

CREDIT CONTROL AND DEBT COLLECTION POLICY



DIPALESENG LOCAL MUNICIPALITY

CREDIT CONTROL AND DEBT COLLECTION POLICY

TABLE OF CONTENT

1 BACKGROUND 2

1.1 Legal Framework 2

1.2 Definitions 2

1.3 Provision of Services 3

1.4 Credit Control and Debt Collection 4

1.5 By-laws to be adopted by the credit control and debt collection policy 4

1.6 PERSONNEL AND FINANCIAL IMPLICATIONS 4

2 OBJECTIVE 4

3 RESPONSIBILITY FOR CREDIT CONTROL 5

3.1 Supervisory Authority 5

3.2 Implementing Authority 5

3.3 Municipal Employees and Councillors 5

3.4 Unsatisfactory Levels of Indebtedness 6

4 FINANCIAL MATTERS 6

4.1 Municipal Budgets 6

4.2 Service Agreement 6

4.3 Credit Control 7

4.4 Liability for Payment 7

4.3 Juristic Person 8

4.4 Rendering of Accounts 8

4.5 Actions to Secure Payment 9

4.6 Dishonoured Payments 9

4.7 Cost to Remind Debtors of Arrears 10

4.8 Disconnection Fees 10

4.9 Legal Fees 10

4.10 Payment of Accounts 10

4.11 Power to Restrict or Disconnect Supply of Services 11

4.12 Disputes and Payments during Disputes 12

4.13 Full and Final Settlement of an Amount 12

4.14 Arrangements to Pay Outstanding and Due Amount in Consecutive Instalments 12

4.15 Interest on Arrears 13

4.16 Reconnection of Services 14

4.19 Deductions from Salaries and Allowances 15

a) Staff arrears will be dealt with in accordance with Schedule 2 of the Systems Act, and in terms of any procedures, method or actions referred to in this Policy. Notwithstanding any other procedure, method or action that may be taken in terms of this Policy, the Municipality shall deduct any outstanding amount from such staff members' salary after this 3 (three) month period 15

b) b. In accordance with Schedule 1, item 12A of the Systems Act, a Councillor of the Municipality may not be more than 3 (three) months in arrears for municipal service fees, surcharges on fees, rates or any other municipal taxes, levies and duties levied by the Municipality. Notwithstanding any other procedure, method or action that may be taken in terms of this Policy, the Municipality shall deduct any outstanding amount from such Councillor's remuneration after this 3 (three) month period 15

5 FRAUD, TAMPERING AND OTHER CRIMINAL ACTIVITY 15

6 AGENTS, ATTORNEYS AND OTHER COLLECTION AGENTS 15

7 INDIGENT SUBSIDY POLICY TO BE APPLIED FOR INDIGENT HOUSEHOLDS 16

8.1 Introduction 16

The subsidy received may not cover the full account. In such event the consumer is still responsible for the balance between the full account and the subsidy received. Where applicable, the Municipality's credit control policy must be applied for these outstanding amounts 16

9.1 Abandonment of Claims 16

9.2 Writing off Bad Debt 16

8 IMPLEMENTATION AND REVIEW OF THIS POLICY 19

9 CREDIT CONTROL AND DEBT COLLECTION REGULATIONS FOR ANY OUTSTANDING AMOUNTS 19

10 EFFECTIVE DATE 21

BACKGROUND

1.1 Legal Framework

This policy has been compiled in accordance with the Local Government Municipal Systems Act, Act no 32 of 2000. The Council of the municipality, in adopting this policy on Credit Control and Debt Collection, recognizes its constitutional obligations as set out in Chapter 7 of the Constitution and Chapter 9 of the Municipal Systems Act, 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 payment for the services which it provides and for the taxes which it legitimately levies in full from those residents who can afford to pay, and in accordance with its indigent relief measures for those who have registered as indigents in terms of the Council approved indigent management policy.

1.2 Definitions

“Accounting officer” The municipal manager is the accounting officer of the municipality for the purpose of Act No. 56 of 2003: Local Government: Municipal Finance Management Act, 2003. (MFMA).

“Municipality” a municipal council referred to in section 157 (1) of the Constitution of the RSA

“Municipal Manager” means the person appointed in terms of section 82 of the Municipal Structures Act.

“MFMA” is a Municipal Finance Management Act No. 56 of 2003.

“Chief Financial Officer” means a person designated in terms of section 80(2) (a) of the MFMA.

“Credit Control” is the limiting of further sales of services to debtors in arrears and the negotiation for payment in exchange for normalising further service delivery.

“Debt Collection” is the execution of functions necessary to collect unpaid income of the municipality, owed by clients who are debtors.

“Accounts” mean the municipal account for services rendered and for assessment rates levied by the municipality.

“Due date” means the date indicated on an account statement by which time payment of the amount on the statement is required.

“**Residential household**” means a debtor of whom the tariffs for all the levies for services and rates are household tariffs.

“**Indigent**” means a debtor whose whole household has been evaluated in terms of the Indigent Policy and who is registered as being indigent.

1.3 Provision of Services

- a) 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 municipal services in terms of section 152 (1) (b) and 153 (a) of the Constitution.
- b) In terms of s73(2) of the MSA the municipal services provided to residents and communities in the Municipality must
 - a) be equitable and accessible;
 - b) be provided in a manner that is conducive to-
 - i. the prudent, economic, efficient and effective use of available resources;
 - ii. the improvement of standards of quality over time;
 - c) be financially sustainable;
 - d) be environmentally sustainable; and
 - e) be regularly reviewed with a view to upgrading, extension and improvement.
- a) According to the MSA the phrase “financial sustainable”, in relation to the performance of a municipal service, means the performance of a municipal service in a manner that:
 - i. is likely to ensure that revenues from that service are sufficient to cover the cost of:
 - operating the service; and
 - maintaining, repairing and replacing the physical assets used in the performance of service;
 - ii. is likely to ensure:
 - a reasonable surplus in the case of a service performed by the Municipality itself;
 - a reasonable profit, in the case of a service performed by a service provider, other than the Municipality itself;
 - iii. is likely to enable the Municipality or other service provider to obtain sufficient capital requirements for the performance of the service; and
 - iv. takes account of the current and anticipated future:
 - level and quality of that service;
 - demand for the service; and
 - ability and willingness of residents to pay for the service

