

MALUTI-A-PHOFUNG LOCAL MUNICIPALITY

CREDIT CONTROL AND DEBT COLLECTION POLICY

1. OBJECTIVES

OLD PARAGRAPH

The council of the municipality, in adopting this policy on credit control and debt collection, recognizes its constitutional obligations to develop the local economy and to provide acceptable services to its residents. It simultaneously acknowledges that it cannot fulfill these constitutional obligations unless it exacts payments for the service which provides and for the taxes which it legitimately levies – in full from those residents who can afford to pay, and in accordance with its indigency relief measures for those who have registered as indigents in terms of the council's approved indigency management policy.

NEW PARAGRAPH

- To provide for credit control procedures and mechanisms and debt collection procedures and mechanisms; and
- To ensure that all money due and payable to the municipality in respect of rates, fees for services, surcharges on such fees, charges, tariffs, are collected efficiently and promptly.

2. EXPECTED FUTURE PAYMENTS LEVELS

OLD PARAGRAPH

In terms of the budgets approved by the council, and in accordance with commonly accepted best practice, this municipality will have to strive to its utmost to ensure that payment levels for the present and future financial years, in respect of all amounts legitimately owing to the municipality – that is, inclusive of the balance of the monthly accounts payable by registered indigents – are maintained at an annual average of at least 95%.

NEW PARAGRAPH

In terms of the annual budgets approved by the council, and in accordance with commonly accepted best practice, this municipality will strive for payment levels, in respect of all monies legitimately owed for

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services rendered– that is, inclusive of the balance of the monthly accounts payable by registered indigents – are maintained at an annual average of at least 95%.

OLD PARAGRAPH

It is generally accepted by this council that payments levels averaging below 95% per month are untenable, and are a certain forerunner of financial disaster for this municipality. Even with payment levels of 95% it means that the council will annually have to provide on its expenses budget a contribution to bad debts of 5% of the aggregate revenues legitimately owing to this municipality – a contribution that is made at the direct cost of improved service delivery and developmental projects.

OLD PARAGRAPH

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

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

Contents of this section edited, contextually modified and incorporated under the new heading (ACTIONS TO SECURE PAYMENTS) under the "ADDITIONS TO THE POLICY" below.

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

4. RECONNECTION OR REINSTATEMENT OF TERMINATED OR RESTRICTED SERVICES

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

- the arrear account has been paid in full, including the interest raised on such account, or an acceptable arrangement has been made with the municipal manager for the payment of the arrear account, including the interest raised on such account;

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- the charge(s) for the notice sent in terms of 3 and for the reconnection or reinstatement of the terminated or restricted service(s), as determined by the council from time to time, have been paid in full;
- a service contract has been entered into with the municipality, as contemplated in 10 below, and
- a cash deposit has been lodged with the municipal manager in compliance with 11, such deposit to be newly determined on the basis of currently prevailing consumption and usage of services in respect of the property concerned or, if insufficient data is available in regard to such consumption, of the currently prevailing consumption and usage of services in respect of a comparable property.
- In the case of consumers using prepaid meters, but who have fallen into arrears with the remainder of their obligations to the municipality, no prepaid purchases shall be accepted until the outstanding arrears have been settled or an acceptable arrangement made for the payment of the arrear account, as contemplated above: such arrangement may entail the limitation of the amount of prepaid services which may be purchased until the arrears or a sated percentage of the arrear has been settled.

5. PERIOD FOR RECONNECTIONS OR REINSTATEMENT

The municipal manager shall reconnect or reinstate terminated or restricted services within 3 (three) working days after the date on which the conditions set out in 4 have been met, unless the municipal manger is unable to do so because of circumstances beyond the control of the municipality. In the latter event the municipal manager shall promptly inform the mayor of such circumstances and of any actions required to overcome the circumstances concerned.

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6. ILLEGAL RECONNECTION

This paragraph has been moved to under (DEFAULT ON ARRANGEMENTS) section for the purpose of alignment with related provisions under this section.

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

7. RESTRICTION OF SERVICES

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

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8. SERVICES NOT RECONNECTED OR REINSTATED AFTER FOUR WEEKS

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

All legal expenses incurred by the municipality shall be for the account of the defaulting account holder.

