

NOTICE 1719 OF 2016



CREDIT CONTROL AND DEBT COLLECTION BY-LAW

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1. Definitions

“Accounting Officer” refers to the Municipal Manager of the municipality.

“Act” refers to the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000)

“Administration fees” refers to fees (charges) which may be recovered by the council in terms of section 75A of the Act, and includes –

- a) the cost of reminding customer of arrears;
- b) the cost of the termination, restriction and reinstatement of municipal services;
- c) the cost of any notice rendered, sent or delivered in terms of this policy; if any
- d) the cost and administration fees contemplated in section 22;
- e) all legal cost, including attorney and client cost incurred in the recovery of arrears; and
- f) any commission and other expenses relating to the recovery of arrears payable by the council to any person or partnership;

“Apparatus” refers to any equipment, tool, device, meter, connection, system, or network, service protection device, articulation network or supply mains, or any part thereof, supplied or used in the supply distribution, or conveyances of services or measurement or consumption of services.

“Authorized official” refers to an employee, agent, subcontractor, or representative of the Council, duly authorized, by a service provider to perform, any function under this policy;

“Arrears” includes collection charges and interest in respect of the principal amount in arrears;

“Billing” refers to proper formal notification (invoicing) on a statement to each customer of amounts levied for assessment rates and services and the net accumulated balance of the account;

“Child account” refers to a handover account which is handled by a debt collector;

“Council” refers to-

- a) a municipal council as referred to in section 157 of the Constitution
- b) Lesedi Local Municipality exercising a delegated power or carrying out an instruction, where any power in this policy has been delegated, or sub delegated, or an instruction given as contemplated in section 59 of the Act;

“Credit control” refers to all functions relating to the collection of monies owed to the municipality by the rate payers and users of municipal services.

"Credit controller" refers to an official or person appointed by the Council to manage, inter alia, the Council financial administration and debt collection of the Council's debtors.

"Customer" refers to owner and or the consumer of the premises to which the council has agreed to supply or is actually supplying municipal services, or if there is no occupier, then the owner of the premises.

"Customer management" refers to focusing on the client's needs in a responsive and proactive way to encourage payment, thereby limiting the need for enforcement of sanctions.

"Debtor" refers to a person owing an amount of money to the municipality for a reason other than through the provision of municipal services or a person worth/ or a person with an active consumer account

"Defaulter" refers to those persons owing the Council in respect of taxes and/or service charges for a period of more than 45 (forty five) days from the date of the account.

"Household" refers to the total number of people who occupy a property for residential purposes whether permanently or on a temporary basis, but excludes persons employed by the household;

"Inactive account" refers to an account in which there have not been any transaction for an extended period of time;

"Indigent" refers to a household who cannot afford to make a full monetary contribution towards municipal charges for basic services and rates & taxes as determined by the Council

"Interest" constitutes a levy equal to service levies and is calculated at a rate determined by the Council on all services levies in arrears.

"MFMA" refers to the Local Government: Municipal Finance Management Act, 2003, (No 56 of 2003);

"MPRA" refers to the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004).

"Municipal Councillor" refers to a member of a municipal council

"Municipal official" refers to an official or an employee of the municipality

"Municipal services" refers to those services, rates and taxes reflected on the municipal account for which payment is required by the Council, as more fully defined in the Act.

"Municipal account" shall include levies or charges in respect of the following services and /or taxes:

- a) electricity consumption based on a meter reading or estimated consumption, or availability fees;

- b) water consumption based on a meter or unmetered reading or estimated consumption or availability fees;
- c) refuse removal and disposal;
- d) sewerage services or sewer availability fees;
- e) rates;
- f) interest, and
- g) miscellaneous and sundry fees and collection charges;

"Occupier" refers to any person who occupies any premises or part thereof, without regard to the title under which he/she so occupies.