1.4 Credit Control and Debt Collection

- a) The Municipal Council must ensure that all money that is due and payable to the Municipality is collected, subject to the provisions of the Municipal Systems Act For this purpose the Municipal Council must adopt, maintain and implement a credit control and debt collection policy consistent with its rates and tariff policies and complying with the provisions of the Municipal Systems Act and the National Credit Act

1.5 By-laws to be adopted by the credit control and debt collection policy

- a) The Municipal Council must adopt by-laws to give effect to its credit control and debt collection policy, its implementation and enforcement.
- b) 1.4.2 The credit control and debt collection policy may differentiate between different categories of customers, users of services, debtors, taxes, services, service standards and other matters as long as the differentiation does not amount to unfair discrimination.

1.6 PERSONNEL AND FINANCIAL IMPLICATIONS

- c) Where a credit control and debt collection function does not exist, this implies that a dedicated structure be established with a credit control officer in charge. In view of the fact that credit control and debt collection must always be able to operate in isolation to any customer management service, it is imperative that a staff establishment for this function be implemented.
- d) The establishment of a credit control and debt collection division will have to be financed from the operating budget, which will have an incremental impact on the budget. However, this will be offset by improved cash inflow as a result of an efficient collection system.

2 OBJECTIVE

The objective of this policy is to :

- 2.1 Focus on outstanding debt as reflected on the debtors account
- 2.2 Provide for consistent credit control and debt collection policy
- 2.3 Promote a culture of good payment habits amongst debtors and instil a sense of responsibility towards the payment of accounts
- 2.4 Effectively and efficiently deal with defaulters in accordance with the provisions of this policy and any applicable legislation
- 2.5 Ensure that registered indigents are provided with a basic level of free services
- 2.6 Set realistic targets for debt collection, and to ensure that the budgeted amounts in respect of the debt collection accurately reflects the actual collection amounts

3 RESPONSIBILITY FOR CREDIT CONTROL

3.1 Supervisory Authority

The Dipaleseng Local Municipality Mayor shall as supervisory authority:

- a) Oversee and monitor
 - i. the implementation and enforcement of the Municipality's credit control and debt collection policy and any by-laws enacted; and
 - ii. When necessary evaluate, review or adapt the policy and any by-laws, or the implementation of the policy and any by-laws, in order to improve efficiency of its credit control and debt collection mechanisms, processes and procedures.

Report to every scheduled meeting of the Council on the effectiveness of the Municipalities credit control processes and any remedial action taken to improve this

3.2 Implementing Authority

The Municipal Manager shall as implementing authority

- a) Implement and enforce the Municipality's credit control and debt collection policy and any by-laws enacted in terms of the Municipal Systems Act;
- b) In accordance with the credit control and debt collection policy and any such by-laws establish effective administrative mechanisms, processes and procedures to collect money that is due and payable to the Municipality, and
- c) Report the prescribed particulars monthly to a meeting of the supervising authority.-

3.3 Municipal Employees and Councillors

- a. Staff arrears will be dealt with in accordance with Schedule 2 of the Municipal Systems Act, and in terms of any procedures, method or actions referred to in this Policy. Notwithstanding any other procedure, method or action that may be taken in terms of this Policy, the Municipality shall deduct any outstanding amount from such staff members' salary after this 3 (three) month period.
- b. In accordance with Schedule 1, item 12A of the Municipal Systems Act, a Councillor of the Municipality may not be more than 3 (three) months in arrears for municipal service fees, surcharges on fees, rates or any other municipal taxes, levies and duties levied by the Municipality. Notwithstanding any other procedure, method or action that may be taken in terms of this Policy, the Municipality shall deduct any outstanding amount from such Councillor's remuneration after this 3 (three) month period

If a person was previously an indigent, he will cease to be an indigent when he becomes a councillor or official and he will be liable for payment of all services on the property he is living on.

3.4 Unsatisfactory Levels of Indebtedness

The responsibility of Councillors is also determined in the MSA as set out below.

- If the level of indebtedness in a particular ward or part of the Municipality exceeds the level of the acceptable norm as determined in the Municipality's budget guidelines, the supervisory authority (Mayor) must, without delay, advise the Councillor for that ward or part.
- The Councillor concerned:
 - Must without delay convene a meeting of the ward committee, if there is one, or convene a public meeting and report the matter to the committee or meeting for discussion and advice; and May make any appropriate recommendations to the supervisory authority.

4 FINANCIAL MATTERS

4.1 Municipal Budgets

- a) The Municipal budget shall reflect the total amount collectable less a value for impairment of debts
- b) The value of potential impairment of bad debts shall accurately reflect the collection pattern of the Municipality's debtor book

4.2 Service Agreement

1. Before supplying of a service, a consumer must enter into a contract of agreement and such contract should provide for a deposit to be paid as security.
 - Such contract shall set out the conditions on which services are provided and shall require the consumer to note the contents of the municipality's credit control and debt collection policy, (A copy of the policy shall be provided to such consumer upon request.) The consumer shall note the provision of the Municipal Systems Act in regards to the municipality right of access to property.
 - a) All applications for the provision of Municipal Services in respect of any immovable property shall be made by the registered owner of the said immovable property in writing and in accordance with the prescribed form. .
 - b) Individuals and businesses with lease agreements to lease properties from the municipality and Government departments shall **not** be allowed to open an account in the name of the lesser of the property. (Arrangement shall be made between the lessor and the lessee for access to services of the municipality)
 - c) The registered owner of an immovable property in respect of which application for the provision of municipal services has been made shall, at least ten days prior to the date

on which the services are required to be connected, enter into a written agreement with the Municipality in accordance with the prescribed form.