9. ARRANGEMENTS FOR PAYMENT OF ARREAR ACCOUNTS

OLD PARAGRAPH

Allowing defaulting account holders to make arrangements for the payment of arrear accounts shall be at the discretion of the municipal manager.

NEW PARAGRAPH

Allowing account holders who defaulted on their normal accounts to make arrangements for the payment of arrears shall be at the discretion of the municipal manager or his/her delegate.

OLD PARAGRAPH

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Each defaulting accountholder shall be allowed a maximum period of 3 (three) months within which to pay an arrear account, together with the interest raised on such account, and it shall be a condition for the conclusion of any arrangement that the accountholder is bound to pay every current municipal account in full and on time during the period over which such arrangement extends.

NEW PARAGRAPH

Maximum period within which to pay an arrear account shall not exceed 12 months, together with the interest raised on such account, and it shall be a condition for the conclusion of any arrangement that the accountholder is bound to pay every current municipal account in full and on time during the period over which such arrangement extends. An exception to this shall only be in circumstances where the council takes a different or exceptional decision at any particular time.

OLD PARAGRAPH

If an accountholder breaches any material term of an arrangement, the balance of the arrear account, together with the balance of interest raised on such account, shall immediately become due and payable to the municipality, and if the accountholder defaults on such payment, the municipal manager shall terminate or restrict services to the property in question and shall forthwith hand such account over for collection as envisaged in 8.

NEW PARAGRAPH

If an accountholder breaches any material term of an arrangement, such eventuality will constitute default on arrangement and will then be dealt with in terms of the provisions dealing with default on arrangements as stipulated in this policy.

OLD PARAGRAPH

An accountholder who has breached an arrangement as set out above shall not be allowed to make any further arrangements for the payment of arrear accounts, but shall be proceeded against, after the dispatch of the initial notice of default as envisaged in 3 and failure by the accountholder to pay the arrear account,

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together with interest raised on such arrears as required in terms of such notice, as though such accountholder had breached a material term of an arrangement.

NEW PARAGRAPH

An accountholder who has breached an arrangement once, shall not be allowed to make any further arrangements for the payment of arrear accounts, but shall henceforth be handed over to the municipality's debt collectors for further action.

(This paragraph incorporated under the new heading (OPENING OF CONSUMER ACCOUNTS) for the purpose of alignment.)

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

- electricity
- water
- refuse collection
- sewerage

10. **SERVICE CONTRACT (OLD TITLE)** **SERVICE AGREEMENT (NEW TITLE)**

(This section and its content are incorporated under the new heading (APPLICATION FOR SERVICES) for the purpose of alignment.)

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

Where the signatory is not the owner of the property to which the services are to be provided, a property executed letter from such owner indicating that the

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signatory is the lawful occupant of the property shall be attached to the service contract.

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

11. PAYMENT OF DEPOSITS

(This section and its content are incorporated under the new heading (APPLICATION FOR SERVICES) for the purpose of alignment.)

Whenever a service contract is entered into in terms of 10, the signatory shall lodge a cash deposit with the municipality, such deposit to be determined as follows :

- In the case of the signatory's being the registered owner or spouse of the registered owner of the property concerned, an amount equal to one quarter of the aggregate monetary value of the relevant service(s) provided to the property over the immediately preceding 12 (twelve) month period, or - where no such information is available - one quarter of the aggregate monetary value of the relevant service(s) provided to a comparable property over the immediately preceding 12 (twelve) month period.
- In the case of the signatory's not being the registered owner or spouse of the registered owner of the property concerned, an amount equal to one third of the aggregate monetary value of the relevant service(s) as determined above.

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12. ALLOCATION OF PAYMENTS AND APPROPRIATION OF DEPOSITS

If an accountholder pays only of any municipal account due, the municipal manager shall allocate such payment as follows

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

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

In the event of an accountholder's defaulting on the payment of an arrear account, as contemplated in s 6, 8 and 9, the municipal manager shall forthwith appropriate as much of such deposit as is necessary to defray any costs incurred by the municipality and the arrear amount owing to the municipality in the same sequence that is applicable to the allocation of payments, as contemplated above.

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ADDITIONAL SECTIONS

APPLICATION FOR SERVICES

In order for an account to be opened a service agreement shall be completed in full by the applicant giving particulars that can assist in determining the ability of the applicant to settle the debts as they become due and payable. (Income vs expenses, household members dependent on this income level, identity documents or registration numbers for non-natural persons etc).

