



CREDIT CONTROL AND DEBT COLLECTION POLICY

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CREDIT CONTROL AND DEBT COLLECTION POLICY

PREAMBLE

AND WHEREAS section 5 (1) (g), read with subsection (2) (b), of the Systems Act provides that members of the local community have the right to have access to municipal services which the municipality provides provided that, where applicable and subject to the policy for indigent debtors, pay promptly for services fees, surcharges on fees, other taxes, levies and duties imposed by the municipality;

AND WHEREAS section 6 (2) (c), (e) and (f) of the Systems Act provides that the administration of a municipality must take measures to prevent corruption; give members of a local community full and accurate information about the level and standard of municipal services that they are entitled to receive; and inform the local community about how the municipality is managed, of the costs involved and the persons in charge;

AND WHEREAS Chapter 9, sections 95, 96, 97, 98, 99 and 100, of the Systems Act provides for Customer Care Management, Debt Collection responsibility of the Municipality, contents of the policy, by-laws that give effect to the policy, Supervisory authority and Implementing authority.

AND WHEREAS section 64 (2)(a) of the MFMA stipulates that the accounting officer must for the purpose of subsection (1) take all reasonable steps to ensure that the municipality has effective revenue collection systems consistent with section 95 of the Municipal Systems Act and the municipality's credit control and debt collection policy.

DEFINITIONS

For the purpose of this policy, the wording or any expression has the same meaning as contained in the Act, except where clearly indicated otherwise and means the following:

“Act” – means Local Government: Municipal Systems Act: (Act No 32 of 2000) as amended from time to time.

“Arrangement” - means a written agreement entered into between the Council and the debtor where specific repayment parameters are agreed upon.

“Arrears” - means those rates and service charges that have not been paid by the due date and for which no arrangement has been made

“Authorized Representative” – means a person or instance legally appointed by the Council to act or to fulfil a duty on its behalf.

“CFO” – means a person appointed as the Chief Financial Officer of the Municipality, or his nominee.

“Council” – means the municipal council, as referred to in section 157 of the Constitution of the Republic of South Africa Act 108 of 1996, of the uMhlabuyalingana Municipality established by part 7 of Provincial Notice 80, dated 27 September 2000.

“Credit Control” - means all the functions relating to the collection of monies owed by ratepayers and the users of municipal services.

“Customer” - means any occupier of any premises to which Council has agreed to supply or is actually supplying services, or if there is no occupier, then the owner of the premises and includes any debtor of the municipality.

“Equipment” - means a building or other structure, or any accessories

“Implementing Authority” - means the Municipal Manager or his or her nominee, acting in terms of section 100 of the Systems Act.

“Interest” – means a charge levied with the same legal priority as service fees and calculated at a rate determined by council from time to time on all arrear monies.

“MFMA” – means Local Government: Municipal Finance Management Act, Act No. 56 of 2003.

“Municipal account” – means an account rendered specifying charges for services provided by the municipality, or any authorized and contracted service provider, and/or assessment rates levies.

“Municipality” - means the uMhlabuyalingana Municipality.

“Chief Executive Officer” – means the person appointed as Municipal Manager and/or the Chief Accounting Officer and include any person acting in that position or to whom authority was delegated.

“Municipal services” – means those services provided by the municipality, such as, inter alia the supply of water and electricity, refuse removal, sewerage treatment, and for which services charges are levied.

“Occupier” - means any person who occupies any property or part thereof, without regard to the title under which he or she occupies the property,

“Owner” – means the person in whom from time to time is vested the legal title to premises; In a case where the person in whom the legal title is vested is insolvent or deceased, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative.

In a case where Council is unable to determine the identity of such person, a person who is entitled to the benefit of such premises with a building thereon.

In the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof:

- In relation to-
A piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act 1986, (Act 95 of 1986), and without restricting the above the developer or the body corporate in respect of the common property; or a section as defined in such Act, the person in whose name such a section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
- Any legal person including but not limited to-
A company registered in terms of the Companies Act, 1973 (Act 61 of 1973), a trust, a closed corporation registered in terms of the Closed Corporations Act, 1984 (Act 69 of 1984) and a voluntary association;
- Any department of State;
Any Council of Board established in terms of any legislation applicable to the Republic of South Africa;
- Any Embassy or other foreign entity;
Any lessee of Council owned property.

