



MOQHAKA LOCAL MUNICIPALITY

DRAFT

DEBT COLLECTION

&

CREDIT CONTROL POLICY

2013/14 FINANCIAL YEAR

## TABLE OF CONTENTS

1. Definitions
2. Background
  - 2.1 Provision of Services
3. Purpose of the Policy
4. Responsibility of the Policy
  - 4.1 Supervisory Authority
  - 4.2 Implementing Authority
  - 4.3 Contents of the Policy
5. Financial Matters
  - 5.1 Service Agreements
  - 5.2 Deposits
  - 5.3 Customer Care and Management
  - 5.4 Rendering of Accounts
  - 5.5 Consolidation of Accounts
  - 5.6 Queries or Complaints in Respect of Accounts
  - 5.7 Handling of Queries or Complaints
6. Accounts in Arrears
  - 6.1 Unsatisfactory Levels of Indebtedness
  - 6.2 Steps To Be Applied Before Any Action
  - 6.3 Interest on Arrears
7. Actions To Secure Payment
  - 7.1 Termination/Disconnection/Restriction of The Supply of Services
  - 7.2 Reconnection of Supply of Services
  - 7.3 Full and Final Settlement of an Account
  - 7.4 Arrangements To Pay Outstanding and Due Amount in Consecutive Installments
  - 7.5 Dishonored Payments, Fraud, Tampering and Other Criminal Activities
    - 7.5.1 Dishonored Payments
    - 7.5.2 Fraud
    - 7.5.3 Tampering
    - 7.5.4 Criminal Activities
  - 7.6 Section 118 of the Municipal Systems Act No. 32 of 2000
8. Agents, Attorneys and Other Collection Agents
9. Granting of Garnishee Orders
10. Personnel and Financial Implications

## 1. DEFINITIONS

In this Policy, unless the context indicates otherwise –

“**accounting officer**” – in relation to a municipality, means the official referred to in section 60 of the Municipal Finance Management Act;

“**approved budget**” – means an annual budget approved by a municipal council, provincial or national executive following an intervention in terms of section 139 of the Constitution, and includes such an annual budget as revised by an adjustment budget in terms of section 28 of Municipal Finance Management Act;

“**allocation**”, in relation to a municipality, means –

- A municipality’s share of the local government’s equitable share referred to in section 214 (1) (a) of the Constitution;
- An allocation of money to a municipality in terms of section 214 (1) (c) of the Constitution;
- An allocation of money to a municipality in terms of a provincial budget; or
- Any other allocation of money to a municipality by an organ of state, including by another municipality, otherwise than in compliance with a commercial or other business transaction;

“**basic municipal services**” – means a municipal service that is necessary to ensure an acceptable and reasonable quality of life and which, if not provided, would endanger public health or safety or the environment;

“**budget related policy**” – means a policy of a municipality affecting or affected by the annual budget of the municipality, including:

- the tariffs policy which the municipality must adopt in terms of section 74 of the Municipal Systems Act;
- the rates policy which the municipality must adopt in terms of legislation regulating municipal property rates, or
- the credit control and debt collection policy which the municipality must adopt in terms of section 96 (b) of the Municipal Systems Act;

“**budget year**” – means the financial year for which an annual budget is to be approved in terms of section 16 (1) of MFMA;

“**chief financial officer**” – means a person designated in terms of section 80 (2) (a);

“**councillor**” – means a member of a municipal council;

“**current year**” – means the financial year which has already commenced, but not yet ended;

**“debt”** – means:

- a monetary liability or obligation created by a financing agreement, note, debenture, bond or overdraft, or by the issuance of municipal debt instruments, or
- a contingent liability such as that created by guaranteeing a monetary liability or obligation of another;

**“delegation”** – means in relation to a duty, includes an instruction or request to Perform or to assist in performing the duty;

**“financial year”** – means a year ending 30 June;

**“executive committee”** – means a committee established in terms of section 43 of MFMA;

**“local community”**, in relation to a municipality, means that body of persons comprising:

- the residents of the municipality;
- the ratepayers of the municipality;
- any civic organization and non-governmental, private sector or labour organizations or bodies which are involved in local affairs within the municipality, and;
- visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality;

and includes, more specifically, the poor and other disadvantaged sections of such body of persons;

**“local municipality”** – means a category B municipality envisaged in section 155 (1) (b) of the Constitution (a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls);

