

# **PHUMELELA LOCAL MUNICIPALITY**



## **CREDIT CONTROL AND DEBT COLLECTION POLICY**

## Objective

Phumelela Local Municipality is required in terms of section 96(a) of the Local Government: Municipal Systems Act (Act No. 32 of 2000) to collect all money that is due and payable to it. Furthermore, in terms of section 96(b) the municipality must adopt and implement a credit control and debt collection policy which complies with at least the provisions of the Act.

The municipality adopts the below mentioned credit control and debt collection policy with the primary objective of ensuring the effective management of income and expenditure in order to facilitate the provision of affordable and sustainable services (*inter alia* water supply, electricity, refuse removal and sanitary services) within its areas of jurisdiction. The policy takes into consideration the legislative parameters set out in section 97 of the Act.

In pursuit of sustainable delivery, the municipality must ensure it has sufficient funds available to fund the cost of such service delivery. The municipality acknowledges that it may recoup the costs associated with the provision of services, through its rates and tariff charges and by obtaining funds by way of an “equitable share” allocation to subsidise indigent customers.

This document sets out the policy framework for the credit control and debt collection strategy of the municipality.

## Definitions

For the purpose of these by-laws any word or expression to which a meaning has been assigned in the Act shall bear the same meaning in these by-laws and unless the context indicates otherwise, and shall be the following:

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

“**Accounting**” the proper formal notice by means of an account to persons who are accountable for charges levied for rates and taxes or other taxes and the levies or the fees for municipal services and reflecting the net accumulated balance on the account;

“**cliente care**” as stipulated in section 95 of the Act on Local Government: Municipal Systems Act, 2000 (Act 32 of 2000); to focus on the needs of the consumer on a responsible and pro-active way in order to encourage payment and to create a positive and co-operating relation between persons responsible for the payment of services and the Municipality, as well as, when applicable, to limit the necessity of legal action by a supplier as far as possible.

“**Consumer**” any occupant of any premises to which the Municipality has agreed to supply services or has already supplied services, or if there is no occupant, then the owner of the premises;

“**Council**” the Municipal Council of the Municipality of Laingsburg;

“**Credit control and debt collection**” any function related to the collection of any monies owing or payable to the Municipality;

“**Defaulter**” a person owing the Municipality money in respect of taxes and/or services received for a period of more than 30 (thirty) days from date of account;

“**Equipment**” including a building, structure, pipe, pump, wire, cable, meter, machine or any fittings;

“**Chief Financial Officer**” a person appointed by the Council to manage the finance of the Council, including any other person duly authorized to act on his behalf;

**“Interest”** constitutes a levy equal in legal priority to service levies and is calculated at a rate determined by the Council on all amounts in arrears, where applicable;

**“Municipal account”** shall include levies or charges in respect of the following services and taxes:

- electricity consumption;
- water consumption;
- refuse removals;
- sewerage services;
- rates and taxes;
- interest, and
- miscellaneous and sundry charges;

**“Municipal manager”** the person appointed by the Municipality as the Municipal Manager of the Municipality in terms of the provisions of section 82 of the Act on Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and includes any person -

- acting in such a position; and
- to whom the Municipal Manager has delegated any powers, functions or duties in so far as it concerns the execution of those powers, functions or duties;

**“Municipal services”** those services, rates and taxes reflected on the municipal account for which payment is required by the Municipality;

**“Occupier”** any person who occupies any premises or part thereof, without regard to the title under which he occupies;

**“Owner”**

- the person in whom the legal title to the premises is vested;
- in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disqualification whatsoever, the person in whom the administration or control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- in any case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of such premises or 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 delimited on a sectional plan and registered in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), and without restricting the developer or body corporate in respect of the common property, or
  - a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and including 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), Trust *inter vivos*, Trust *mortis causa*, a Closed Corporation registered in terms of the Closed Corporations Act, 1984 (Act 69 of 1984), a Voluntary Association;
  - any Department of the State;
  - any Council or Board established in terms of any legislation applicable to the Republic of South Africa;
  - any Embassy or other foreign entity;

**“Person”** any natural person, local government body or similar authority, a company or closed corporation incorporated in terms of any Act, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

**“Premises”** any piece of land, the external surface boundaries of which are delimited on -

- a general plan or diagram registered in terms of the Land Survey Act, 1927 (Act 9 of 1927) or in terms of the Deeds Registry Act, 1937 (Act 47 of 1937); or
- a sectional title plan registered in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), which is situated within the area of jurisdiction of the Council.