“premises” – means includes any piece of land, the external surface boundaries of which are delineated on a general plan or diagram registered in terms of the Land Survey Act, 1927 (9 of 1927), or in terms of the Deed Registry Act, 1937 (47 of 1937);
or

A unit within a sectional plan registered in terms of the Sectional Titles Act, 1986 (95 of 1986), which is situated within the area of jurisdiction of the Council;

PRINCIPLES

- ❖ The administrative integrity of the municipality must be maintained at all costs. The democratically elected councilors are responsible for policy-making, while it is the responsibility of the Municipal Manager to ensure the execution of these policies.
- ❖ A copy of the extracts of the relevant council's credit control and debt collection policy and by-laws must be handed to every customer on request at such fees as may be prescribed by Council.
- ❖ Billing is to be accurate, timeous and understandable.
- ❖ The customer is entitled to reasonable access to pay points and to a variety of reliable payment methods.
- ❖ The customer is entitled to an efficient, effective and reasonable response to appeals, and should suffer no disadvantage during the processing of a reasonable appeal.
- ❖ Enforcement of payment must be prompt, consistent and effective.

1. PURPOSE

- 1.1 To assist the uMhlabuyalingana Local Municipality in the management of Credit Control and Debt Collection of the municipality.
- 1.2 To set out principles which the municipal council will follow in collecting all debt owing to the municipality and applying the credit control system, as well as the responsibilities of the Accounting Officer and the Chief financial Officer in revenue management.
- 1.3. To comply with the applicable provisions of the legislative and Regulatory Frameworks governing the municipality.
- 1.4. To define a framework within which effective procedures could be developed to identify defaulters, and ensure that their failure to meet their financial obligations towards the Council, would be treated in a constant, fair and effective manner.

2. AREA OF APPLICATION

This policy applies throughout the area of the uMhlabuyalingana Municipality.

3. APPLICATION FOR SERVICES (REFUSE, HALLS & OTHER INCOME SERVICES)

- 3.1 Consumers who require a service must, where possible, enter into a written service agreement with the municipality before the service is rendered.
- 3.2 The application for the service must occur 2 days prior to use of the premises.
- 3.3 The Municipality will render the first account after the first billing report following the date of signing the service agreement.

4. DEPOSITS (OTHER INCOME - HALL HIRE)

- 4.1 Deposits to be paid in cash and direct deposits.

5. ACCOUNTS AND BILLING

- 5.1 An account will be rendered each month in cycles of approximately 30 days.
- 5.2. The Municipality will undertake to have the accounts delivered to all consumers. However non-receipt of an account does not remove the liability to pay the account and does not prevent interest charges and the implementation of debt collection procedures.

- 5.3 In the event of non-receipt of an account, the onus rests on the account holder to obtain a free copy of the account, before the due date.
- 5.4 Accounts must be paid on the due date as indicated on the account. If applicable, interest on arrears will accrue after due date if the account remains unpaid irrespective of the reason for non-payment except where the council has granted exemptions in accordance with its budget-related policies and within a prescribed framework.
- 5.5 Interest at the rate as determined by uMhlabuyalingana Municipality will be charged on all arrear amounts, on the day following the final date for payment indicated on the account. For this purpose part of a month will be treated as a full month. UMhlabuyalingana Municipality charges 10% interest on all outstanding debts with the exception of Market Stalls debtors, government and Ingonyama Trust.
- 5.6 Payments for accounts must be received on or before the due date at a Municipal pay-point by the close of business. In the case of any electronic payments or payments via agents, the money must be received in the municipal bank account before the due date and not later than the close of Business. Payments are only deemed as received once they have been receipted on Council's Financial System.
- 5.7 Non-payment of the account will result in debt collection actions as prescribed elsewhere in this policy.
- 5.8 Consumers who have offered a cheque as payment for services, and which cheque is returned by the Financial Institution as "referred to drawer" ("RD"), will be blocked at the soonest opportunity. The account will be flagged and no further cheque payments will be accepted. The flag on the account, which effectively prevents the account holder from making any cheque payments, can be reviewed at the discretion of the Chief Financial Officer after 12 months.
- 5.9 All revenue received by the municipality, including all revenue received by any collecting agent on its behalf, must be reconciled at least on a monthly basis.

5.10. Waiving of interest charges and capital portion on the outstanding accounts

- 5.10.1 The municipal council at its own discretion reserves a right to waive the interest chargeable on the accounts that are in areas if it is deemed necessary. This can be done in line with taking into consideration the environment and the situation in that specific area. The will decided on the percentage of discretionary waiver or value on its council meeting.
- 5.10.2 Rental and waste debtors are excluded from debtors that are charged interest on outstanding accounts. However when the need arises to write of account the council will do so on the merits of the submission.