An application for supply of service to any premises within the municipality's area of jurisdiction shall be made at least one working day prior to the services being required in order to allow for sufficient time for service activation.

The municipality shall verify through its billing system that the prospective account holder/owner/spouse does not have an outstanding account in respect of another property. Should there already be an arrear account, this account will have to be settled in full before a new account can be opened.

Where indications relating to indigent status are evident during the application process, the necessary documentation (proof of income, etc) should be attached to the application for services. The Municipal Manager or his/her delegate may override the deposits requirements where an applicant is proved to be indigent based on the criteria as stipulated in the Indigent Policy.

Service Agreement

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

Where the applicant is not the owner of the property to which the services are to be provided, a valid lease agreement or duly signed letter from such owner indicating that the applicant is the lawful occupant of the property shall be attached to the service contract.

Current consumers and users of the municipality's services who have not entered in a service contract as envisaged above, must do so within 12 months from the date on which the by-laws to implement the present policy are published, and failure to do so shall be considered as a default equivalent to non-payment in terms this policy.

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Payment of Deposits

Whenever a service agreement is entered into, the applicant shall lodge a deposit with the municipality. Such deposit to be determined as follows :

Normal Households

- For application for connection for to a normal household for household consumption, an amount equal to an average of three months consumption, or – where no such information is available – one quarter of the aggregate monetary value of the relevant service(s) provided to a comparable property over the immediately preceding 12 (twelve) month period.
- In instances where the calculated deposit in terms of the procedure as stipulated above, is less than the minimum deposit, then the prevailing minimum deposit as determined in terms of the tariffs policy shall apply.
- No guarantees shall be accepted as a deposit.

Businesses and Other entities

- All businesses shall pay an amount equal to one third (1/3) of the aggregate monetary value of the relevant service(s) provided to the property over the immediately preceding 12 (twelve) month period, or – where no such information is available – one quarter of the aggregate monetary value of the relevant service(s) provided to a comparable property over the immediately preceding 12 (twelve) month period.
- In instances where the calculated deposit in terms of the procedure as stipulated above, is less than the minimum deposit, then the prevailing minimum deposit as determined in terms of the tariffs policy shall apply.

No guarantees shall be accepted as a deposit.

METERING OF CONSUMPTION AND BILLING OF ACCOUNTS

For the purpose of calculating the amount due and payable for the quantity of services consumed, the municipality shall take meter readings on regular intervals, at least once a month.

The Municipal Manager or his/her delegate shall ensure that accurate up-to-date customer information is maintained at all times and ensure accurate monthly billing with the application of appropriate correct tariffs and service charges.

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The Municipal Manager or his/her delegate shall also ensure the timely dispatch of accounts and that adequate provision is made for efficient operation of pay facilities at dedicated municipal pay points.

Although the municipality must render an account for the amount due by a debtor, failure thereof shall not relieve a debtor of the obligation to pay any amount due on account.

FURNISHING OF CONSUMER ACCOUNTS

The municipality shall furnish each account holder with a written account, which will specify:-

- the amount due and payable for services,
- the date on or before which the amount is payable,
- description of services charged, and where possible, how the amount was calculated,
- where applicable, interest charged and the rate of interest applied.

An account holder remains liable for such payment, whether or not such person has received a written account from the municipality. If the person concerned has not received a written account, he/she must make the necessary enquiries with the municipality. Regardless of the deposit amount held on account, accountholders are at all times obliged to pay their accounts in full on a monthly basis.

The consumer account served by the municipality to the accountholder / consumer, shall automatically serve as a notice for demand of payment of the stipulated amount and on or before the date of such account, failure which the municipality shall be entitled to take further action for defaulting on payment without prior notice.

ACTIONS TO SECURE PAYMENTS OF ACCOUNTS

– Normal Actions – Ordinary Accounts

In order to secure payments of accounts, the Municipal Manager or his/her delegate shall ensure that billing and accounts are rendered timeous, monthly in a cycle of approximately thirty (30) days.

The Municipal Manager or his/her delegate shall ensure that the account holder pays all the amounts due as reflected in the municipal account, i.e metered services, assessment rates, levies, fines, interest, etc. on or before due date.