**“municipal council”** or **“council”** – means the council of a municipality referred to in section 18 of the Municipal Structures Act;

**“Municipal Finance Management Act”** – means the Local Government: Municipal Finance Management Act No.56 of 2003, and any regulations made under that Act;

**“municipality”**, when referred to as –

- a corporate body, means a municipality as described in section 2 of the Municipal Systems Act; or
- a geographic area, means a municipal area determined in terms of the Local Government: Municipal Demarcation Act No.27 of 1998;

**“municipal manager”** – means a person appointed in terms of section 82 (1) (a) or (b) of the Municipal Structures Act (is the head of administration and also the accounting officer of the municipality);

**“municipal service”** – means a service that a municipality in terms of its powers and functions provides or may provide to or for the benefit of the local community irrespective of whether:

- such a service is provided, or to be provided, by the municipality through an internal mechanism contemplated in section 76 or by engaging an external mechanism contemplated in section 76; and
- fees, charges or tariffs are levied in respect of such a service or not;

**“Municipal Systems Act”** – means the Local Government: Municipal Systems Act No.32 of 2000;

**“municipal tariff”** – means a tariff for services which a municipality may set for the provision of a service to the local community, and includes a surcharge on such tariff;

**“municipal tax”** – means property rates or other taxes, levies or duties that a municipality may impose;

**“property”** – means

- immovable property registered in the name of a person, and includes a unit as defined in section 1 of the Sectional Title Act No.95 of 1986;
- a right registered against immovable property in the name of a person;

**“ratepayer”**, in relation to a municipality, means a person who is liable to the municipality for the payment of –

- rates on property in the municipality;
- any other tax, duty or levy imposed by the municipality, or fees for services provided either by the municipality or in terms of a service delivery agreement;

**“resident”**, in relation to a municipality, means a person who is ordinarily resident in the municipality;

**“service delivery agreement”** – means an agreement between a municipality and an institution or a person mentioned in section 76 (b) in terms of which a municipal service is provided by that institution or person, either for its own account or on behalf of the municipality;

**“service delivery and budget implementation plan”** – means a detailed plan approved by the mayor of a municipality in terms of section 53 (1) (c) (ii) for implementing the municipality’s delivery of municipal services and its annual budget, and which must indicate:

- projections for each month of revenue to be collected, by source, as well as operational and capital expenditure by vote;
- service delivery targets and performance indicators for each quarter, and any other matters that may be prescribed; and includes any revisions of such plan by the mayor in terms of section 54 )1) (c);

- which specifies that the total amount that is appropriated for the purposes of the department or functional area concerned.

## 2. BACKGROUND

### 2.1 Provision of Services

The Municipal Council must give priority to the basic needs of the community, promote the social and economic development of the community and ensure that all residents and communities in the municipality have access to at least the minimum level of basic services in terms of Section 152 (1) and (2), 153 (a) and (b) of The Constitution of the Republic of South Africa Act No.108 of 1996 and Section 73 of the Local Government Municipal Systems Act 32 of 2000.

In terms of Section 73 of the Local Government Municipal Systems Act 32 of 2000, municipal services must:

- be equitable and accessible;
- be provided in a manner that is conducive to economic, efficient and effective use of available resources;
- be financially sustainable;
- be environmentally sustainable;
- be regularly reviewed with view to upgrading, extension and improvement.

According to the Local Government Municipal Systems Act, the phrase 'financially sustainable' is in relation to the provision of a municipal service in a manner aimed at ensuring that the financing of that service from internal and external sources, including budgeted income, grants and subsidies for services:

- (a) Is likely to ensure that revenue from services is sufficient to cover the cost of:
  - (i) Delivering services;
  - (ii) Maintaining, preparing and replacing the physical assets used in the performance of the service;
- (b) Is likely to ensure:
  - (i) A reasonable surplus in the case of a service performed by the municipality itself;
  - (ii) A reasonable profit, in the case of a service performed by a service provider other than the municipality itself;
- (c) Is likely to enable the municipality or other service provider to obtain sufficient capital requirements for the performance of the service;
- (d) Takes account of the current and anticipated future:
  - (i) Level and quality of that service;
  - (ii) Demand of that service;
  - (iii) Ability and willingness of residents to pay for the service.