6. ARRANGEMENTS FOR SETTLEMENT OF ARREAR ACCOUNTS

- 6.1 Arrangements are permissible for debtors who experience difficulties in paying their accounts.
- 6.2 The Municipal Manager or the Chief Financial Officer are authorized to enter into agreements with the debtors with arrears accounts and to grant such debtors extensions for payment.
- 6.3 The terms applicable for the settlement of arrear debt as well as any upfront payment will be determined by the Chief Financial Officer.
- 6.4 Only account holders with positive proof of identity or an authorized agent with a Power of Attorney will be allowed to enter into an agreement for the payment of their arrear account in instalments.
- 6.5 The arrangement must be in writing and may be in the form of an Acknowledgement of Debt. One copy must be handed to the client.
- 6.6 Failure to honor the agreement will lead to immediate legal action where applicable. The appointed legal firm will deal with the issuing of noticed thereof.

7. ALLOCATION OF PAYMENTS

- 7.1 A customer may not selectively nominate payment of his account or portions of his account.
- 7.2 The Chief Financial Officer may at his discretion consolidate any separate accounts of persons liable for payments to the municipality and/or credit a payment by such a person against any account or portion of an account of that person in terms of section 102 of Municipal Systems Act, no 32 of 2000 as amended.

8. INVITATION TO TENDER

- 8.1 When inviting bidders for the provision of services or delivery of goods, potential bidders may submit tenders provided that all relevant municipal accounts owing by the tenderer and/or its directors, owners or partners have been paid or that suitable arrangements (which include the right to set off in the event of non-compliance) have been made for payment of any arrears.
- 8.2 No tender will be allocated to a person/contractor until a suitable arrangement for the repayment of arrears, has been made. No further debt may accrue during contract period.
- 8.3 A condition must also be included in all contracts allowing Council to deduct any moneys owing to the municipality from contract payments.

9. APPROVAL OF BUILDING PLANS

Before any building plans pertaining to the alteration, improvement or erection of buildings or structures on a property can be considered for approval or any permission to proceed with such construction can be given, all arrears outstanding for a period longer than 30 days associated with the relevant property are to be paid.

10. DEBT COLLECTION

- 10.1 The Chief Financial Officer is authorized to institute mechanisms with the intention of proceeding until the debt is collected.
- 10.2 All funds due to the municipality must be collected timeously and banked on a daily basis.
- 10.3 It is important that all monies owing to the municipality are correctly reflected in the debtors system
- 10.4 All monies collected by the municipality must be banked in the primary bank account of the municipality.
- 10.5 Money collected by some other agency on behalf of the municipality must be paid over to the municipality or deposited in the bank account of the municipality in a manner prescribed by the Municipal Manager.
- 10.6 The receipt of all monies collected by the municipality shall be acknowledged by the issue of a numbered official receipt.

10.7 The following mechanisms may be used, but are not limited to, to collect outstanding monies owed to Council:

- 10.7.1 Any method authorized by Legislation or Council from time to time.
- 10.7.2 The issuing of a final demand. The demand will be posted by ordinary post and will be deemed received 3 days after it had been posted. The issuing of a demand by way of e-mail or Cell phone text message will also be accepted as a proper demand sent in terms of this policy.
- 10.7.3 Legal process; - up to and including the attachment and sale of moveable property or sale of immovable property where, in cases of residential properties, the owner does not occupy the premises.
- 10.7.4 The municipality will also deal with the collection of arrear account using section 58 of the Magistrates Courts Act, no 32 of 1944 as amended.
- 10.7.5 Transfer of outstanding debt on a closed account to the owners account.

10.7.6 Deducting from contract payments the value of the amount owing to the municipality (in a case where a service provider/supplier has, despite the stipulation of para 7.2 here above, owes the municipality)

10.8 The Chief Financial Officer has the delegated authority to determine the economic viability of all arrear accounts as well as the minimum outstanding arrears before these accounts are handed over to an attorney/debt collection agency for collection.

10.8.1 The Chief Financial Officer must investigate ways and means of assisting customers before selling their immovable property.

10.9 The Chief Financial Officer presently has the delegated authority to instruct the attorneys to proceed with the sale in execution in respect of all undeveloped properties, commercial properties and properties where the owner is not the consumer. This authority is herewith reconfirmed.

10.10 The Executive Committee must be furnished with all relevant details prior to the Chief Financial Officer instructing the attorneys to proceed with the sale in execution.

10.11 The collection of arrear accounts from Provincial or Government departments will be dealt with in accordance with the provisions of MFMA circular number 21, read with section 64 (3) of the MFMA, after a due diligence process followed by the Credit Control section to collect such arrears.