4.3 Credit Control

- a) All new applications may be (at the discretion of the Municipality) required to undergo a full credit check in an endeavour to trace all debt inclusive of municipal debt owed by the applicant. This will require the provision of inter alia, acceptable means of identification and , if applicable, binding lease agreement, title deed and other supporting documents as required by the Municipality from time to time. The relevant application form as approved by the Municipality from time to time forms an integral part of this Policy insofar as the contents of such application form are not in conflict with any of the provisions of this policy
- b) The applicant shall be subject to the payment of a minimum deposit as reflected below
 - i. The deposit to be paid must be an amount as determined by the approved tariff structure
 - ii. Where the services are not readily available and the Municipality must incur additional costs to provide such services, the Municipality may require bank guarantees for the provision of municipal services.
 - iii. Deposits received must be reviewed annually and a register should be maintained. The total sum of deposits received shall constitute a short-term liability in the books of the Municipality. No interest shall accrue in favour of the depositors thereof upon termination of the debtor's agreement with the Municipality. The deposit will first be offset against any outstanding balance (if any) and then be refunded without interest to the customer.

4.4 Liability for Payment

- a) The owner will, subject to par 4.2.(b) below, be liable for payment of the municipal account for the provision of municipal services entered into in terms of the written agreement mentioned in par 4.1.(b) above.
- b) The occupier, if a person other than the owner, will be liable for payment of the municipal account for the provision of municipal services entered into in terms of the written agreement mentioned in par 4.1.(b) above only up until 30 June 2017 after which account will be consolidated and further charges form part of the owner.
- c) The occupier will remain liable for payment in terms of par 4.2.(b) above, only up until 30 June 2017 after which account will be consolidated and further charges form part of the owner., whether the occupier was in actual occupation of the property or premises during the currency of the Service Agreement or otherwise.
- d) Nothing contained in this policy will prohibit the Council to collect payment of any amount from the owner or any other person, in terms of applicable legislation.

- e) The Chief Financial Officer may consolidate separate municipal accounts, or portions thereof, of persons liable for payment to the Council.
- f) An increase in a consumer deposit in terms of section 4.2 and above, becomes payable within twenty one (21) days from the date on which the consumer is notified thereof or should the consumer appeal against such increase, then within twenty one (21) days from the date on which the consumer is informed of the decision of the Municipal Manager, if the appeal is not upheld.
- g) A copy of the identity document (and marriage certificate if a woman's surname is different from her maiden name) must be submitted with the Service Agreement.

4.3 Juristic Person

- a) Should the occupier be a juristic person, the following will apply:
 - i. If the occupier is a Company registered in term of the Companies Act, Act no 71 of 2008, the Directors of such Company shall agree to be jointly and severally liable for payment in terms of the Service Agreement, if the Company fails to make such payment.
 - ii. If the occupier is a Closed Corporation registered in terms of the Closed Corporation Act, 1984, Act no 69 of 1984, the Members shall agree to be jointly and severally liable for payment in terms of the Service Agreement, if the Close Corporation fails to make such payment.
 - iii. If the occupier is an Association with legal persona, the Members of the Association shall agree to be jointly and severally liable for payment in terms of the Service Agreement, if the Association fails to make such payment.
- b) Any Service Agreement signed by a person on behalf of a legal person in par 4.3(a) above must be accompanied by a resolution authorising such person to sign on behalf of the legal person.

4.4 Rendering of Accounts

- a) 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 the amount.
- b) Accounts will be delivered to all consumer / ratepayers a minimum of fourteen (14) days before the due date of payment.
- c) Accounts to ratepayers and users of municipal services must contain at least the following particulars:
 - i. The name of the Municipality.
 - ii. The name of the ratepayer/ user of the service.
 - iii. The service levies or rates in question.
 - iv. The period allowed for the payment of services and rates.
 - v. The land and address in respect of which the payment is required.

- vi. Any discount for early or prompt payment (if applicable).
- d) The Municipal Account shall reflect amounts due for the following:
 - i. Basic Water and Electricity Levy or Availability Charge.
 - ii. Site Rental (if applicable).
 - iii. Refuse Removal.
 - iv. Sewerage Service or Availability Charge.
 - v. Property Rates.
 - vi. Other charges, levies and taxes.
 - vii. Water and Electricity Consumption Charge.
 - viii. The unit price and number of units consumed in relation to water and electricity consumption.
 - ix. Any Arrear Amount Due.
 - x. Interest on Arrear Amounts.
 - xi. Collection Charges or Legal Costs.
 - xii. The Amount of any Increase in a Consumer Deposit.
 - xiii. The total amount payable
 - xiv. The date on or before which payment must be made.

4.5 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:

- Restriction of the provisions of services in accordance with the relevant legislation.
- Telephone calls
- Final notices
- Legal action

4.6 Dishonoured Payments

- a) Where the bank later dishonours any payments made to the Municipality, the Municipality may levy such costs and administration fees against an account of the defaulting debtor in terms of the Municipality's tariff provisions.
- b) Any dishonoured payment in par 4.7.(a) above due to insufficient funds with the financial institution on which it is drawn, will be sufficient grounds for a review of the credit rating of the customer and required deposit..
- c) The Chief Financial Officer may determine not to accept a cheque or other negotiable instrument as payment from a customer, other than a cheque or negotiable instrument on which payment is guaranteed by the financial institution on which it is drawn, should a payment or previous payment by the customer has been dishonoured

4.7 Cost to Remind Debtors of Arrears

For any action taken in demanding payment from the debtor or reminding the debtor, by means of telephone, fax, email, letter or otherwise, that his / her payments are due, a penalty fee will be levied against the account of the debtor in terms of the municipality's tariff provisions.