### 3. PURPOSE OF THE POLICY

To ensure that all money that is due and payable to the municipality is collected, in order to satisfy the constitutional obligation of the Council (effective service delivery). Section 96 of the Local Government Municipal Systems Act requires that the municipality must adopt, maintain and implement a debt collection and credit control policy. It should be noted that account holders have a responsibility to timeously pay for services rendered and for amounts levied on ratable property.

The debt collection and credit control policy must be consistent with the rates and tariff policies and comply with the provisions of the Municipal Systems Act.

The municipal council must adopt a by-law to give effect and enforcement to its credit control and debt collection policy according to section 98 of Local Government Municipal Systems Act No. 32 of 2000. By-laws may differentiate between different categories of taxpayers, customers, debtor's taxes, services, service standards and other matters.

The other purpose is to ensure that credit control and debt collection forms part of the financial system of the municipality and to ensure that the same procedure is followed for each individual user.

### 4. RESPONSIBILITY OF THE POLICY

#### 4.1 Supervisor Authority

The Municipality's Executive Mayor must according to Section 99 of Local Government Municipal Systems Act No. 32 of 2000;

- (a) Oversee and Monitor:
  - (i) The implementation and enforcement of the municipality's credit control and debt collection policy and any by-law enacted in terms of Section 98 of the Municipal Systems Act;
  - (ii) The performance of the municipal manager in implementing the policy and any by-law;
- (b) When necessary, evaluate or review the policy and any by-law, or the implementation of the policy and any such by-law, in order to improve efficiency of its debt collection and credit control mechanisms, processes and procedures;
- (c) At such intervals as may be determined by the council report monthly to a meeting of the council, except when the council itself performs the duties mentioned in paragraphs (a) and (b).

#### 4.2 Implementing Authority

The municipal manager must according to Section 100 of the Municipal Systems Act:

- (a) Implement and enforce the municipality's debt collection and credit control policy and by-laws enacted in terms of section 98;
- (b) Establish effective administrative mechanisms, processes and procedures to collect money that is due and payable to the municipality in accordance with the debt collection and credit control policy and any by-laws;

- (c) At such intervals as may be determined by the council report the prescribed particulars monthly to a meeting of the supervising authority referred to in section 99 of The Municipal Systems Act No.32 of 2000.

#### 4.3 Contents of the Policy

In terms of section 97 of the Municipal Systems Act

4.3.1 A credit control and debt collection policy must provide for:

- (a) Debt collection and credit control procedures, processes and mechanisms;
- (b) Provision for indigent debtors that is consistent with the rates and tariff policies and any national policy on indigents;
- (c) Realistic targets consistent with;
  - (i) General recognized accounting practices and collection ratios;
  - (ii) The estimates of income set in the budget less an acceptable provision of bad debts;
- (d) Interest on arrears, where appropriate;
- (e) Extension of time for payment of accounts;
- (f) Termination of services or restriction of the provision of services when payments are in arrears;
- (g) Matters relating to unauthorized consumption of services, theft and damages;
- (h) Any other matters that may be prescribed by regulation in terms of Section 104 of the Municipal Systems Act.

4.3.2 By-laws giving effect to the credit control and debt collection policy may differentiate between different categories of users of service according to Section 98 of the Municipal Systems Act, as long as the differentiation does not amount to unfair discrimination.

### 5. FINANCIAL MATTERS

#### 5.1 Service Agreement

Before supplying of a service and sending out of any accounts, an account holder must enter into a contract of agreement with the municipality and such contract should provide for a deposit as security.

#### 5.2 Deposits

There shall be a separate deposit paid for water and electricity as per approved tariff schedule where these services are metered and a deposit where flat rate is charged. If an applicant of services or spouse has been blacklisted as a defaulter, the deposit will be doubled to reduce the risk of outstanding or irrecoverable amounts when the account is closed. After the disconnection of electricity supply due to non-payment of services to the municipality, a reconnection fee must be paid as determined by Council in its tariff schedule.

The deposit paid shall be regarded as sufficient if the account holder is not a defaulter. Deposits received must be reviewed annually and a register should be maintained. No interest shall accrue in favour of the deposits thereof upon termination of the debtor's agreement with the municipality. The deposit will first be offset against any outstanding balances (if any) to be refunded to the account holder. If the deposit on the household account is lesser than the amount approved by Council, an additional amount towards the deposit shall be paid.



