determined, from the date on which it was established that the household no longer complied with the qualifying prerequisites.

25.4 In the event of the termination of the registration of an indigent household in accordance with the provisions of paragraph 25.1(1), such household will not again in future be considered for financial assistance.