4.8 Disconnection Fees

Where any service is disconnected as a result of non-compliance with these regulations by the customer, the Municipality shall be entitled to levy and recover the disconnection fee as determined by the Municipality from time to time from the user of the services.

4.9 Legal Fees

- a) All legal costs, including attorney-and-own-client costs incurred in the recovery of amounts in arrears shall be levied against the arrears account of the debtor.
- b) The Council may levy and recover such collection charges not included in par 4.7 above.

4.10 Payment of Accounts

- a) The Municipality may:
 - i. Consolidate any separate accounts of persons liable for payments to the Municipality;
 - ii. Credit any payment by such a person against any outstanding account of that person, and
 - iii. 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 person.

This subsection 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.

- b) When payment is received from a debtor, the principle of current account first will be followed and consumer accounts credited as such. Credits will be allocated as follows:-
 - i. Due or unpaid interest charges
 - ii. Due or unpaid fees or charges
 - iii. Property rates (current account)
 - iv. Refuse (current account)
 - v. Electricity (current account)
 - vi. Sewerage (current account)
 - vii. Sundry charges (current account)
 - viii. Water (current account)
 - ix. Arrears

4.11 Power to Restrict or Disconnect Supply of Services

- a) The Municipality may restrict the supply of water or discontinue any other service to any premises whenever a user of any service fails to make full payment on due date or fails to make any acceptable arrangement for the repayment of any amount for services, rates or taxes subject to paragraph c
 - i. Fails to comply with a condition of supply imposed by the municipality;
 - ii. Obstructs the efficient supply of water or electricity or any other municipal services to another customer;
 - iii. Bypasses or tampers with or attempts to bypass or tamper with any metering equipment of the municipality;
 - iv. Supplies such municipal service to a customer who is not entitled thereto or permits such service to continue;
 - v. Causes a situation which in the opinion of the municipality is dangerous or a contravention of relevant legislation;
 - vi. Is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act no 24 of 1936; and
 - vii. If an administration order is granted in terms of section 74 of the Magistrates Court Act, 1944 (Act 32 of 1944) in respect of such user
- b) Water and electricity services of defaulters will be restricted within fourteen days (14) working days after the monthly due date.
- c) Notices for the discontinuance will be given on the due date for payment by means of an advertisement in the newspapers circulating in the municipality or district and a notice on the notice board at the entrance of the municipality.
- d) Notices will be distributed to National and Provincial Departments, who will be given twenty one (21) days to settle accounts in arrear, failing which services will be discontinued without any further notice.
- e) The Municipality shall reconnect and or restore full levels of supply of any of the restricted or discontinued services only after the full amount outstanding and due, including the costs of such disconnection and reconnection, if any, have been paid in full or any other condition or conditions of this Credit Control Policy as it may deem fit have been complied with, which includes any attorney's fees and/or collection charges on a scale as between the attorney and own client.
- f) The right to restrict, disconnect or terminate service 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 agreement for supply of services with the municipality and the owner are different entities or persons, as the case may be and/or residents businesses on the premise concern are not known to the municipality and or the

municipality does not have information of such resident and /or such resident or business does not have an agreement of delivery of any service for such persons of business

- g) Although the municipality does everything in its ability to render monthly statements, it remains the obligation of the consumer and/or resident and or business to ensure payment timeously on a monthly basis for all services even if an invoice has not been received by the person who is obliged to make payments.

4.12 Disputes and Payments during Disputes

- a) A dispute must be submitted in writing to the Municipal Manager or his delegate prior to the final due date for payment of the contested amount, on the approved dispute-registration form (Refer Annexure "B") Such dispute must contain details of the specific item(s) on the account, which are subject to dispute with full reasons.
- b) Should any dispute arise as to the amount owing by an owner in respect of municipal services the owner shall, notwithstanding such dispute, proceed to make regular minimum payments based on the calculation of the average municipal debits for the preceding three months prior to the arising of the dispute and taking into account interest as well as the annual amendments of tariffs of the Municipality.

4.13 Full and Final Settlement of an Amount

- a) Where the exact amount due and payable to the Municipality has not been paid in full, any lesser amount tendered to and accepted by a municipal employee, shall not be deemed to be in final settlement of such an amount, except where this is done in accordance with a Council resolution.
- b) This resolution shall state the percentage of the total that is to be accepted as full and final settlement, and the period of time for which this resolution is valid
- c) The Chief Financial Officer shall be at liberty to appropriate monies received in respect of any of its municipal services it deems fit, provided that this is not in conflict with the terms of s126(3) of the National Credit Act, Act no 34 of 2005.
- d) The provisions above shall prevail notwithstanding the fact that such lesser payment was tendered and/or accepted in full settlement.

4.14 Arrangements to Pay Outstanding and Due Amount in Consecutive Instalments

- a) One of the key objectives of debt collection is to encourage debtors to start paying their monthly accounts in full. In addition it is also necessary to ensure that arrear debt is addressed. The current average balances on consumer accounts necessitates that innovative ideas be implemented to encourage consumers to pay off their arrears. At the same time it is

also of utmost importance that regular payers not be discouraged through the implementation of any possible incentives.

- b) The main aim of an agreement will be to promote full payment of the current account and to address the arrears on a consistent basis. A debtor may enter into a written agreement with the Municipality to repay any outstanding and due amount to the Municipality under the following conditions:
 - i. Re-connection and disconnection fees, where applicable, must be paid in full before any Acknowledgement of Debt can be entered into
 - ii. The outstanding balance, costs and any interest thereon shall be paid in regular and consecutive monthly instalments;
 - iii. The current monthly amount must be paid in full; and
- c) The written agreement has to be signed on behalf of the Municipality by a duly authorised officer. In order to determine monthly instalments, a comprehensive statement of assets and liabilities of the debtor must be compiled by a treasury official. To ensure the continuous payment of such arrangement the amount determined must be affordable to the consumer, taking into account that payment of the monthly current account is a prerequisite for concluding an arrangement.
- d) Acknowledgement of Debt may not be granted where
 - i. Arrears have arisen due to dishonored cheques, direct debit reversals etc.;
 - ii. Instances of repeated meter tampering have been identified;
 - iii. The services have been removed; or
 - iv. The customer's deposit has been increased due to a poor risk profile.
 - v. Where any debt has arisen as a result of the Municipality having applied an incorrect charge and/or tariff, the customer may arrange to pay the debt over a longer period at the discretion of the Chief Financial Officer
- e) Should any dispute arise with respect to the amount owing, the debtor will continue to make regular payments based on the average charges for the preceding three (3) months prior to the dispute, plus interest where applicable.
- f) The amount of the down payment and the period of the Credit Agreement shall be at the discretion of the Chief Financial Officer.