Where the account holder has not entered into a service agreement with the municipality, water/electricity will be disconnected until such time as a service agreement has been signed and the applicable deposit has been paid. Account holder's deposits for business and industrial accounts must be re-assessed three months after the initial deposit date

NO NEW CONNECTION OR NEW ACCOUNT WILL BE OPEN ON A STAND, IF THERE ARE ANY SERVICES ACCOUNT IN ARREARS, WHETHER BEING OF THE OWNER OR OF THE TENANT.

### 5.3 Customer Care and Management

A municipality must within its financial and administrative capacity according to Section 95 of the Municipal Systems Act No.32 of 2000:

- (a) Establish a sound customer management system that aims to create a positive and reciprocal relationship (given in return or felt by each towards the other, mutual) between the community and the municipality or service provider (where applicable);
- (b) Establish mechanisms for the community to give feedback to the municipality or other service provider regarding the quality of services and performance of the service provider;
- (c) Take reasonable steps to ensure that the community is informed of the costs involved in service provision, the reason for payment of these service fees and the manner in which monies raised from services are utilized;
- (d) Where the consumption of services has to be measured, take reasonable steps to ensure that the consumption by individual account holder is measured through accurate and verifiable metering systems;
- (e) Ensure that account holders receive regular and accurate accounts that indicate the basis for calculating the amounts due;
- (f) Provide accessible mechanisms for account holders to query or verify accounts and metered consumption, and appeal procedures which allow such account holders to receive prompt redress for inaccurate accounts;
- (g) Provide accessible mechanisms for dealing with complaints from account holders, together with prompt replies and corrective action by the municipality;
- (h) Provide mechanisms to monitor the response time and efficiency in complying with paragraph (g);
- (i) Provide accessible pay point and other mechanisms for settling accounts or for making pre-payments for services.

### 5.4 Rendering of Accounts

- (a) Accounts shall be rendered monthly to account holders at the address last recorded;
- (b) The account holder may receive more than one account for different municipal services if they are accounted for separately;
- (c) Failure to receive an account by mail, e-mail or mms does not relieve an account holder of the obligation to pay amount due and payable to the Council. It is a responsibility of an account holder to find out the amount to be paid for services rendered;
- (d) Accounts of must as far as possible reflect at least:
  - The name of the municipality;
  - The name of the account holder;
  - The latest address recorded of the account holder;

- The service levies or rates in question;
- The amount brought forward;
- The consumption of metered services, units and cost per service;
- The period allowed for the payment of services and rates;
- The date before which payment must be made;
- Interest on late payment;
- Consequences of non-payment;
- Any subsidies (indigent subsidies, discount, rebates and adjustments);
- Value added tax;
- Outstanding debt;
- Total amount payable;
- Methods and outlets where payments of accounts can be made;
- Valuation of the property.

## 5.5 Consolidation of Accounts

5.5.1 A municipality may in terms of Section 102 of the Municipal Systems Act No.32 of 2000:

- (a) Consolidate any separate accounts of a debtor liable for payment;
- (b) Credit a payment by that account holder against any of his/her account;
- (c) Implement any of the debt collection and credit control measures provided for in this chapter in relation to any arrears on any of the accounts of such a debtor.

5.5.2 Subsection (1) does not apply where there is a dispute between the municipality and a person referred to in that subsection concerning any specific amount claimed by the municipality from that person.

5.5.3 A municipality must provide an owner of a property in its jurisdiction with copies of accounts sent to his/her tenant for municipal services, if the owner requests such accounts in writing from the municipality,

In a case of consolidated accounts, an account holder may not elect how an account is to be settled if it is not paid in full.

## 5.6 Queries or complaints in Respect of Accounts

- (a) An account holder may lodge a query or complaint in respect of the accuracy of an amount due and payable for specific municipal services as reflected on the account rendered;
- (b) A query must be lodged with the council in writing before the due date for payment of the account;
- (c) A query must be accompanied by the payment of at least the total amount due for services that were rendered including the average of the amount of the service in dispute;
- (d) The Council may (if necessary) register a query and provide an account holder with a reference number.

## 5.7 Handling of queries or complaints

- (a) The Council shall investigate a query and resolve it;
- (b) The Council will endeavor to resolve all queries amicably and as soon as possible.