In a case where certain or some accounts were not paid by due date, the Municipal Manager or his/her delegate shall order for a provisional cut-off list and age analysis reports to be generated, and ensure that there's follow up with those account holders who are in arrears telephonically or in writing demanding payments.

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Where the accounts remain unpaid after the final stipulated date as per follow-up arrangements, the Municipal Manager or his/her delegate shall order that a disconnection of services be initiated accordingly.

After disconnection, regular and random checks shall be performed by the meter reading officials on the premises where supply of services has been disconnected to identify if there were illegal re-connections or not.

With regard to registered indigents whose billed consumptions exceeds the amount of subsidy provided per service category, credit control and debt collection actions may be contemplated in terms of this policy, read in conjunction with the municipality's approved Indigent Policy.

– Punitive Actions – Normal Accounts

Where there are reported signs of illegal re-connection, the Municipal Manager or his/her delegate shall order for permanent disconnection / suspension of services to such premises and immediately hand over the account to the municipality's debt collectors for further action.

After a month of disconnection, and where the account remains unpaid, and irrespective of whether there are signs of illegal connection or not, the Municipal Manager or his/her delegate shall order for handing over of the account to the municipality's debt collectors for further action.

Where payments are made via the debt collectors, the Municipal Manager or his/her delegate shall ensure that such payments are received by the municipality at least two working days before the due date to enable the payment to be processed and reflect on the subsequent consumer account. However, the onus is on the debtor to ensure that such payment is reflected on the account.

On a monthly basis, the Municipal Manager or his/her delegate shall run reports of accounts where consumption exceeds deposit and run subsequent reports showing history of accounts for three consecutive months where consumption exceeded the amount of deposit and for all accounts which, the calculated three consecutive months' consumption exceed deposit, the Municipal Manager or his/her delegate shall order that an increase in deposit be considered and notify the consumer with regard to the additional deposit required accordingly.

DEFAULT ON ARRANGEMENTS

Should the debtor default on arrangements made, services shall be disconnected or restricted and the account will immediately be handed over to the municipality's debt collectors for further action.

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In the case of consumers using prepaid meters, but who have fallen into arrears with the remainder of their obligations to the municipality, no prepaid purchases shall be accepted until the outstanding arrears have been settled or an acceptable arrangement made for the payment of the arrear account. Such arrangement may entail the limitation of the amount of prepaid services which may be purchased until the arrears or a stated percentage of the arrears have been settled.

CLOSED ACCOUNTS

In cases where sufficient evidence exist as a result of credit checks processes that there are a number of previous consumer accounts associated or connected to the same consumer, the municipality may:

- Consolidate any separate accounts of debtors liable for payments to the municipality;
- Credit any payment by such a debtor against any account of that debtor, and

Implement any of the debt collection and credit control measures provided for in this policy in relation to any arrears on any of the accounts of such a debtor.

In cases where a closed account remain unpaid a month after the final account has been dispatched to the forward address of the account holder, such account will forthwith be handed over to the municipality's debt collectors in terms of this policy for further action.

CREDIT CONTROL AND DEBT COLLECTION PROCEDURES FOR ASSESSMENT RATES, REFUSE, SEWERAGE AND SUNDRY DEBTORS AND OTHER UNMETERED SERVICES

Where consumers fail to pay their accounts by the due date of every month as indicated on the statement, the municipality may, without prior notice, take further action including handing over of the account to the municipality's debt collectors and the account may be listed at a credit bureaus.

13. QUERIES BY ACCOUNTHOLDER

In the event of an accountholder reasonably querying any items on the monthly municipal account, no action shall be taken against the accountholder as contemplated in 3 provided the accountholder has paid by due date an amount equal to the monthly average monetary value of the three most recent unqueried

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accounts in respect of the service under query, as well as all unqueried balances on such account, and provided further such query is made in writing by the accountholder or is recorded in writing by the municipal manager on behalf of the accountholder on or before the due date for the payment of the relevant account. Any query raised by an accountholder in the circumstances contemplated in 14 below shall not constitute a reasonable query for the purposes of the present paragraph.