4.15 Interest on Arrears

Interest will be charged on arrear accounts at a rate as determined by Council from time to time, provided that this rate does not exceed the rate as stipulated in Chapter 5 of Regulations to the National Credit Act, Act no 34 of 2005

The following principles **(as a once off initiative)** may also be implemented to enhance the success of a debt collection drive:

- a) Levying of interest on arrear accounts should be immediately suspended upon completion of a debt agreement. This will allow debtors to see progress on their accounts, as continued payments will reflect a decrease on the balance.
- b) As long as the agreement is honoured no further interest will be added. However, in case of defaulting the suspended amount will be reversed and interest will again be levied from date of default.
- c) Where a debtor pays 50% or more on his arrear account or settles the arrear account in full through a once off payment, all interest on arrear amounts will be written off immediately.
- d) Where arrangements are made to pay off the arrear amount in instalments, such instalments should be determined on the outstanding amount excluding arrear interest. Such an arrangement should be honoured for at least a six-month consecutive period where after interest on arrear amounts will be written off on a monthly basis. This arrangement will imply that upon payment of the final instalment all interest on arrear amounts will have been written off.
- e) Where debtors fail to honour their arrangements without prior consultation interest will be reinstated and added to the original debt amount. Notice that services will be discontinued due to arrear account will be given 5 days prior to discontinuance of service.

4.16 Reconnection of Services

The Chief Financial Officer or his/her delegate shall authorise the reconnection of services or reinstatement of service delivery only after satisfactory payment or arrangement for payment has been made according to the Municipality's Credit Control Policy.

4.19 Deductions from Salaries and Allowances

- a) Staff arrears will be dealt with in accordance with Schedule 2 of the Systems Act, and in terms of any procedures, method or actions referred to in this Policy. Notwithstanding any other procedure, method or action that may be taken in terms of this Policy, the Municipality shall deduct any outstanding amount from such staff members' salary after this 3 (three) month period.
- b) In accordance with Schedule 1, item 12A of the Systems Act, a Councillor of the Municipality may not be more than 3 (three) months in arrears for municipal service fees, surcharges on fees, rates or any other municipal taxes, levies and duties levied by the Municipality. Notwithstanding any other procedure, method or action that may be taken in terms of this Policy, the Municipality shall deduct any outstanding amount from such Councillor's remuneration after this 3 (three) month period

If a person was previously an indigent, he will cease to be an indigent when he becomes a councillor or official and he will be liable for payment of all services on the property he is living on from the date he becomes a Councillor or Official of the Municipality.

5 FRAUD, TAMPERING AND OTHER CRIMINAL ACTIVITY

- 6.1 Any person, who undertakes or allow or causes any other person to undertake an illegal connection, will be guilty of an offence.
- 6.2 A customer who becomes aware of an illegal connection of the water and electricity supply to a property or premises owned by or occupied by such or another customer, must immediately notify the Council thereof his / her identity will be protected.
- 6.3 The Council will immediately disconnect any illegal connection and remove any wiring, piping or other equipment or installation relating to an illegal connection.
- 6.4 The Municipality may not interfere where criminal activity is evident. The legal penalties and criminal justice system may not be subject to conflicting resolutions by the municipality. All such cases must be prosecuted to the fullest extent of the law.
- 6.5 The Municipality may elect not to supply water or electricity to a customer who is found guilty of / or if it is admitted that fraud, theft or any other criminal action involving the use of these services existed, until the total costs, penalties, other fees and tariffs and rates due to the municipality have been paid in full.

6 AGENTS, ATTORNEYS AND OTHER COLLECTION AGENTS

- 7.1 All external agents acting on behalf of the Municipality are to be named, together with their details and contact information. Likewise, all agents are to be supplied with a copy of the credit control measures. Clear instructions to agents and other arrangements must be explained for the customers' benefit. Under no circumstances may agents negotiate terms, extend payment periods or accept cash on behalf of municipality, unless specifically instructed in writing to do so. The agent, on request by consumers, must produce this instruction.

7.2 The costs to the Municipality and to the debtor must be detailed for each stage of the credit control 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.

7 INDIGENT SUBSIDY POLICY TO BE APPLIED FOR INDIGENT HOUSEHOLDS

8.1 Introduction

- a) The key purpose of an indigent subsidy policy is to ensure that households with no or lower income are not denied a reasonable service, and on the contrary the local authority is not financially burdened with non-payment of services.
- b) Provided that grants are received and funds are available, the indigent subsidy policy should remain intact.
- c) To achieve the purpose it is important to set a fair threshold level, and then to provide a fair subsidy of tariffs. The consumer, in order to qualify for indigent subsidy, needs to complete the necessary documentation as required.

8. Obligation to Pay

The subsidy received may not cover the full account. In such event the consumer is still responsible for the balance between the full account and the subsidy received. Where applicable, the Municipality's credit control policy must be applied for these outstanding amounts

9. DEBT COLLECTION

9.1 Abandonment of Claims

- a) The Municipal Manager must ensure that all avenues are utilised to collect the municipality's debt.
- b) There are certain circumstances that allow for the valid termination of debt collection procedures as contemplated in section 109(2) of the Systems Act, such as:
 - The insolvency of the debtor, whose estate has insufficient funds.
 - A balance being too small to recover, for economic reasons considering the cost of recovery.
- c) Where Council deems that a customer or groups of customers are unable to pay for services rendered.
- d) The municipality will maintain audit trails in such an instance, and document the reasons for the abandonment of the action or claim in respect of the debt.

