

# **MSINGA MUNICIPALITY**

**2021/2022**

## **CREDIT CONTROL**

**AND**

## **DEBT COLLECTION POLICY**

# 1. PURPOSE

This policy has been compiled as required in terms of Section 97 of the Local Government: Municipal Systems Act 32 of 2000 (hereinafter referred to as the MSA) and is designed to provide for credit control and debt collection procedures and mechanisms. It also aims to ensure that the Municipality's approach to debt recovery is sensitive, transparent and is equitably applied throughout the Municipality's geographic area.

## 1.1 Objectives

The objectives of the policy are to:

- Provide a framework within which the municipal council can exercise its executive and legislative authority with regard to credit control and debt collection;
- Ensure that all monies due and payable to the municipality are collected and used to deliver municipal services in the best interest of community, residents and ratepayers and in a financially sustainable manner;
- Set realistic targets for debt collection;
- Outline credit control and debt collection policy procedures and mechanisms; and
- Provide a framework to link the municipal budget to Indigent support; and Tariff policies.

# 2. PROBLEM STATEMENT

The MSA requires the Municipality to review the Credit Control Policy annually together with its budget.

The Municipality has taken cognizance of the high level of poverty and unemployment which is prevalent in various areas of the District and has developed an Indigent Support Programme and other initiatives to assist those customers who are economically unable to meet normal service charges.

Assistance to the Indigent is dealt with in terms of the Indigent Support Policy. Any debt owing by an indigent debtor, after deduction of the indigent support rebate, shall be recovered from him or her, in accordance with this policy. Due consideration has been given to the budgetary implications of this policy and necessary amounts allocated in terms of the annual Budget.

# 3. DEFINITIONS

For the purpose of this policy, the wording or any expression has the same meaning as contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as amended from time to time, except where clearly indicated otherwise and means the following:

- "Account" any account rendered for municipal services provided.
- "Act" the Local Government: Municipal Systems Act, 2000(Act No. 32 of 2000) as amended from time to time.
- "Arrears" any amount due, owing and payable in respect of municipal services not paid by due date.
- "Consolidated Account" a monthly account reflecting municipal service fees, charges, surcharges on fees and other municipal taxes, levies and duties.
- "Acknowledgement of Debt" arrangements made with customers with regards to arrears.
- "Customer" Any person liable to the Municipality for taxation or other charges
- "Defaulter" any customer in arrears.
- "Illegal connection " Any connection to any system through which the municipal services are provided, which is not authorized or approved by the Municipality or its authorized agent.
- "Owner"
- a. the person in whom from time to time is vested the legal title to premises;
  - b. in case where a person in whom the legal title to premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, executor, administrator, judicial manager, liquidator or other legal representative;
  - c. in any case where the Municipality or its authorized agent is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises or a building thereon;
  - d. in the case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereof;
  - e. in relation to:
    - i. A piece of land delineated on a sectional plan registered in terms of Sectional Title Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of common property; or

- ii a section as defined in the Sectional Title Act, 1986 (Act No. 95 of 1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such person; or
- iii a 'Home Owners Association', all members of the Association.
- f. the Ingonyama Trust, where the land is vested in the Trust by virtue of the provisions of the Ingonyama Trust Act.
- g. any legal person including but not limited to:
  - i a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), a trust, a close corporation registered in terms of Close Corporation Act, 1984 (Act 69 of 1984) and a voluntary association
  - ii any department of State;
  - iii any Council or Board established in terms of any legislation applicable to the Republic of South Africa;
  - iv any Embassy or other foreign entity.

“prescribed form” refers to the form required by the Chief Financial Officer from time to time.

“Revenue Clearance Certificate” the certificate referred to in Section 118(1) of the Municipal Systems Act 32 of 2000.