ADDITIONAL SECTIONS

UNRESOLVED ACCOUNTS QUERIES

Should an accountholder's query relating to an account remain unresolved or satisfactory progress being reported within a period of two (2) working days since the query was lodged, the accountholder will be entitled to approach the manager / senior officer responsible for accounts section to follow up on the matter.

Should the manager / senior officer responsible for accounts section be unable to resolve the query, then the accountholder will be entitled to escalate the query to the Chief Financial Officer for resolution.

In any event, the accountholder must be notified of the progress of the query and be furnished with reasons as to any delay and be advised of any alternatives available which may assist in resolving the query.

14. INABILITY TO READ METERS

If the municipality is unable to read any meters on any property because the meter has been rendered inaccessible through any act or omission of the accountholder or owner of the property concerned, the municipal manager shall estimate the consumption of the service concerned by determining the monthly

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average of the metered consumption recorded on the three most recent accounts in respect of which meter readings were obtained, and thereafter bill the accountholder for the monetary value of such estimated consumption plus a provisional surcharge of 10% of such value for the first

month in which the metered reading could not be obtained, escalating to 20% in the second month, 30% in the third month, and so on by 10 percentage point for each subsequent month, until the meter is again rendered accessible.

The accountholder shall be liable for the initial payment of such surcharge(s) as though the surcharge were of the service charge concerned, but the municipal manager shall reverse such surcharge(s) against the first account for which a meter reading is again obtained.

15. DISHONoured AND OTHER UNACCEPTABLE CHEQUES

If an accountholder tenders a cheque which is subsequently dishonoured by or is found to be unacceptable to the accountholder's bankers, the municipal manager shall - in addition to taking the steps contemplated in this policy against defaulting accountholders - charge such accountholder the penalty charge for unacceptable cheques, as determined by the council from time to time, and such charge shall rank equally with the costs and expenses incurred by the municipality for purposes of determining the sequence of allocations and appropriations contemplated in 12.

- 15.1 (1) Notwithstanding the provisions of any other sections of these bylaws, the owner of premises shall be liable for the payment of any amounts due and payable to the municipality and its authorized representative, after taking reasonable measures to recover any amounts due and payable by the customer from the latter, could not recover failed to do so.

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16. DELEGATION OF RESPONSIBILITIES BY MUNICIPAL MANAGER

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

17. ROLE OF MUNICIPAL MANAGER

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

In practice, however, the municipal manager will inevitably delegate some or many of the responsibilities specifically assigned to this office in the by-laws, as it will be administratively impossible for the municipal manager to perform the numerous other functions of this office as well as attend to frequently recurring administrative responsibilities.

However, such delegation does not absolve the municipal manager from final accountability in this regard, and the municipal manager will therefore have to ensure that a proper internal reporting structure is established and consistently implemented so that the day to day actions of and results from the credit control and debt collection programme are properly monitored and supervised.

It is also integral feature of the present policy that the municipal manager shall report monthly to the executive mayor and quarterly to the council on the actions taken in terms of the by-laws, and on the payment levels for the periods

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concerned. Such reports shall, as soon as practicably possible, provide the required information both in aggregate and by municipal ward.

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

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

The responsibilities of all officials include reporting to the municipal manager any evident breaches of these by-laws, whether by members of the community, other officials or councilors of the municipality.

18. ROLE OF COUNCILLORS

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

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

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

19. INTEREST ON ARREARS AND OTHER PENALTY CHARGES

Interest shall be charged on all arrear accounts at the prevailing overdraft rate offered by the municipality's bankers plus 2 (two) percentage points.

If the municipality uses more than one banking institution it shall for purposes of determining the interest on arrear accounts apply the overdraft rate offered by the institution with which its primary bank account is placed.

Interest shall be calculated on a daily basis. For purposes of determining arrear amounts, all amounts unpaid including interest previously raised and penalty charges, but excluding value added tax, shall be taken into account.

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

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- charges for disconnection or restriction of services
- charges for reconnection or reinstatement of services
- charges for notices of default
- penalty charges for illegal reconnection
- penalty charges for dishonored cheques

20. INDIGENCY MANAGEMENT

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

21. UNCOLLECTABLE ARREARS

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

The council shall then approve the write off of such arrears, if it is satisfied with the reasons provided.