### **1. Supervisory Authority**

The municipality’s Finance Committee must:

- Oversee and monitor:
  - The implementation and enforcement of the municipality’s credit control and debt collection policy; and
- When necessary, evaluate, review or adapt 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
- Report monthly to a meeting of the Council.

### **2. Implementing Authority**

The Municipal Manager must:

- Implement and enforce the municipality’s credit control and debt collection policy and any by-laws enacted in terms of the Municipal Systems Act;
- 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
- Report the prescribed particulars monthly to a meeting of the supervising authority.

### **3. Unsatisfactory Levels of Indebtedness**

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 credit control policy, the supervisory authority 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. Services Agreement**

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.

#### **4.2. Control over Deposits of Security**

- The deposit to be paid must be an amount not less than a sum equal to two month's service levels.
- After the disconnection of services by the municipality, an increased deposit may be required in addition to a reconnection fee.
- The municipality, where the services are not readily available, must incur additional costs to provide such services and may require bank guarantees for the provision of municipal services.
- 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) before refunded to the customer.

#### **4.3. Rendering of Accounts**

Though 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 account.

Accounts to ratepayers and users of municipal services must contain at least the following particulars:

- The name of the municipality;
- The name of the ratepayer/user of the service;
- The service levies or rates in question;
- The period for which the account has been rendered;
- The land and address in respect of which the payment is required;
- The date before which payment must be made;
- Any discount for early or prompt payment (if applicable);
- Interest on late payment;
- Amount brought forward;
- Consumption for the current month reflecting units consumed and cost per service; and
- Total amount payable.

#### **4.4. 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:

- Termination and restriction of the provision of services; and
- Allocating a portion of payments or pre-payment purchases to service charges arrears.

#### **4.5. Dishonoured Payments**

In the event of any payment made to the municipality, is later dishonoured by the bank, the municipality will levy such costs and administration fees against an account of the defaulting debtor in terms of the municipality tariff provisions.

**4.6. Interest Charges**

Interest of prime rate plus 1% will be charged on overdue accounts.

**4.7. Legal Fees**

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.

**4.8. 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 may be levied against the account of the debtor in terms of the municipality's tariff provisions.

**4.9. Disconnection Fees**

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

**4.10. Accounts**

The municipality shall:

- Consolidate any separate accounts of defaulters;
- Credit any payment by such a person against any account of that person; and
- Implement any of the debt collection and credit control measures provided for in these regulations in relation to any arrears on any of the accounts of such a person.

**4.11. Power to Restrict or Disconnect Supply of Services**

The municipality will restrict or disconnect the supply of water and/or electricity or discontinue any other service to any premises whenever a user of any service:

- Fails to make full payment on the due date or fails to make acceptable arrangements for the repayment of any amount for services, rates or taxes;
- Fails to comply with a condition of supply imposed by the municipality;
- Obstructs the efficient supply of electricity, water or any other municipal services to another customer;
- Supplies such municipal service to a customer who is not entitled thereto or permits such service to continue;
- Causes a situation which in the opinion of the municipality is dangerous or a contravention of relevant legislation;
- Is placed under provisions sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act No. 24 of 1936; and
- If administration order is granted in terms of section 74 of the Magistrate's Court Act, 1944 (Act 32 of 1944) in respect of such user.

The municipality shall recommend 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.

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.

#### **4.12. Full and Final Settlement of an Amount**

The Chief Financial Officer shall be at liberty to appropriate 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 to and accepted by a municipal employee, except the Chief Financial Officer and/or his/her fully authorised delegate, shall not be deemed to be in final settlement of such an amount.