## **PROVISION OF MUNICIPAL SERVICES**

### **4. REGISTRATION**

- 4.1 The Municipality shall whenever possible, combine any separate accounts of persons who are liable for payment to the municipality, into one consolidated account.
- 4.2 Only solid waste removal is provided by Msinga municipality
- 4.3 If there is an outstanding debt on the property, this debt must be settled in full, or suitable payment arrangements must be made by the owner of the property, before the new customer is registered.
- 4.4 Where the purpose for or extent to which any municipal service used is changed, the onus and obligation is on the customer/owner to advise the Municipality of such change.

## **ACCOUNTS MANAGEMENT**

### **5. ACCOUNTS**

- 5.1 The Municipality will have accounts posted to all customers. In the case of multiple ownership, the account will be posted to any one owner.
- 5.2 Failure to receive or accept accounts does not relieve a customer of the obligation to pay any amount due and payable. The onus is on the customer to make every effort to obtain a copy account for payment.
- 5.3 The Municipality or its authorized agent must, if administratively possible, issue a duplicate account to a customer on request.

### **6. RESPONSIBILITY FOR AMOUNTS DUE**

- 6.1.1 Accordingly, all such Municipal debts shall be payable by the owner of such property without prejudice to any claim which the Municipality may have against any other person.
- 6.1.2 The Municipality reserves the right to cancel a contract with the customer in default and register the owner only for services on the property.
- 6.1.3 No new services will be permitted on a property until debts on the property are paid, or suitable arrangements made to pay such debts.
- 6.2 Where the property is owned by more than one person, each such person shall be liable jointly and severally, the one paying the other to be absolved, for all Municipal debts charged on the property.
- 6.3 Owners shall be held jointly and severally liable, the one paying the other to be absolved, with their tenants who are registered as customers, for debts on their property.
- 6.4 Should any dispute arise as to the amount owing, the customer shall pay all amounts which are not subject to the dispute and an average account for the amount that is in dispute.

### **7. PAYMENT OPTIONS**

- 7.1 The Municipality will endeavor to establish a payment network to ensure that, wherever practically possible, customers in receipt of accounts have access to a payment site within a reasonable distance of their home.
- 7.2 Where any payment made to the Municipality, or its authorized agent, by negotiable instrument or direct debit, is later dishonored by the bank, the municipality or its authorized agent:
  - a. Will recover the average bank charges incurred relating to a dishonored negotiable instrument against the account of the customer;

- b. may regard such an event as default on payment and the account shall be dealt with as an arrear account;
- c. Reserves the right to take legal action on the negotiable instrument or for recovery of arrears.

7.3 The methods of payment shall be determined by the Chief Financial Officer from time to time.

7.4 A payment shall be deemed to be late, unless received on or before the due date at a municipal pay point by 15H00.

7.5 Electronic payments or payments made via duly authorized agents must:

- a. Be received in the municipal bank account
- b. Clearly indicate the details of the customer on behalf of whom the payment is made; and
- c. Must be accompanied by the relevant account numbers

## **8 FULL AND FINAL SETTLEMENT**

8.1 **Where the exact amount due and payable has not been paid in full, any lesser amount tendered and accepted, except when duly accepted in terms of delegation of power, shall not be in full and final settlement of such an account.**

8.2 The provision above shall prevail notwithstanding the fact that such lesser payment was tendered and/or received in full settlement.

## **9. CASH ALLOCATION**

9.1 For consolidated accounts the Municipality may in accordance with section 102 of the Act credit any payment by a customer against any account of that customer.

9.2 Any amounts paid may be appropriated to the oldest debt first where there are separate accounts.

9.3 Any amount paid by the customer in excess of an existing debt may be held in credit for the customer in anticipation of future charges and fees for municipal services, and no interest will be payable on that amount.

## **10 INTEREST AND ADMINISTRATIVE CHARGES**

10.1 No interest charges will be raised on arrear amounts which appear on the Municipal accounts.

10.2 Interest will not be charged on inactive accounts

## **11 BUSINESSSES WHO TENDER TO THE MUNICIPALITY**

11.1 When inviting tenders for the provision of services or delivery of goods, potential contractors must declare that all relevant municipal accounts owing by the tenderer 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 the payments of arrears.