## 6. ACCOUNTS IN ARREARS

### 6.1 Unsatisfactory Levels of Indebtedness

If the level of indebtedness in a ward of the municipality is unreasonably too high or exceed acceptable levels, Manager Finance will without delay inform the Accounting Officer.

### 6.2 Steps to be applied before any action

- (a) The statement of account sent out monthly to the account holder will serve as a notice of arrears, if any;
- (b) A final demand notice may be hand delivered or sent by registered mail to the most recent recorded address of an account holder for arrears accruing;
- (c) Failure to deliver a final notice does not relieve an account holder from paying an account in arrears;
- (d) If no response is received after due date, further steps will be taken (electricity provision will be blocked/terminated, account may be handed over to debt collection or collection attorneys);
- (e) Where water/electricity amounts remain outstanding or unpaid for more than 3 (three) months without response, that account may be handed over to debt collectors for the collection and/or legal action to attorneys. These account holders will have to make further arrangements at the attorneys or debt collectors for payment of the arrear amounts. The current monthly accounts must still be paid directly to the municipality. Once an account has been handed over for collection, the case will not be withdrawn unless there was a mistake or oversight on the part of the municipality;

### 6.3 Interest on Arrears

6.3.1 The municipality may in terms of Section 97 (e) of the Municipal Systems Act No.32 of 2000, charge interest on accounts in arrears.

6.3.2 Interest on arrears will only be stopped if the account holder who's account is in arrears sign an acknowledgement of debt and make satisfactory arrangements for payment of arrears and honour that arrangement.

6.3.3 As soon as an arrangement to pay arrears has been concluded, the amount in arrears will be suspended and no further interest will accrue. As long as the arrangement is honoured no further interest will be added. In case of defaulting, the suspended amount will be reversed and interest will again be levied from date of default.

6.3.4 As an incentive, discounts will be given to the account holders settling their accounts as follows:

- Discount of 10% for settlement of debt between R 3000 to R 5 000
- Discount of 20% for settlement of debt between R 5 001 and R 10 000
- Discount of 30% for settlement of debt between R 10 001 and R 30 000
- Discount of 40% for settlement of debt between R 30 001 and R 50 000
- Discount of 50% for settlement of debt between R 50 001 and more
- o Whenever practical, Chief Financial Officer, Manager Revenue or Senior Official may use the interest as an incentive for settlement of account (s).

6.3.5 Interest will be charged on overdue accounts at prime plus 1% from 01 July of each financial year, and will be applicable for the financial. Interest rate hikes or reductions effected by the Reserve/Central Bank during the financial year will not affect this rate in the same period.

## 7. ACTIONS TO SECURE PAYMENT

The municipality and service providers may in addition to the normal civil legal procedures to secure payment of accounts that are in arrears, take the following action to secure payment for municipal rates and services;

### 7.1 Blocking/Termination/Disconnection or Restriction of the Supply of Electricity Services:

- (a) The municipality or service provider may block/terminate/disconnect/restrict the provision of electricity services according to Section 104 f (i) & Section 104 n (i) of the Municipal Systems Act No.32 Of 2000. Electricity will only be unblocked/reconnected after payment has been made, except for merit cases;
- (b) Restriction of the supply of services means to allow an account holder to use only 6 kilo liters of water per month by putting in a tap washer or restrict the purchase of pre-paid electricity and by cutting provision of conventional electricity;
- (c) An account holder will be allowed to change an electricity meter from conventional to pre-paid meter while municipal account is in arrears, as this will allow the account holder to be in control of metered services;
- (d) If an account holder fails to pay the amount due by the 07<sup>th</sup> of the month, a final letter of demand will not be hand delivered or sent by registered mail to the consumer as the monthly statement of account serves as a notice.
- (e) An acknowledgement of debt must be completed with all arrangements for paying off arrear account(s). Copies must be handed to the account holder;
- (f) Stop orders or Debit orders may be completed for the monthly payment of the agreed amount or at least current amount, as far as possible
- (g) Only account holders with positive proof of identity will be allowed to complete an acknowledgement of debt and arrange for payment of arrears. In a case where a tenant occupies the property and is fully responsible for payment of services, that tenant may sign an acknowledgement of debt if the owner agreed in writing and has provided a

certified copy of his identity document. The owner will still be liable to pay any amount in arrears that his/her tenant fails to pay;

- (h) Where arrangement was not made and electricity was blocked/disconnected due to arrears, services will only be restored if an acceptable payment as calculated by a Finance official is made on the account and an acknowledgement of debt and arrangement for payment of arrears was signed (with a minimum payment made);
- (i) Where an acknowledgement of debt was signed and the account holder did not honour the arrangement, the services of that account holder will immediately be disconnected until the full amount due according to the agreement is paid;
- (j) No person will be allowed to enter into a second arrangement, if the first one was not honoured.