#### **4.13. Arrangements to Pay Outstanding and Due Amount in Consecutive Instalments**

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:

- A minimum amount of 15% of the outstanding account will be required before reconnecting or to prevent disconnection in the case of a consumer responding to the written notice as stated above.
- A written agreement for the outstanding balance must be entered into for a period of one year or less provided that the instalment must not be less than 15% of the outstanding debt or R200 whichever is the greatest.
- No arrangements will be allowed for business-, government- and schools accounts.
- In the case of tenants a written approval by the owner must accompany the agreement.
- The agreement must include the payment of the current account in full.
- If the arrangement is dishonoured, the full balance will immediately become payable and the municipal services will be terminated. The municipality then has the right to promptly hand over the account to the attorneys for collection without further notice. No person will be allowed to enter into a second agreement, except in special merit cases with the discretion of the municipal manager or his/her delegate.
- Extension for the payment of the agreement and current accounts may not exceed 30 days of date of agreement.
- If cheques and debit orders are returned marked “refer to drawer” the full balance will immediately become payable and the municipal services will be terminated. The municipality then has the right to promptly hand over the account to the attorneys for collection without further notice. Bank charges in this regard will be for the account of the consumer. No further cheques will be accepted, except a bank guaranteed cheque.
- Where services are illegally restored, a fine will be instituted and the municipality has the right to take legal action.
- The municipality may consolidate any separate accounts or credit payments against any account where there are disputes.

Should any dispute arise as to the amount owed by a debtor in respect of municipal services the debtor shall, notwithstanding such dispute, proceed to make regular minimum payments based on the calculation of the average municipal levies 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.

#### **4.14. Interest on Arrears**

As soon as an agreement to repay arrears has been concluded the amount in arrears will be placed into a suspense account and no further interest will be levied.

As an incentive, interest on the suspended amount shall be reversed every 12 months on condition that the agreement was honoured during the period.

If a person has been handed over to the lawyers and if such a person wants to enter into an agreement with the Council, such a person will have to arrange with the attorneys to pay all the costs incurred by the attorneys for the collection of the account till date of arrangement. The account will only then be withdrawn from the attorneys by the Council and arrangements between the person and the Council will then be entered into. A person, who has defaulted on his agreement with the Council, will not be permitted to enter into another agreement ever again.

#### **4.15. Reconnection of Services**

The Chief Financial Officer shall authorise the reconnection of services or reinstatement of service delivery after satisfactory payment and/or arrangement for payment, together with reconnection fees, has been made according to the municipality's Credit Control Policy.

#### **4.16. Fraud, Tampering and Other Criminal Activity**

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.

The municipality may not 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.

A fine equals to the prescribed amount on the Council's tariff list will be levied and has to be paid before the restoring of services to the debtor may take place.

Where the whole amount cannot be afforded by the consumer half of the amount is to be paid up front and an arrangement for the payment of the balance can be made payable within three months.

The above arrangements are applicable to indigent consumers as well.

All tampering charges, electricity/water charges, call fees and other related tampering charges must be paid in full before arrangements can be made on other debts on the account.



#### **4.17. Additional Provisions**

- An owner of a stand who wishes to transfer his/her stand has to pay all rear amounts prior to transfer unless he/she is registered as indigent.
- Provincial government to be requested for assistance with transfer costs in the case of the death of an owner and his/her heirs are indigent.
- In the case of an owner who has more than one stand and cannot afford services on both stands:
  - Where no title deed exists, the stand will be taken back and reallocated.
  - Where a title deed does exist, the stand will be attached and be sold on the open market.
- In the case of an empty stand where the owner/occupier cannot be traced, all arrears will be written off and the stand sold to the amount of R5 per square meter.
- In the case of a person not living on a stand where a title deed exists, the property will be attached and sold.
- Before attachment of a property, the ward councillor has to be informed within seven working days in order to enable the councillor to negotiate with the debtor any payments.
- Council might consider implementing water restriction to enforce this Policy which shall be within the relevant Health Act.

### **5. Credit Control Policy to be applied for Indigent Households**

#### **5.1 Introduction**

The key purpose of an indigent subsidy policy is to ensure that households with lower income are not denied a reasonable service, and on the contrary the local authority is not financially burdened with non-payment of services. Provided that grants are received and funds are available, the indigent subsidy policy should remain intact and indigents must be verified every twelve months.

#### **5.2 Aims of the Policy**

The credit control policy aims to achieve the following:

- To distinguish between those who can and cannot genuinely pay for services;
- To get those who cannot pay to register with the municipality so that they could be given subsidies;
- To enable the municipality to determine and identify defaulters to ensure appropriate credit control procedures; and
- To establish an indigency directory of all persons who comply with the policy.