11.2 The Municipality will at its sole discretion check whether all the Municipal accounts are up to date.

11.3 No tender will be allocated to a person / contractor until suitable arrangement for the repayment of arrears over the duration of the contract, has been made. The tenderer must maintain arrangements and pay current installments as provided for in any contract with the Municipality.

11.4 Where payments are due to a contractor in respect of goods or services provided to the Municipality, any arrear amount owing to the Municipality may be set off against such payments.

11.5 In the application of this section, the municipality shall interpret the provisions hereof so as to be consistent with the principles and contents of the supply chain management policy.

## **12 STAFF AND COUNCILLORS IN ARREARS**

12.1 Item 10 of Schedule 2 to the Act states that: - “A staff member of the Municipality may not be in arrears to the municipality for rates and service charges for a period longer than 3 months and a municipality may deduct any outstanding amounts from a staff members’ salary after this period.”

12.2 Item 12A of Schedule 1 to the Act states that: - “A Councillor may not be in arrears to the municipality for rates and service charges for a period longer than three months.”

12.3 The Municipal Manager shall issue the necessary salary deduction instruction where appropriate.

## **13. TERMINATION OF MUNICIPAL SERVICES**

### **13.1 TERMINATION / TRANSFER OF SERVICES**

13.1.1 At least 14 days’ notice is required from the customer upon termination / transfer of an account, to enable the Municipality to take final meter readings and process account adjustments.

13.1.2 Landlords are not permitted to terminate water if there are occupants on the property and the account is not in arrears.

13.1.3 Customers are required to update their information details with the Municipality. Failure to respond to the Municipalities request for updated information may result in with-holding of services or prosecution./

13.1.4 The Municipality may exercise its common right in accordance with 7.1 above where a tenant on a property is in breach of his/her contract with the Municipality. The tenant shall forfeit his/her deposit to the owner where the outstanding debt is paid by the owner.

## **14. POWER TO RESTRICT OR DISCONTINUE SUPPLY OF SERVICES**

14.1 The municipality may restrict, discontinue or disconnect the supply of water or any other service to any premises, whenever a customer, in respect of a particular service:

- 14.1.1 Is placed under provincial sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 [Act No. 24 of 1963] or any other applicable law; or
- 14.1.2 An administration order is granted in terms of Section 74 of the Magistrate Court Act, 1944 [Act No. 32 of 1944] in respect of such a customer.
- 14.1.3 Causes a situation which, in the reasonable opinion of the municipality, is dangerous, wasteful, or in contravention of relevant legislation;
- 14.1.4 Tamper with any municipal supply meter, or bypasses any metering equipment, in order to obtain an un-metered service;
- 14.1.5 Obstructs the efficient supply of water or any other municipal service to another customer;
- 14.1.6 Supplies such municipal service to any person who is not entitled thereto, or permits such a service to continue;
- 14.1.7 Fails to comply with a condition of supply imposed by the municipality
- 16.1.8 Removal of meter or installation of prepaid meter for consumers not responding to being restricted.
- 16.1.9 The right of the municipality to restrict, discontinue or disconnect the supply of water to any premises or consumer shall be subject to the provision of Section 4(3) of the Water Services Act, 1997 [Act no. 108 of 1997] and any regulations promulgated in terms of the aforesaid legislation.

## **15. UNALLOCATED CONSUMPTION**

When water consumption is recorded on a property during a period for which there is no registered customer against whom a bill can be raised, the relevant charges shall be raised against the registered owner on his consolidated bill.