Merit cases where special circumstances prevail must be treated individually and could amongst others include the following categories according to Section 98 (2) of The Municipal Systems Act No.32 of 2000:

- Deceased estates;
- Liquidated companies;
- Private persons under administration or debt management;
- Outstanding enquiries/disputes on accounts;
- Certain categories of pensioners;
- Indigent households;
- Child headed families;

All merit cases conditions apply to service accounts only. The municipality may block, restrict or disconnect the supply of electricity or discontinue any other service to any premises whenever an account holder of any service:

- Fails to make full payment on the due date or fails to make acceptable arrangements for the payment of any amount for services, rates or taxes;
- Fails to comply with a condition of supply imposed by the municipality;
- Causes a situation which in the opinion of the municipality is dangerous or is contravening the relevant legislation;

In terms of Section 104 f (ii) the municipality may seize the property to secure payment for services that were delivered to an account holder. This will be done by the municipality's attorneys after following due process.

## 7.2 Reconnection of Supply of Services

Manager Finance or his/her delegate shall authorize the reconnection of services or reinstatement of service delivery after satisfactory payment and/or arrangements for payment have been made according to the municipality's credit control and debt collection policy. Where electricity/water supply has been disconnected erroneously, an apology will be dispatched.

Where services are illegally restored, criminal action will be taken if necessary. The municipality shall reconnect and restore full levels of supply of any of the blocked, restricted or disconnected services only after the penalty as determined by Council has been paid, an acceptable payment as calculated by Finance official for unblocking or reconnection has been paid, an agreement to

pay arrears has been signed and all other condition(s) of this credit control and debt collection policy have been complied with. The right to restrict, disconnect or terminate services due to non-payment shall be in respect of any service rendered by the municipality and shall prevail notwithstanding the fact that payment has been made in respect of any specific service and shall prevail notwithstanding the fact that the person who entered into an arrangement for supply of services with the municipality and the owner are different entities or persons, as the case may be.

Where any services were disconnected as a result of non-compliance with these regulations by an account holder, the municipality shall be entitled to levy and recover the standard disconnection fee as determined in its annual budget.

### 7.3 Full and Final Settlement of an Amount

Manager Finance shall be at liberty to appropriate/allocate monies received in respect of any of its municipal services as he/she deems fit.

Where the exact amount due and payable to the municipality has not been paid in full, any lesser amount tendered shall not be deemed to be in final settlement of such an amount.

Recommendations will be sent to council for writing off of dormant/inactive and irrecoverable accounts as well as accounts charging interest only.

### 7.4 Arrangements to Pay Outstanding Amount in Consecutive installments

A debtor may enter into a written arrangement with the municipality to pay any outstanding and due amount to the municipality under the following conditions:

- The outstanding balance, costs and any interest thereon shall be paid in regular and consecutive monthly installments;
- The current monthly amount must be paid in full;
- The written arrangement has to be signed on behalf of the municipality by a duly authorized officer.

In order to determine monthly installments, a comprehensive payment history and affordability levels of an account holder must be considered. To ensure the continuous payment of such arrangement, the amount determined must be affordable to an account holder, taking into account that payment of the monthly current account is a prerequisite for concluding an arrangement. The main aim of an arrangement will be to promote full payment of the current account and to address the arrears on a consistent basis.

### 7.5 Dishonored Payments, Fraud, Tampering and other Criminal Activities

#### 7.5.1 Dishonored Payments by the bank

Where cheques are returned by the bank as “refer to drawer” cheques, the full dishonored amount will immediately become payable in cash. Electricity/water supply of such account holder will immediately be disconnected until the full amount is paid in cash. The municipality must recover the bank charges and administrative costs as determined by Council relating to dishonored cheques or negotiable instruments against the account of a debtor. Such incident shall be regarded as a default on payment.