#### **5.3 Obligation to Pay**

It is important to note that the subsidy received, in the majority of cases, does 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, credit control must still be applied for these outstanding amounts.

### **6. Credit Control and Debt Collection Procedures for all Services**

Where consumers fail to pay their consumer accounts by the due date, the following actions will be taken:

## Final Notice

Final notices may be delivered or posted after the final date of payment for monthly statements. The notice will contain information that the notice constitutes as final notice that services will be disconnected/restricted if:

- the account is not paid in full by the date set in the notice; or
  - the client failed to enter into an agreement to pay the outstanding balance in terms of the Credit Control Policy by the date set in the notice.
- Where arrangements were not made and electricity and/or water supply is disconnected/restricted due to non-payment, it will only be restored upon payment of the full outstanding balance or signing of an Acknowledgement of Debt on merits.
  - When disconnection of electricity and/or water supply takes place due to non-payment, the consumer's deposit will be adjusted.
  - An Acknowledgement of Debt must be completed with all arrangements for paying off arrear accounts. Copies must be handed to the client.
  - 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.
  - Electricity and/or water shall not be supplied/unrestricted if the consumer's account is not paid in full or satisfactory arrangements in terms of the Credit Control Policy have been made and honoured.
  - 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 balance will immediately become payable.
  - Where services are illegally restored criminal action will be taken if possible.
  - Where electricity and/or water supply has been disconnected erroneously a written apology will be dispatched within seven working days.
  - In the event of a payment by cheque being dishonoured, the full balance will immediately become payable. Consumer services to such clients will immediately be disconnected/restricted until the full amount is paid in cash or per bank guaranteed cheque.
  - Where water and electricity amounts remain outstanding or unpaid 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 consumers can be listed at the Information Trust Corporation.
  - 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.
  - No person will be allowed to enter into a second agreement if the first agreement was dishonoured, except in special merit cases.
  - Merit cases, where special circumstances prevail, must be treated individually and could amongst others include the following categories:
    - deceased estates;
    - liquidated companies;
    - private persons under administration;
    - outstanding enquiries on accounts, for example, misallocated payments, water leaks, journals, incorrect levies, etc.;
    - certain categories of pensioners; and
    - any other cases not mentioned which can be regarded as merit cases due to circumstances.

Extension for payment of arrears in respect of merit cases should preferably not exceed 36 months (3 years) or any other period in the discretion of the Town Treasurer or his/her delegate.

- Only the Chief Financial Officer or his/her delegate may agree to such extensions and these must be supported by documentary proof. Previous payment record will be taken into consideration.
- New consumer deposits for business and industrial customers must be re-assessed three months after the initial deposit date.
- All other business and industrial deposits will be reviewed annually.
- Where the consumer has not entered into a service agreement with the municipality, water and/or electricity will be disconnected until such time as a service agreement has been signed and the applicable deposits paid.

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.

After installation of a prepaid meter, water and/or electricity shall not be sold to consumers unless the full amount on the consumer's account has been paid or an agreement for the settlement of arrears has been concluded and a service agreement entered into and connection fees and the applicable deposits paid, in terms of the Credit Control Policy.

Where consumers fail to pay their accounts by the due date of every month, the following actions will be taken:

- Final notices/accounts may be posted or delivered where accounts are in arrear for 60 days (2 months) or more. 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 will lead to disconnection of services at any date thereafter, without further notice, must however form an integral part of the account.
- The same procedure in respect of arrangements for paying off of arrears or extension of payment as for water and electricity will apply.
- If no response has been received within 14 days those accounts still outstanding will be handed over to debt collectors for collection and/or legal action to the Attorneys and will be listed at the Information Trust Corporation.
- Where an account remains unpaid on a property that is unmetered, the above procedures will apply.

## **7. Ethical Note**

Councillors and employees alike commit themselves to the following:

- Not to make exceptions to, or relax the stated procedures contained in this policy in respect of any consumer, whether individual or group, at their own initiative or at the request of somebody else.
- Not to intervene in the debt collection process with a view of stopping or delaying any action against any consumer, except to answer an enquiry concerning an account.
- Diligently implement this policy and procedure.