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

The council shall separately consider arrears which arose prior to the adoption of the present policy, and shall advise accountholders of their respective obligations in regard to such arrears. In determining such obligations, the council shall have

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

23. BY-LAWS TO BE ADOPTED

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

These by-laws deal severely with defaulters, and their application requires a considerable degree of commitment from the municipal manager and his or her administration, as well as from the municipality's political structures. For these by-laws to ensure the avoidance of financial misfortunes for the municipality, and to lead to sustained financial stability, their application will have to receive the constant attention of all the municipality's key role players and decision makers. If these by-laws are not constantly and consistently applied, from month to month and from year to year, the municipality's political and administrative credibility will be severely impaired, and it may not be able to avert financial collapse in the long run.

Although these by-laws envisage even the termination of basic services for defaulting accountholders this will not in itself –no matter how harsh it may seem to those councilors and officials who are disposed to greater leniency – prevent the accumulation of arrears. The monthly billing for property rates, sewerage charges and refuse removal fees will continue in respect of defaulting accountholders, even though their consumption of electricity and water may have been terminated or restricted. The termination or restriction of services must therefore be seen merely as a vital step in the credit control programme, and the commitment by the municipality to follow up such actions with the full

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force of the law at the municipality's disposal is an essential further step if the accumulation of debts is to be meaningfully curtailed.

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

The by-laws also deal with the determination and payment of consumer deposits, and in accordance with 11 of the present policy effectively differentiate in this respect between accountholders who are both the owners and occupiers of the fixed property concerned, on the one hand, and accountholders who are tenants of such properties, on the other. This differentiation is essential if the municipality wishes to protect its interests in so far as tenants are concerned, but in any event it is not believed that a degree of differentiation imposes an unreasonable financial burden on such tenants (effectively the deposit required from owners/occupiers represents three months average consumption whereas the deposit in the case of tenants represents four months consumption)

It is not proposed that accountholders who have currently not lodged deposits should be required to do so forthwith, but only within a two year period, but that accountholders who default at any future date should be immediately obliged both to sign proper service contracts and to lodge the deposits required in terms of both such contract and the by-laws.

THIS SECTION TO BE REMOVED

24. ANNEXURE : LEGAL REQUIREMENTS

It is essential for the protection of the municipality's interests that the provisions of the Municipal Systems Act 2000 and the Property Rates Act 2004, in so far as

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they provide additional debt collection mechanisms for municipalities, be diligently enforced. At the same time, both the council and

the administration must note the obligations, which the municipality has towards the community in respect of customer care and relations.

For ease of reference a paraphrase of the relevant extracts from the Municipal Systems Act, specifically Sections 95 to 103 and Section 118, are therefore appended to this policy, as are Sections 28 and 29 of the Property Rates Act.

The immediately relevant extracts from the Water Services Act 1997 and the Municipal Finance Management Act 1997 and the Municipal Finance Management Act are also included in the annexure.

ANNEXURE

SECTION 1: WATER SERVICES ACT NO. 108 OF 1997

SECTION 21 : BY-LAWS

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

- the standard of the services,
- the technical conditions of supply, including quality standards, units or standards of measurement, the verification of meters, acceptable limits of error and procedures for the arbitration of disputes relating to the measurement of water services provided;
- the determination and structure of tariffs
- the payment and collection of moneys due for the water services consumed;

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- the circumstances under which water services may be limited or discontinued and the procedure for such limitations or discontinuation, and
- the prevention of unlawful connections to water services works and the unlawful or wasteful use of water.

SECTION II : LOCAL GOVERNMENT : MUNICIPAL SYSTEMS ACT NO. 32 OF 2000

SECTION 95 : CUSTOMER CARE AND MANAGEMENT

A municipality must, in relation to the levying of rates and other taxes, and the charging of fees for municipal services, within its financial and administrative capacity, do the following :

- establish a sound customer management system which aims to create a positive and reciprocal relationship between persons liable for these payments and the municipality itself or (where applicable) a service provider;
- establish mechanisms for users of services and ratepayers to give feedback to the municipality or other service provider with regard to the quality of the services and the performance of the service provider;
- take reasonable steps to ensure that users of services are informed of the costs involved in service provision, the reasons for the payment of service fees, and the manner in which moneys raised from the service are utilized;
- where the consumption of services is measured, take reasonable steps to ensure that the consumption of service is measured, take reasonable steps to ensure that the consumption by individual consumers of services is measured through accurate and verifiable metering services;

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- ensure that persons liable for payments receive regular and accurate accounts which indicate the basis for calculating the amounts due;
- provide accessible mechanisms for those persons to query or verify accounts and metered consumption, as well as appeal procedures which allow such persons to receive prompt redress for inaccurate accounts;
- provide accessible mechanisms for dealing with complaints from such persons, together with prompt replies and corrective action by the municipality;
- provide mechanisms to monitor the response time and efficiency in complying with the aforementioned requirements; and
- provide accessible pay points and other mechanisms for settling accounts or for making prepayments for services.