"Owner" refers to-

- a) the person in whom from time to time is vested the legal title to premises;
- b) in a case where the person in whom the legal title is vested is insolvent or dead , or is under any form of legal title is vested is insolvent or dead , or is under any form of legal disability whatsoever , the person in whom the administration of and under control of such premises is vested as curator , trustee, executor, administrator, judicial manager, liquidator or other legal representative"
- c) 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 of the building thereon;
- d) In the case of premises for which a lease of 30 years or more has been entered into , the lessee thereof
- e) In relation to-
 - i) A piece of land delineated on sectional plan registered in terms of the sectional titles Act 1986 ,(Act 95 of 1986) , and without restricting the above the developer or the body corporate in respect of the common property , or
 - ii) A section as defined in such Act , the person in whose name such section is registered under a sectional title deeds and includes the lawfully appointed agent of such person
- f) Any legal person including but not limited to;
 - i) A company registered in terms of companies act 1973(Act 61 of 1973), trust mortis, cause, a close Corporation registered in terms of the Closed Corporations Act, 1984(Act 69 of 1984) , a Voluntarily 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

"Parent account" refers to a non-handover account which is handled by the municipality;

"Premises" includes any piece of land, with or without any building or structure thereon, the external surface boundaries of which are delineated on-

- a) A general plan or diagram registered in terms of Land Survey Act, No 9 of 1927) or in terms of the Deeds Registry Act, No 47 of 1937;or
- b) A sectional plan registered in terms of the Sectional Titles Act, No 95 of 1986), which is situated within the area of jurisdiction of the Council.

"Property" refers to-

- a) Immovable property registered in the name of a person, including , in case of a sectional title scheme , a sectional title unit registered in the name of a person
- b) A right registered against immovable property in favor of a person , excluding a mortgage bond registered against the property
- c) A land tenure right registered in favor of a person or granted to a person in terms of any law ;or
- d) Public service infrastructure;

"Rates" refers to a municipal rate on property levied in terms Local Government; Municipal Property Rates Act, 2004 (Act No.6 of 2004), or any prior law/ordinance.

"Sundry and housing accounts" refers to an account where a person owes an amount to the municipality for a reason other than through the provision of municipal services

"Tamper" refers to interference with, damage to, alteration of, connection to or removal of any apparatus and includes the consumption or use of any services not in accordance with this policy

NB: words derived from the words defined have corresponding meanings unless, the context indicates otherwise.

A reasonable interpretation of a provision which is consistent with the purpose of this policy must be preferred over an alternative meaning which is not.

2. Introduction

The Local Government Municipal Systems Act (*Act 32 of 2000*) stipulates that a municipality must collect all money that is due and payable to it, subject to the act (*Act 320 of 2000*) and any other applicable legislation and the Municipal Finance Management Act (*56 of 2003*).

The Municipality 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 provision of the Local Government Municipal Systems Act (*Act 32 of 2000*)

The municipality, in adopting this policy on credit control and debt collection, recognizes its constitutional obligations to develop the local economy and to provide acceptable services to its residents. The municipality cannot fulfil these constitutional obligations unless it extracts payment for the services which it provides and 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 approved indigent policy.

It is vital to the long term financial viability of any municipality that it collects the revenues (such as levies, tariffs, rates and taxes) due to it for services rendered. In terms of Section 96 of the Local Government Municipal Systems Act 2000, a municipality:

- must collect all money that is due and payable to it, subject to this Act and any other applicable legislation; and
- For these reasons, the implementation of the credit control and debt collection policy cannot be compromised.

3. Aim

This policy aims to address the key issues and challenges of credit control and debt collection. The strategic aim is to create an enabling environment in which the objectives of credit control and debt collection can be realised.

4. Objective

The Objective of this Policy is to:

- a) Focus on all outstanding debt as raised on the debtor's account;
- b) Provide for a common Credit Control and Debt Collection Policy;
- c) Promote a culture of good payment habits amongst debtors and instil a sense of responsibility towards the payment of municipality accounts and reducing municipal debt;
- d) Subject to the principles provided for in this Policy, use innovative, cost effective, efficient and appropriate methods to collect as much of the debt in the shortest time possible without any interference in the process;
- e) Effectively and efficiently deal with defaulters in accordance with the term and conditions of the policy.

5. Principles

- a) Human dignity must be upheld at all times.
- b) The policy must be implemented with equity, fairness and consistency.
- c) Non-payment by debtors of their municipal accounts has a direct negative impact on the Municipality's ability to render services to its clients and in general to meet its objectives as prescribed for in section 152 of the Constitution of the Republic of South Africa, 1996.

- d) Municipal service charges and taxes not paid before or on the due date as indicated on the statement/invoice will be considered to be in arrears and all debtors who are in arrears will be subject to credit control and debt collection measures. The right of access to, and consumption of, services can only be exercised by consumers who are not in arrears on their municipal services accounts or who are complying with the conditions that were arranged with the Municipality to pay off such arrears in terms of the Policy.
- e) The municipality reserves the right to terminate municipal services to a property even if the account of a third party person occupying a property or premises may be paid up to date in the event of the owner failing to honour his or her or its commitments for payment of rates and taxes or other municipal charges. The right to municipal services of a consumer who is not the owner of a property is always subject to the right of the owner. Therefore, should the owner fail to comply with his or her obligations to the municipality, the municipality will be at liberty to apply credit control measures that may include the termination of municipal services to a property.