9.2 Writing off Bad Debt

a) Irrecoverable debt

Debt will only be considered as irrecoverable if it complies with the following criteria:

- i. all reasonable notifications and cost effective legal avenues have been exhausted to recover a specific outstanding amount; or

- ii. any amount equal to or less than R500.00, or as determined by Council from time to time, will be considered too small, after having followed basic checks, to warrant further endeavors to collect it; or
- iii. the cost to recover the debt does not warrant further action; or
- iv. the amount outstanding is the residue after payment of a dividend in the rand from an insolvent estate; or
 - there is a danger of a contribution; or
 - no dividend will accrue to creditors; or
- v. a deceased estate has no liquid assets to cover the outstanding amount following the final distribution of the estate; or where the estate has not been reported to the Master and there are no assets of value to attach; or
- vi. it has been proven that the debt has proscribed; or
- vii. the debtor is untraceable or cannot be identified so as to proceed with further action; or the debtor has emigrated leaving no assets of value to cost-effectively recover the Municipality's claim; or
- viii. it is not possible to prove the debt outstanding; or
- ix. a court has ruled that the claim is not recoverable the outstanding amount is due to an irreconcilable administrative error by the Municipality; or
- x. all arrears will be written off to bad debts where water consumers, that form part of the Integrated Water Leaks Repair Strategy, where the improved property value is less than R199 000, or as determined by Council from time to time, have had their water leaks repaired and for a period of six months, from the date of repair:
 - pay their water & sewer bill above the free portion on or before the due date; and, maintain their water consumption within affordable levels;
 - the six months as contained in sub-item (j) is not applicable where a water management device has been installed at the property; or
- xi. arrears owed by previous Administrations, amongst themselves, that now form part of the Dipaleseng Local Municipality ; or
- xii. expenditure incurred, in respect of internal accounts raised in the name of the Dipaleseng Local Municipality, in any previous financial year; or
- xiii. conversion of old dormant account balances of debtors, inherited from the previous municipalities which now form part of the Dipaleseng Local Municipality, and where reasonable steps have been taken to recover these debts; or
- xiv. all indigents classified as pensioners and permanently disabled (as more fully set out in the Municipality's Indigent Policy) will have their arrears written off; or
- xv. if an offer of full and final settlement is confirmed in writing by the Municipal Manager in terms of section 14 (2) of the Dipaleseng Local Municipality: Credit Control and Debt Collection By-law; or
- xvi. all arrears may be written off to bad debts where Council expropriates any property; or purchases any property

- xvii. all arrears may be written off to bad debts where a property has been forfeited to the State in terms of the Prevention of Organised Crime Act, Act no 121 of 1998; or where the occupiers have been evicted from Council, Provincial or State properties due to criminal activities
- xviii. through supporting the Municipality's housing related debt management processes and in instances where a housing debtor has applied for and been granted a housing indigent grant in terms of the Housing Indigent Policy, all debt related to that property for that debtor (excluding capital debt of home ownership units), up to the date of granting of indigent status will be written back. Such write back will occur only once for any debtor, thereby allowing for a once off rehabilitation, where after the debtor will immediately be subject to the housing debt management policy should the account again fall into arrears; or
- xix. where an item 7 dispute or a section 62 appeal determines what needs to be written off; or
- xx. where the Director: Housing advises the Director: Revenue in writing that a housing debtor has been granted a housing indigent grant such debtors rates, services and sundry debt related to that property for that debtor shall be written off once; or
- xxi. where registered non-profit organizations or public benefit organizations would, except for their being arrears on their Municipal accounts, qualify to receive a 100% rates rebate, in terms of the Rates Policy, will, with effect from the date of qualification, have all their arrears written off, thus ensuring that they meet all the criteria to receive the rates rebate and;
- xxii. Council may from time to time consider the incentivizing of residential consumers to pay or writing off of arrears after the Accounting Officer has submitted a report with valid reasons to do so.
 - this assistance will only be granted once to an organization subject to the condition that an electricity prepayment meter and a water management device must be installed, where applicable;
 - should any tampering with or bypassing of the water and electricity meters be discovered, any arrears written-off, in terms of this sub-item, will become payable with immediate effect and any other action as per any legislation or policy that applies to such tampering and/or
 - bypassing will be instituted;
 - should the Municipal Manager become aware that the focus of the organization has changed, or its financial position has improved or its registration as a non-profit organization or public benefit organization has lapsed or terminated within three years after the arrears were written-off, such arrears will become payable with immediate effect.

b) Authorization

- i. In respect of other debt, schedules indicating the debtor account number, the debtor's name, the physical address in respect of which the debt was raised, address, erf number, if applicable, amount per account category as well as a reason to write-off the amount must be compiled.
- ii. Notwithstanding the above, the Municipality or its authorized officials will be under no obligation to write-off any particular debt and will always retain sole discretion to do so.

c) Provision for Doubtful Debts

- i. The Municipal Manager as an Accounting Officer remains the overseeing authority over all the provisions made on behalf of Council.
- ii. The Accounting Officer is responsible for identifying an acceptable level of provision for bad debts based on the credit risk of the Municipality's customers
- iii. The Municipality should use collection rate per debtor and consider provision for all amount outstanding more than 90 days for bad debt provisions
- iv. The amount of the provision shall be recognised in surplus or deficit

8 IMPLEMENTATION AND REVIEW OF THIS POLICY

- 10.1 This policy shall be implemented once approved by Council. All future credit control and debt collection measures must be taken in accordance with this policy.
- 10.2 In terms of section 17(1) (e) of the MFMA this policy must be reviewed on annual basis and the reviewed policy tabled to Council for approval as part of the budget process.