SECTION 96 : DEBT COLLECTION RESPONSIBILITY OF MUNICIPALITIES

A municipality must collect all moneys that are due and payable to it, subject to the requirements of the present Act and any other applicable legislation. For this purpose, the municipality must adopt, maintain and implement a credit control and debt collection policy which is consistent with its rates and tariff policies and which complies with the provisions of the present Act.

SECTION 97 : CONTENTS OF POLICY

The municipality's credit control and debt collection policy must provide for all of the following :

- credit control procedures and mechanisms;
- debt collection procedures and mechanisms;

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- provision for indigent debtors in a manner consistent with its rates and tariff policies and any national policy on indigents;
- realistic targets consistent with generally recognized accounting practices and collection ratios, and the estimates of income set in the budget less an acceptable provision for bad debts;
- interest on arrears (where appropriate)
- extensions of time for payment of accounts;
- termination of services or the restriction of the provision of services when payments are in arrears;
- matters relating to unauthorized consumption of services, theft and damages; and
- any other matters that may be prescribed by regulation in terms of the present Act.

The municipality, within its discretionary powers, may differentiate in its credit control and debt collection policy between different categories of ratepayers, users of services, debtors, taxes, service standards and other matters, and, if so, must ensure that such differentiation does not amount to unfair discrimination.

SECTION 98 : BY-LAWS TO GIVE EFFECT TO POLICY

The council of the municipality must adopt by-laws to give effect to the municipality's credit control and debt collection policy, its implementation and enforcement.

Such by-laws may differentiate between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters, and, if so, must ensure that such differentiation does not amount to unfair discrimination.

SECTION 99 : SUPERVISORY AUTHORITY

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A municipality's executive mayor or executive committee, as the case may be, or if the municipality does not have an executive committee or executive mayor, the council of the municipality itself, or a committee appointed by the council as the supervisory authority, must do all of the following :

- oversee and monitor the implementation and enforcement of the municipality's credit control and debt collection policies and any by-laws enacted in terms of the foregoing requirements, and the performance of the municipal manager in implementing the policies and by-laws
- where necessary, evaluate or review the policies and by-laws, and the implementation of such policies and by-laws, in order to improve the efficiency of its credit control and debt collection mechanisms, processes and procedures, and
- at such intervals as may be determined by the council, report to a meeting of the council, except when the council itself performs the duties of the supervisory authority.

SECTION 100 : IMPLEMENTING AUTHORITY

The municipal manager, or - where applicable - the service provider must :

- implement and enforce the municipality's credit control and debt collection policies and by-laws enacted in terms of the foregoing requirements;
- in accordance with the credit control and debt policies and any by-laws establish effective administrative mechanisms, processes and procedures to collect moneys due and payable to the municipality; and

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- at such intervals as may be determined by the council, report the prescribed particulars to a meeting of the supervisory authority referred to previously.

SECTION 101 : MUNICIPALITY'S RIGHT OF ACCESS TO PREMISES

The occupier of premises in a municipality must give an authorized representative of the municipality or of a service provider access at all reasonable times to the premises in order to read, inspect, install or repair any meter or service connection for reticulation, or to disconnect, stop or restrict the provision of any service.

SECTION 102 : ACCOUNTS

Except where there is a dispute between the municipality and the person from whom the municipality has claimed any specific amount, a municipality may :

- consolidate any separate account of such person;
- credit a payment by such person against any account of that person, and
- implement any of the debt collection and credit control measures provided for in the present Act in relation to any arrears on any of the accounts of such person.