### 7.5.2 Fraud

The municipality may not supply/sell electricity or water to an account holder who is found guilty of/or admits that fraud/theft or any other criminal action involving the use of these services existed, until the total costs, penalties, other fees, tariffs and rates due to the municipality have been paid in full.

### 7.5.3 Tampering

All tampering penalties must be paid in full before arrangements can be made on the arrears.

## 7.6 Section 118 of the Municipal Systems Act No.32 of 2000

### Restraint on transfer of property:

1. A registrar of deeds may not register the transfer of property except on production to that registrar of deeds of a prescribed certificate -

- (a) Issued by the municipality or municipalities in which that property is situated;
- (b) Which certifies that all amounts that became due in connection with that property for municipal service fees, surcharges on fees, property rates, and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate have been fully paid?

(1A) A prescribed certificate issued by a municipality in terms of subsection (1) is valid for a period of 60 (sixty) days from the date it has been issued.

(2) In the case of the transfer of property by a trustee of an insolvent estate, the provisions of this section are subject to section 89 of the Insolvency Act No.24 of 1936.

(3) An amount due for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies, and duties is a charge upon the property connection with which the amount owes and enjoys preference over any mortgage bond registered against the property.

(4) Subsection (1) does not apply to:

- (a) A transfer from the national government, a provincial government or a municipality of a residential property which was financed with funds or loans made available by the national government, a provincial government or a municipality;
- (b) The vesting of ownership as a result of a conversion of a land tenure rights into ownership in terms of Chapter 1 of the Upgrading of Land Tenure Rights Act No.112 of 1991.

Provided that nothing in this subsection precludes the subsequent collection by a municipality of any amounts owed to it in respect of such a property at the time of such transfer or conversion.

(5) Subsection (3) does not apply to any amount referred to in that subsection that became due before a transfer of a residential property or a conversion of land tenure rights into ownership contemplated in subsection (4) took place.

Section 118 of the Municipal systems Act No.32 of 2000 may only be applied if there's a reasonable solution/arrangement for the remainder of the account after calculating the amount two years preceding the date of application. This solution/arrangement must be agreed to by Manager Finance or Manager Revenue.

#### 8. AGENTS, ATTORNEYS AND OTHER COLLECTION AGENTS

- (a) All external agents acting on behalf of the municipality are to be named, together with their details and contact information;
- (b) All agents are to be supplied with a copy of debt collection and credit control policy;
- (c) The cost to the municipality and to the debtor must be detailed for each stage of the credit control and debt collection measures and for all possible actions. The liability for the costs of legal action and other credit control actions must as far as is legally possible be for the account of the debtor;
- (d) Where an account remains outstanding for more than 90 (ninety) days in respect of businesses and residential after all measures have been exhausted, the Council may:
  - Institute legal action against an account holder for the recovery on the arrears;
  - Hand the account over to attorneys or debt collection agencies;
- (e) The measures mentioned in sub-section above will only apply if the letter of final demand was hand delivered or sent through a registered mail
- (f) Once an account has been handed over for debt collection, the case will not be withdrawn from the attorneys or debt collection agencies, unless there was a mistake or oversight on the part of the municipality.
- (g) No further arrangements regarding the amount due will be made with the municipality once an account has been handed over to the attorneys or debt collection agencies. The current account will still be paid directly to the municipality.
- (h) Clear instructions to agents and other arrangements must be explained for the account holder's benefit. Under no circumstances may agents negotiate terms, extend payment period or accept cash on behalf of the municipality, unless specifically instructed in writing to do so.

#### 9. GRANTING OF GARNISHEE ORDERS

The municipality may in terms of Section 103 (a) of the Municipal Systems Act No.32 of 2000:

- (a) With the consent of the person liable to the municipality for payment of rates, other taxes, fees, municipal services or levies enter into an agreement with that person's employer to deduct from that person's salary
  - Any outstanding amounts due by that person to the municipality;
  - Such regular monthly amounts as may be agreed;
- (b) If an account holder fails to pay an account according to the acknowledgement of debt and arrangement that was signed, the municipality through its attorneys/debt collection agency may ask the court for granting of a garnishing order of the amount agreed on against that specific debtor, if he/she is employed. This garnishing order means that the amount agreed on according to the acknowledgement of debt will be directly deducted from the person's salary.



In terms of Section 103 (b) of the Municipal Systems Act No.32 of 2000, the municipality may provide special incentives for employees to consent and enter into such agreement.

---