9 CREDIT CONTROL AND DEBT COLLECTION REGULATIONS FOR ANY OUTSTANDING AMOUNTS

Where consumers fail to pay their municipal accounts by the due date stipulated on the account, the following actions will be taken.

- 11.1 Final notices / accounts may be delivered or posted after the final date of payment. The final notice / account will contain that the client may arrange to pay the outstanding balance in terms of the Credit Control Policy. Information that the account constitutes as a final notice and failure to settle the account on the due date may lead to disconnection of services at any date thereafter, without further notice, must however form an integral part of the account.
- 11.2 An Acknowledgement of Debt must be completed with all arrangements for paying off arrear accounts. Copies of this document must be handed to the client. An affidavit of financial affairs must also be submitted to determine an affordable monthly installment.
- 11.3 Only account holders with positive proof of identity or an authorised agent with a Power of Attorney will be allowed to complete an Acknowledgement of Debt.
- 11.4 Debit orders may be completed for the monthly payment of the agreed amount or at least the current amount, as far as possible. If the arrangement is dishonoured, the full balances will immediately become payable.

**DIPALESENG LOCAL MUNICIPALITY
PRINCIPLES AND POLICY ON CREDIT CONTROL AND DEBT COLLECTION**

- 11.5 The Municipality will apply **70/30** policy, wherein for every prepaid electricity purchase of i.e. R100. The municipality will sell to the consumer electricity for R70 and R30 will be directed towards the arrears of other services
- 11.6 No person will be allowed to enter into a second agreement if the first agreement was dishonoured, except in special merit cases. Such applications will be approved by the Chief Financial Officer only and must be submitted before the arranged due date.
- 11.7 Where arrangements were not made and water and/or electricity supply is restricted due to non-payment, it will only be restored upon payment of the full outstanding balance or signing of an Acknowledgment of Debt on merits.
- 11.8 Merit cases, where special circumstances prevail, must be treated individually and could amongst others include the following categories:-
- a) Deceased estates;
 - b) Liquidated companies;
 - c) Private persons under administration;
 - d) Outstanding enquiries on accounts, for example, misallocated payments, water leaks, journals, incorrect levies, etc.;
 - e) Certain categories of Pensioners; and
 - f) Any other cases not mentioned which can be regarded as merit cases due to circumstances.
- 11.8 Extension for payment of arrears in respect of merit cases should not exceed 36 months (3 years) or any other period in the discretion of the Accounting Officer or his/ her delegate.
- 11.9 Only the Chief Financial Officer or his delegate may agree to such extensions and these must be supported by documentary proof. Previous payment record will be taken into consideration.
- 11.10 When restriction of water and electricity supply takes place due to non-payment, or an agreement is dishonored the consumer's deposit will be adjusted.
- 11.11 New consumer deposits for business and industrial customers must be re-assessed three months after the initial deposit date.
- 11.12 All other business and industrial deposits will be reviewed annually.
- 11.13 Where the consumer has not entered into a service agreement with the Municipality, water may be restricted until such time as a service agreement has been signed and the applicable deposits paid.
- 11.14 Where services are illegally restored criminal action will be taken if possible.
- 11.15 Where municipal accounts remain outstanding or unpaid for more than 2 months, without response, the account will be handed over to debt collectors for the collection and / or legal action to the Attorneys and can be listed at the Information Trust Corporation. These clients will have to make further arrangements at the attorneys and / or the debt collectors for payment of the arrear amounts. The current monthly accounts must be paid to the Municipality directly.

Once an account has been handed over for collection, the case will not be withdrawn unless there was an error or oversight on the part of the Municipality.

10 EFFECTIVE DATE

This policy comes in effect on date of approval.

Implementation Date	Council Resolution no.	Adopted Date
1 July 2018		

ANNEXURE A

LEGAL REQUIREMENTS

PART 1: Water Services Act no 108 of 1997

SECTION 21: BYLAWS

- (1) Every water services authority must make bylaws which contain conditions for the provision of water services, and which must provide for at least—
- a) the standard of the services;
 - b) 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;

- c) the installation, alteration, operation, protection and inspection of water services works and consumer installations;
 - d) the determination and structure of tariffs in accordance with section 10
 - e) the payment and collection of money due for the water services;
 - f) the circumstances under which water services may be limited or discontinued and the procedure for such limitation or discontinuation; and
 - g) the prevention of unlawful connections to water services works and the unlawful or wasteful use of water.
- (2)** Conditions under which water services are provided—
- a) may place limits on the areas to which water services will be provided according to the nature, topography, zoning and situation of the land in question;
 - b) may provide for the limitation or discontinuation of water services where a consumer fails to meet his or her obligations to the water services provider, including—
 - i. a failure to pay for services; or
 - ii. a failure to meet other conditions for the provision of services;
 - c) may place an obligation on a payment defaulter—
 - i. to pay a higher deposit;
 - ii. to pay a reconnection fee after disconnection of water services;
 - d) may require a payment defaulter to pay a higher tariff for water services, where that defaulter gains access to water services through a communal water services work and the provision thereof cannot be disconnected or limited without other consumers being prejudiced;
 - e) may provide for the general limitation or discontinuation of water services where—
 - i. national disasters cause disruptions in the provision of services; or
 - ii. sufficient water is not available for any other reason;
 - f) may include an option to retain limited access to at least basic water supply or basic sanitation for a consumer whose water services are to be discontinued; and
 - g) must be accessible to consumers and potential consumers.
- (3)** A water services authority which—
- a) provides water for industrial use; or
 - b) controls a system through which industrial effluent is disposed of must make bylaws providing for at least—
 - i. the standards of service;
 - ii. the technical conditions of provision and disposal;
 - iii. the determination and structure of tariffs;
 - iv. the payment and collection of money due; and
 - v. the circumstances under which the provision and disposal may be limited or prohibited.
- (4)** The Minister may provide model bylaws to be used as a guide for water services authorities.