SECTION 103 : AGREEMENTS WITH EMPLOYEES

A municipality may, within its discretionary powers, but with the consent of any person liable to the municipality for the payment of rates or other taxes or fees for municipal services, enter into an agreement with such person's employer to deduct from the salary or wages of such person any outstanding amounts due by such person to the municipality or such regular monthly amounts as may be agreed to.

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The municipality may further, within its discretionary powers, provide special incentives for employers to enter into such agreements and for employees to consent to such agreements.

SECTION 118 : RESTRAINT ON TRANSFER OF PROPERTY

The registrar of deeds or any other registration officer of immovable property may not register the transfer of any property other than on the production to such registration officer of a prescribed certificate issued by the municipality in which such property is situated, and which certificate certifies that all amounts due in connection with such property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate have been fully paid.

A municipality may recover, as far as is practicable, all amounts due to it for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties, in preference to any mortgage bonds registered against any property which is to be transferred.

CODE OF CONDUCT FOR MUNICIPAL STAFF MEMBERS

Paragraph 10 of this Code of Conduct stipulates that if any staff member of a municipality is in arrears to the municipality for rates and service charges for a period longer than 3 months, the municipality may deduct any outstanding amounts from such staff member's salary after this period.

CODE OF CONDUCT FOR COUNCILLORS

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Section 6A of this code requires councilors to pay all rates, tariffs, rents and other moneys due to the municipality promptly and diligently.

The municipal manager is further required to notify the speaker of the council and the MEC for local Government, in writing, whenever a councilor has been in arrears with any of these payments for a period exceeding 30 days.

SECTION III : LOCAL GOVERNMENT : MUNICIPAL FINANCE MANAGEMENT
ACT NO. 56 OF 2003

SECTION 64 : REVENUE MANAGEMENT

The accounting officer of the municipality is responsible for the management of the municipality's revenues, and must, for this purpose, take all reasonable steps to ensure :

- that the municipality has effective revenue collection systems consistent with Section 95 of the Municipal Systems Act 2000 and the municipality's credit control and debt collection policies;
- that revenues due to the municipality are calculated on a monthly basis;
- that accounts for municipal taxes and charges for municipal services are prepared on a monthly basis, or less often as may be prescribed where monthly accounts are uneconomical;

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- that all moneys received are promptly deposited in accordance with the requirements of the present Act, into the municipality's primary and other bank accounts;
- that the municipality has and maintains a management, accounting and information system which recognizes revenues when they are due, accounts for debtors, and accounts for receipts of revenues;
- that the municipality has and maintains a system of internal control in respect of debtors and revenues as may be prescribed;
- that the municipal charges interest on arrears, accept where the council has granted exemptions in accordance with its budget related policies and within a prescribed framework, and
- that all revenues received by the municipality, including revenues received by any collecting agent on its behalf, is reconciled at least on a weekly basis.

The accounting officer must immediately inform the national treasury of any payments due by an organ of state to the municipality in respect of municipal taxes or for municipal services, if such payments are regularly in arrears for periods of more than 30 days.

NOTE : SECTION 164 : FORBIDDEN ACTIVITIES

Section 164(1)(c) lists as a forbidden activity the making by a municipality of loans to councilors or officials of a municipality, directors or officials of any municipal entity, and members of the public. It has been assumed for purposes of compiling the credit control and debt collection policy that allowing any one to pay off arrears of rates and

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municipal service charges is not tantamount to the making of a loan in terms of Section 164.

SECTION IV: LOCAL GOVERNMENT : MUNICIPAL PROPERTY RATES ACT NO. 6 OF 2004

SECTION 28 : RECOVERY OF RATES IN ARREARS FROM TENANTS AND OCCUPIERS

If the rates owed by a property owner are unpaid by due date, the municipality may recover such rates, either in whole or in from any tenant or occupier of the property concerned.

However, the tenant or occupier of the property must first be given written notice of the municipality's intentions, and the amount which the municipality may recover is limited to the amount of rent and other moneys due and unpaid by the tenant or occupier to the property owner concerned.

SECTION 29 : RECOVERY OF RATES FROM AGENTS

If it is more convenient for the municipality to do so, it may recover the rates due on a property, either in whole or in, from the agent of the property owner concerned.

However, the agent must first be given written notice of the municipality's intention, and the amount the municipality may recover is limited to the amount of any rent and other moneys received by the agent on behalf of such property owner, less any commission due to the agent.