Furthermore, the right of a person who is not the owner of a property is subject to the lawful permission granted by the owner, which permission could be withdrawn by the owner for reasons unknown to the municipality. Should the owner at any stage give notice to the municipality in the prescribed format to that effect, the municipality may be at liberty to terminate or restrict any municipal services to a property, provided that the owner will bear all costs, including legal costs, should such termination or restriction, as the case may be, result in any legal action.

The owner will at all times be entitled to access information on the stance of any account or liability to the municipality of a tenant or occupier of his or her or its property, and municipality will be obliged to disclose such information at the request of the owner.

The municipality agreement on the supply of services will reflect the above as well as the Credit Control and Debt Collection Policy and the By-Law in general.

- f) In terms of section 102 of the Local Government: Municipal Systems Act, 2000 (Act 23, 2000), payments received by the municipality from its debtors will be allocated at the discretion of the municipality against any amount owed by such a debtor to the municipality, unless specifically otherwise indicated in writing by the person making payment.

- g) Various methods of payments by debtors as well as sufficiently convenient payment points are available and communicated to debtors.
- h) As arrear municipal debt in excess of 60 days, interest is levied monthly and calculated at 10% per annum. Interest levied but not paid is included on the arrear amount of such a debtor. Since arrear VAT is not a municipal debt, no interest is charged on it. The municipality pays VAT to the South African Revenue Services only after it has been collected successfully from debtors.

Interest in accordance with arrangements for the monthly payment of arrears will be calculated on a monthly reduced balance of the arrears at a fixed rate throughout the period and the rate will be the current rate as on the contract date of the arrangement.

- i) Credit control measures are applied with proactive reminder or warning. Account statements that are sent to debtors will, to the extent that the account may be in arrears, be regarded as a legal notice of demand for payment of the Arrears reflected on the account and a reminder of intention to take credit control measures.
- j) Metered services consumed by an unknown consumer are billed to the owner of the property to which the service connection is registered.
 - I. The municipality only opens accounts for owners of the properties concerned. Hence no tenant account will be completed by the owner of the property. The existing tenant accounts will be phased out upon the closure of the rental and municipal service agreements concerned. This excludes service agreements on municipal properties.
 - II. Individuals and businesses with agreements to lease properties from municipality and government departments will be allowed to open an account in the name of the lessee.

Electricity consumption of consumers of the Lesedi Local Municipality will be metered through a prepayment and conventional devices.

- k) Lesedi Local Municipality will not accept any cheque payments; all payments to it must be made in cash, of by credit card, bank-guaranteed cheque or electronic fund transfer. This also applies to all third parties, traffic fines, other licences and other municipal services that are paid on behalf of Lesedi Local Municipality.

Refusal by banks to honour payments by cheque or debit order is regarded as non-payment, which makes the relevant debtors subject to credit control measures. The bank charges incurred by the municipality will also be levied to such debtors' accounts.

- l) Consumers who make no further use of any services but still owe an amount are inactive debtors who, after the submission of a second inactive account statement to their latest known postal address, are handed over for legal action. Limited action (i.e. a final letter of demand) is taken against inactive account smaller than R3 000 due to the cost-benefit ratio of such cases. Any further action required for these individual accounts is at the discretion of the Accounting Officer. When services are discontinued or restricted and the customer applies for services at a different address, the Municipality reserves the right to transfer any outstanding debit amounts to a customer's new account, or refuse to enter into a new supply agreement unless the previous arrear amount/s have been settled to the satisfaction of the Accounting Officer.
 - m) Consumers will be contacted by telephone, SMS, Email or MMS, but the credit control and debt collection measures contained in the Policy will go ahead.
 - n) Residential households' consumers/debtors from the distinct group to whom the following special measures and exceptions apply:
 - i. Water supply to defaulting residential household consumers will not be completely discontinued, but rather be restricted for health reasons. Other consumers who are in default will be completely deprived of the service until adequate arrangements are made with the municipality for reconnection of service.
 - ii. Any interest-free arrangements for payment of arrears in terms of the Policy are intended to assist debtors who are in arrears so as to make their current monthly accounts affordable.
- All notifications served to the domicilia of debtors will state the reason/s for actions taken and supply sufficient information as to how they can take corrective action in order to restore municipal services to the consumer.
- o) If it is necessary to disconnect, terminate or restrict any service in terms of the policy, the free cross-subsidised portion of that service, in terms of the municipality's tariffs for municipal service delivery, will also not be available for as long as those services remain disconnected.
 - p) Indigent customers, as specified in the Indigent Management Policy, will be allowed to register for indigence once in a year for pensioners, disabled persons, youth / child headed family and twice in a year for unemployed or employed after termination of their indigent status. The onus of proof that a person is registered as indigent vests in the person claiming such benefits.