PART 2: Local Government Municipal Systems Act No 32 of 2000

SECTION 95: CUSTOMER CARE AND MANAGEMENT

In relation to the levying of rates and other taxes by a municipality and the charging of fees for municipal services, a municipality must, within its financial and administrative capacity—

- a) establish a sound customer management system that aims to create a positive and reciprocal relationship between persons liable for these payments and the municipality, and where applicable, a service provider
- b) establish mechanisms for users of services and ratepayers to give feedback to the municipality or other service provider regarding the quality of the services and the performance of the service provider;

**DIPALESENG LOCAL MUNICIPALITY
PRINCIPLES AND POLICY ON CREDIT CONTROL AND DEBT COLLECTION**

- c) 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 monies raised from the service are utilised;
- d) where the consumption of services has to be measured, take reasonable steps to ensure that the consumption by individual users of services is measured through accurate and verifiable metering systems;
- e) ensure that persons liable for payments, receive regular and accurate accounts that indicate the basis for calculating the amounts due;
- f) provide accessible mechanisms for those persons to query or verify accounts and metered consumption, and appeal procedures which allow such persons to receive prompt redress for inaccurate accounts;
- g) provide accessible mechanisms for dealing with complaints from such persons, 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); and
- i) provide accessible pay points and other mechanisms for settling accounts or for making pre-payments for services.

SECTION 96: DEBT COLLECTION RESPONSIBILITY OF MUNICIPALITIES

A municipality—

- a) must collect all money that is due and payable to it, subject to this Act and any other applicable legislation; and
- b) for this purpose, must adopt, maintain and implement a credit control and debt collection policy which is consistent with its rates and tariff policies and complies with the provisions of this Act.

SECTION 97: CONTENTS OF POLICY

- (1) A credit control and debt collection policy must provide for
 - a) credit control procedures and mechanisms;
 - b) debt collection procedures and mechanisms;
 - c) provision for indigent debtors that is consistent with its rates and tariff policies and any national policy on indigents;
 - d) realistic targets consistent with
 - i. general recognised accounting practices and collection ratios; and
 - ii. the estimates of income set in the budget less an acceptable provision for bad debts;
 - e) interest on arrears, where appropriate;
 - f) extensions of time for payment of accounts;
 - g) termination of services or the restriction of the provision of services when payments are in arrears;
 - h) matters relating to unauthorised consumption of services, theft and damages; and
 - i) any other matters that may be prescribed by regulation in terms of section 104.
- (2) A credit control and debt collection policy may differentiate between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters as long as the differentiation does not amount to unfair discrimination

SECTION 98: BY-LAWS TO GIVE EFFECT TO POLICY

- (1) A municipal council has approved and adopted by-laws to give effect to the municipality's credit control and debt collection policy, its implementation and enforcement.
- (2) By-laws in terms of subsection (1) may differentiate between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters as long as the differentiation does not amount to unfair discrimination.

SECTION 99: SUPERVISORY AUTHORITY

A municipality's executive committee or executive mayor or, if a municipality does not have an executive committee or executive mayor, the municipal council itself or a committee appointed by it, as the supervisory authority must—

- a) oversee and monitor—
 - i. 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
 - ii. the performance of the municipal manager in implementing the policy and any by-laws;
- b) when necessary, evaluate or review the policy and any by-laws, or the implementation of the policy and any such by-laws, in order to improve efficiency of its credit control and debt collection mechanisms, processes and procedures; and
- c) 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 mentioned in paragraphs (a) and (b).

SECTION 100: IMPLEMENTING AUTHORITY

The municipal manager or service provider must—

- a) implement and enforce the municipality's credit control and debt collection policy and any by-laws enacted in terms of section 98;
- b) in accordance with the credit control and debt collection policy and any such by-laws, establish effective administrative mechanisms, processes and procedures to collect money that is due and payable to the municipality; and
- c) at such intervals as may be determined by the council report the prescribed particulars to a meeting of the supervisory authority referred to in section 99.

SECTION 101: MUNICIPALITY'S RIGHT OF ACCESS TO PREMISES

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

SECTION 102: ACCOUNTS

- (1) A municipality may—
 - a) consolidate any separate accounts of persons liable for payments to the municipality;
 - b) credit a payment by such a person against any account of that person; and
 - 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 person.
- (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.

SECTION 103: AGREEMENTS WITH EMPLOYEES

A municipality may—

- a) with the consent of a person liable to the municipality for the payment of rates or other taxes, or fees for municipal services, enter into an agreement with that person's employer to deduct from the salary or wages of that person—
 - i. any outstanding amounts due by that person to the municipality; or
 - ii. such regular monthly amounts as may be agreed: and
- b) provide special incentives for—
 - i. employers to enter into such agreements; and

- ii. employees to consent to such agreements

SECTION 118: RESTRAINT ON TRANSFER OF PROPERTY

- (1)** A registrar of deeds or other registration officer of immovable property may not register the transfer of property except on production to that registration officer of a prescribed certificate—
 - a) issued by the municipality in which that property is situated; and
 - b) which certifies that all amounts 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.
- (2)** In the case of the transfer of immovable property by a trustee of an insolvent estate, the provisions of this section are subject to section 89 of the Insolvency Act, 1936 (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 in connection with which the amount is against the property owing and enjoys preference over any mortgage bond registered

1 EFFECTIVE DATE

This policy comes in effect on date of approval.

Implementation Date	Council Resolution no.	Adopted Date
1 July 2018	ITEM C 102/05/18	30 MAY 2018

ANNEXURE B
SAMPLE DISPUTE RESOLUTION FORM

Date	Form number (sequential)
Name	Account number
Address	ID Number
Line items on Municipal Account subject to dispute	
Nature of Dispute	
Proposed actions to resolve	
Actions taken by Municipality	
Resolved: Yes/No (if no, state reasons)	
Customer Name	Official Name
Signature	Signature