10.12 The municipality will send notices to Market Rental debtors with accounts sitting on 60 days

10.13 The municipality will evict Market Rental Debtors with accounts sitting on 90 days.

10.14 Any arrear account of a councilor, employee and a member of ward committee will be deducted at payroll after serving such councilor, employee or member of ward committee with a written notice.

11. RESPONSIBILITY FOR AMOUNTS DUE AND PAYABLE

11.1 An amount due for municipal service fees, surcharge on fees, property rates and other municipal taxes, levies and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property.

11.2 Accordingly, all such Municipal debts shall be a charge upon the property, the subject thereof, and shall be payable by the owner of such property.

11.3 Any person who purchases or otherwise acquires or leases immovable property from the Municipality shall be deemed to be the owner or lessee in the case of the latter thereof from the date of such purchase or other acquisition by him or from the commencement of such lease, as the case may be.

- 11.4 Where the property is owned or leased by more than one person, each such person shall be liable jointly and severally for all Municipal debts charged on the property.

12. PROVISION FOR DOUBTFUL DEBTS AND DISCOUNTING OF DEBTORS

Provisions are recognized when the municipality has a present or constructive obligation as a result of past events, which it is probable that an outflow of resources embodying economic benefits will be required to settle the obligation and a reliable estimate of the provision can be made. Provisions are reviewed at reporting date and adjusted to reflect the current best estimate. Where the effect is material, non-current provisions are discounted to their present value using a pre-tax discount rate of 9% that reflects the market's current assessment of the time value of money, adjusted for risks specific to the liability.

Trade and other receivables are categorized as financial assets: loans and receivables and are initially recognized at fair value and subsequently carried at amortized cost. Amortized cost refers to the initial carrying amount, plus interest, less repayments and impairments. An estimate is made for doubtful receivables based on a review of all outstanding amounts at year-end. Significant financial difficulties of the debtor, probability that the debtor will enter bankruptcy or financial reorganization, and default or delinquency in payments (more than 90 days overdue) are considered indicators that the trade receivable is impaired. Impairments are determined by discounting expected future cash flows to their present value. Amounts that are receivable within 12 months from the reporting date are classified as current.

An impairment of trade receivables is accounted for by reducing the carrying amount of trade receivables through the use of an allowance account, and the amount of the loss is recognized in the Statement of Financial Performance within operating expenses. When a trade receivable is uncollectible, it is written off. Subsequent recoveries of amounts previously written off are credited against operating expenses in the Statement of Financial Performance.

Provision for doubtful debts is calculated by categorizing the Outstanding into eight:

Category A is government properties (excluding Ingonyama Trust Properties) and those who owe less than 30 days. No provision is made for them.

Category B are those irregular payers, and the debt is between 30 and 60 days. The provision is made at 10%

Category C are those irregular payers, and the debt is between 60 and 90 days. The provision is made at 20%.

Category D are those irregular payers, and the debt is between 90 and 120 days. The provision is made at 50%.

Category E are those irregular payers, and the debt is more than 120 days. The provision is made at 100%.

Category F the provision in relation to **traffic fines debtors** is calculated by reducing the carrying amount of traffic fines debtors by average collection rate for the period. The amount of traffic fines that has been written down by court or the differences that arises due to the alternative amount being paid is treated as revenue forgone.

Category H the provision in relation to **waste collection**; the provision is made as per category A to E.

Category I the provision in relation to **rental of municipal properties**; the provision is made as per category A to E.

13. LEASE AGREEMENTS

13.1 Any lease agreement concluded between Council and a lessee where the lessee is a close corporation or private company must include a Deed of Suretyship.

13.2 No lease agreement may be ceded if there is any arrear amount outstanding in terms of the lease agreement or in terms of the services account of the lessee on the lease property.

13.3 If a lessee fails to honour any financial obligations in terms of a lease agreement, and remains in default despite a notice to comply, the lessee must be handed over to Council's attorneys within 30 days of default for corrective action.

14. ASSISTANCE TO INDIGENT DEBTORS

14.1 Debt of Indigent households will be submitted annually to Council for consideration:

14.1.1 Indigent support equal to the outstanding amount on the account will be given and funded from the equitable share received from National Government.

14.1.2 If a household's status as indigent changes during the course of the year, the name will be removed from the indigent register and the full debt for that year only to be recovered together with any future monthly instalments;

14.1.3 Should it be found that any debtor/s made false statements pertaining to their status as indigent, such debtor shall forfeit all the benefits and protection as a classified "indigent" and the total arrear amount, including any written off amounts, be recovered, regardless of the process followed;

14.1.4 Market rental debtors are exempted from interest charging since they are regarded as indigent debtors until the council decides otherwise.