## **16. INTERNAL LEAKS**



- 16.1 Internal leaks may be charged at the lowest tariff, up to a maximum of 3 months, upon approval and submission of the following documents:
- 16.2 Letter from registered consumer requesting reduction of account
- 16.3 Letter from a plumber who fixed the leak and copy of the invoice
- 16.4 A sworn affidavit by the accountholder where leak was self-repaired
- 16.5 Three subsequent water statements after the leak was fixed indicating reduction in Consumption
- 16.6 Registered consumer shall pay for consumption at the lowest tariff for the 3 months accounts affected by internal leak whilst awaiting approval and at normal tariffs for any other accounts

## **17. REVENUE CLEARANCE CERTIFICATES**

Subject to Sections 118(1) and (1A) of the Act, the following shall apply to the issue of a Revenue Clearance Certificate for the purpose of effecting transfer of a property to a new owner.

### **17.1 Assessments**

- a. Application shall be made by the conveyance, in the prescribed format. Copies of all the accounts must accompany the application. If the relevant information is not provided, the application will be returned to the conveyancer.
- a The assessment shall remain valid for a period of 30 days. If payment has not been received within this period, a re-assessment may be required and payment of a further assessment fee will apply.
- b The onus rests with the seller and buyer to ensure that the debts on the property are fully paid before finalizing purchase of a property.
- c Discrepancies in respect of the above may result in delays in issuing of a clearance certificate, and in addition may result in levying of additional service charges, fees and / or interest.
- d Any amounts paid shall be appropriated to the oldest debt first.

### **17.2 Clearance Certificates**

- a Payment on the assessment must be made in cash or by irrevocable bank guaranteed cheque, or an Attorney's Trust cheque.
- b There shall be no refunds on the cancellation of a sale.
- c The Certificate shall be valid for a period of 60 days from date of issue.

## **18. LEGAL ACTION**

- 18.1 Legal steps may be taken to collect arrears where;
- a disconnection/ restriction action yielded no satisfactory result;
  - b disconnection/restriction action is not possible due to the nature of the services for which the account has been rendered; or
  - c the arrears are older than one year on approval by the Council,
- 18.2 The Municipality will enforce any other rights or exercise any power conferred on it by any other legislation.
- 18.3 For residential properties occupied by owners, all reasonable steps shall be taken to ensure that the ultimate sanction of judgment and sale-in-execution is avoided or taken as the last resort. The Municipality, however, has total commitment to follow the legal process through to judgment and sale-in-execution should the debtor fail to make use of the alternatives provided for by the Municipality from time to time.
- 18.4 Once judgment is obtained the properties will be advertised and sold through public auction, unless appropriate settlement has been made to the satisfaction of the Municipality. The Municipality shall assess annually, the appropriate minimum amount below which it will not attach homes.
- 18.5 legal costs shall be debited to the relevant debtor's account.
- 18.6 Metering and connection equipment remain in the ownership of the Municipality at all times and the owner of the property, on which such Municipal Meters and connection equipment is installed, shall be held responsible for all instances of tampering, damage or theft. Accordingly, the owner of the property concerned is liable for any breach of this duty may be prosecuted.
- 18.7 The Chief Financial Officer shall determine the nature and extent of proceedings to be instituted in any particular case.
- 18.8 If the Chief Financial Officer is of the opinion that the institution or continuation of proceedings for the recovery of any amount shall be fruitless or not cost-effective, the Chief Financial Officer may recommend to the Council that such action be not commenced or be discontinued or terminated.
- 18.9 The effective implementation of the present policy also implies a realistic review of the municipality's debtor book at the conclusion of each year. The Chief Financial Officer shall present to the council a report indicating the amount of the arrears which it is believed is uncollectable, together with the reasons for this conclusion.
- 18.10 The council shall then approve the write-off of such arrears, if it is satisfied with the reasons provided.

## **19. ACKNOWLEDGEMENTS OF DEBT**

19.1 The Municipality may, at its discretion, enter into an Acknowledgement of Debt and admission of liability, with customers and owners in arrears with municipal service fees, surcharges on fees and other municipal taxes, levies, duties and sundry charges.