14.1.5 Further relief to indigent debtors will be made in accordance with the current approved Indigent Policy.

15. ESTATES WITHOUT FORMALISED LEGAL STATUS

15.1 In cases where the head of an indigent household has died without leaving a will/final testament indicating to whom ownership of the family residence is to be transferred in the event of his/her death OR the owner of the property has abandoned his/her indigent family to fend for him/herself:

15.2. The remaining indigent family of the deceased must report the situation to the Chief Financial Officer, who will require the relevant documentation to be obtained by the family, i.e. a death certificate and an order of the local Magistrate allocating right of ownership to someone of the surviving family in the case of a deceased estate, OR an order of the local Magistrate allocating right of ownership to someone in the abandoned indigent family.

15.3. The Credit Control Section will then grant extension for the payment of the accumulated arrears subject to the credit control policy provisions.

15.4. As soon as the Magistrate has officially allocated ownership to a member of the indigent family, the documentation must be presented to the Department of the Chief Financial Officer's office, who will then change the name of the account to that of the new owner. A special note will be recorded on the property record that the registered owner is deceased.

15.5. The indigent family will be informed that the property may not be sold unless the property is firstly transferred to the heir of the estate.

16. NON-COMPLIANCE WITH POLICY

16.1. The non-compliance with any clause contained in this Credit Management Policy due to computer hardware or software failure will not be seen as a failure to comply with this policy.

16.2 Non-compliance with any clause contained in this Policy, other than that which is due to the reasons as outlined in para 16.1 here above, shall be communicated with the Chief Financial Officer and subjected to remediation and cause action be undertaken in line with municipal corrective measures.

17. SERVING OF DOCUMENTS AND PROCESS

17.1 Any notice, including an account or final notice or other document that is served on/or sent to a person in terms of this policy, is regarded as having been served or received if;

17.1.1 When it has been delivered to that person personally.

17.1.2 When it has been left at that person's place of residence or business in the Republic.

17.1.3 When it has been posted by ordinary or registered or certified mail to that person's last known residential or business.

17.1.4 If that person's address in the Republic is unknown, when it has been served on/or or sent to that person's agent or representative in the Republic in the manner provided by paragraphs (17.1.1), (17.1.2) or (17.1.3); or

17.1.5 If that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates.

17.1.6 When any notice is sent via email or cell phone text message it is deemed served / received when the message has been sent and there exists an electronic record that such message was sent.

17.2 When any notice or other document must be authorized or served on/or sent to the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.

18. PERFORMANCE MANAGEMENT

18.1 In terms of section 99 of the Act, Council's Executive Committee must oversee and monitor:

18.1.1 The implementation and enforcement of the municipality's credit control and debt collection policy and any by-laws enacted in terms of section 98; and

18.1.2 At such intervals as may be determined by the Council, report to a meeting of the Council on the duties mentioned in paragraphs (18.1.1 to 18.1.4).

18.2 The targets which will be used to determine the enforcement and/or effectiveness of Council's Credit Management Policy are therefore:-

18.2.1 Debtors Turnover rate.

The debtor's turnover rate is calculated by expressing outstanding debtors as a percentage (%) of the total levied income for the immediate preceding 12 months. The rate should ideally be between 14% and 20%. (Performance Management monitoring tool).

18.2.2 Payment Rate

The payment rate is determined monthly by expressing the actual debtor's collections over the previous 12 months as a percentage (%) of the levied amount in respect of rates and services for the same period. The rate should ideally be above 98%.

19. COMMUNICATION

- 19.1 The municipality will make the Credit Control and Debt Collection Policy available to the community on request.
- 19.2 Councilors must from time to time, address ward committees on the contents of the policy and any amendments thereto.
- 19.3 The Policy and any amendments thereto must be communicated efficiently throughout municipal staff by means an operational information assimilation procedures followed by the municipality.

20. INCONSISTENCY WITH OTHER COUNCIL POLICY

In the event of any inconsistency between any provision of this policy, and any other Council policy, this policy prevails.

21. ALIGNMENT WITH APPLICABLE LEGISLATIONS AND REGULATIONS

It should be noted that all applicable Acts and Regulatory Frameworks, including correspondences from National/Provincial Treasury take the upper-hand, and therefore any establishments, reviews and amendments to the Policy must be aligned to such applicable Legislations and Regulations.