19.2 Before any Acknowledgement of Debt is concluded,

- a. At least 30% of debt for domestic users and 40% of debt for business and other categories shall be paid before signing of Acknowledgement of Debt or entering into any payment arrangement;
- b. The Chief Financial Officer to approve all initial payments less than 30% for residential consumers willing to convert to prepaid system or remain restricted until debt is settled;
- c. All services must be consolidated onto one account (if not done previously) and an Acknowledgement of Debt concluded for the debt of all services where possible.

19.3 Customer entering into an Acknowledgement of Debt may be required to pay installments by debit orders or post-dated cheques or any other means acceptable to the municipality.

19.4 The customers' current account must be paid in full, and maintained, for the duration of the agreement.

19.5 The owner of a property may be required to give consent in writing to an Acknowledgement of Debt and admission of liability with the Municipality and his tenant.

19.6 Re-connection and disconnection fees, where applicable, must be paid in full before any Acknowledgement of Debt can be entered into.

19.7 By entering into an Acknowledgement of Debt the debtor(s), and where applicable, the owner, acknowledge that failure to meet any installment will result in prompt disconnection action being taken, without prejudice to any legal action that the Municipality may take to recover the arrears

19.8 Acknowledgements of Debt negotiated on business accounts shall require the agreement to be signed by a duly authorized Director / Member of the business. Personal sureties to the value of the debt plus current accounts are also required. **Under no circumstances are agreements to be completed without such sureties.**

19.9 An Acknowledgement of Debt may **not** be granted where:

19.9.1 Arrears have arisen due to dishonored cheques, direct debit reversals etc;

19.9.2 Instances of repeated meter tampering have been identified

19.9.3 The services have been removed; or

19.9.4 The customer's deposit has been increased due to a poor risk profile.

19.10 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 maximum period at the discretion of the Chief Financial Officer and any interest or penalties may be waived.

19.11 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.

19.12 The amount of the down payment and the period of the Acknowledgment of Debt shall be at the discretion of the Chief Financial Officer.

19.13 The Acknowledgement of Debt shall be terminated if a debtor relocates from the property. The balance owing shall become immediately due and payable.

19.14 The monthly installments on an Acknowledgement of Debt are payable within twenty-one (21) days from the date of the account notwithstanding any further extension of time printed on the face of the account.

19.15 Where a debtor enters into an Acknowledgement of Debt with the Municipality to pay off arrears for service charges, no further interest will be added to the debt acknowledged if during the period, the debtor adheres to the Agreement.

19.16 The duration of the agreement shall not exceed 24 installments for residential customers and 12 installments for businesses and other categories unless authorized by the Chief Financial Officer.

19.17 Any debtor who enters into a bona fide arrangement with the municipality for the settlement of arrears and who fails to honor the terms of such arrangement shall not be allowed to enter into any further arrangements with the municipality unless any amount (including all interest and other charges) owing under the first-mentioned arrangement has been fully paid, or if, in the opinion of the Chief Financial Officer, special circumstances exist which justify the entering into of such further arrangements.

## **20. DISPUTES**

20.1 A customer who disputes a Municipal Account must submit each dispute in writing to the Chief Financial Officer stating the reasons for such dispute and any relevant facts, information or representation which the Chief Financial Officer should consider to resolve the dispute.


20.2 The CFO or his nominee may hear representations from customers who dispute an account and he/his nominee may take a decision, based on the spirit of the Policy, which is binding.

20.3 A dispute submitted above shall not stop consumer from paying his account.

20.4 A dispute submitted above shall not stop or defer the continuation of any legal procedure already instituted for the recovery of arrear payment relating to such dispute.

## **21. VALIDITY OF THE POLICY**

This Policy is adopted and approved by Umsinga Municipal Full Council on their meeting to be held on the 26<sup>th</sup> of May 2021. The policy is effective as from 1 July 2021 to 30 June 2022.

  
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**MV NTANZI**  
**DIRECTOR: CORPORATE SERVICES**

**07/06/2021**

  
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**SI. SOKHELA**  
**MUNICIPAL MANAGER**

**07/06/2021**