- q) According to the Indigent Management Policy mentioned in P, all arrear debt on an indigent customer's account is written off after the customer's registration as such. Normal credit control and debt collection will be instituted against defaulting indigent consumers (excess portion).
- r) To make services more affordable for indigent households, the provisions of the Indigent Policy are adhered to.
- s) Debtors may be referred to 3rd party debt collection agencies and may be placed on the National Credit Rating List
- t) The terms and conditions as contained in any prescribed form or document utilised in implementing this policy, forms part of this policy and is incorporated therein as specifically stated.
- u) The suspension of any debt management action, when interrupted for whatever reason, shall, where practical, continue from previous action taken.

6. Credit Control Measures

To ensure that all money due and payable to the Municipality in respect to rates, fees of services, surcharges on such fees, charges, tariffs, interest which was accrued on any amounts due and payable in respect of the foregoing and any collection charges are collected efficiently and promptly, the Lesedi Local Municipality put in place the credit control measures.

The Municipality officials will always embrace the spirit of batho Pele and treat all debtors with dignity and respect all the times. The municipality staff will execute their duties in an honest and transparent manner whilst protecting the confidentiality of information in accordance with access to information act.

6.1 Reminder/Demand Letter for Payment

A letter of reminder/demand will be generated and send to the debtor advising him/her that his/her municipal account has not been paid on the due date. The reminder/demand letter gets delivered to the postal address of the debtor or hand-delivered to the physical address. This letter will clearly states that if the amount is not settled within fourteen (14) days or proper payment arrangement not entered into, the services to the debtors premise will be restricted and/or terminated. The account of such debtor gets debited with the cost of such letter at an approved tariff of the municipality.

If prepayment of meters for the vending of services have been installed, further vending of those services will be blocked to consumers whose municipal account/s are in arrears. The reason for such blocking will be given to the individual consumer at the municipal vending station or payment point.

The municipality also reserves the right to install a prepayment meter if there have been three defaults on arrear payment arrangement.

6.2 Electricity Disconnection and Water Restriction

Should a debtor not respond within the specific period stated in the reminder/demand letter, the electricity supply to the premise of the debtor or consumer will be discontinued and the reason for the discontinuation will be supplied to the debtor/consumer. The account of the debtor is then debited with the cost of the disconnection at an approved tariff of the municipality.

Should there be no response within the 14 days as stipulated in the reminder/demand letter, and the debtor has an account for water consumption levies but no electricity, water is disconnected (restricted for residential consumers) at the consumption address after 14 days, and notice to that effect is left at the premise. The account of the debtor is debited with the cost of this action at the approved tariff of the municipality.

If the amount for rates and taxes owed by the owner of the property is not paid after the specific date, the Municipality may recover the amount in whole or in part from a tenant or occupier of the property, to the extent as provided for section 28 of the Property Rates Act. The municipality may recover an amount only after it has served a written notice on the tenant or occupier. The services of such a property will be disconnected or restricted as provided by law.

In the further absence of a response to electricity cut-off, the cut-off is inspected after seven (7) days to ensure that the service is still disconnected. If there is an illegal connection, it is again disconnected with the relevant notification, but then by way of a more expensive and comprehensive procedure to ensure a more tamperproof disconnection. The account of the debtor is debited with the higher cost of the cut-off at an approved tariff of the municipality, and the security deposit is raised to an amount equal to two (2) months consumption of services. The difference between the current deposit and recalculated amount will be debited against the consumers' account if it is higher than the currently held deposit. The Accounting Officer may also instruct that a prepaid electricity meter be installed at the cost of the consumer and electricity supply be restricted and vending of prepaid services blocked until requirements of the Municipality are met.

If the debtor has a consolidated account that includes water consumption levies, the water supply is also disconnected (restricted for residential consumers), as the case may be, cut-off inspection is done and a notice to that effect is left at the premises. The account of the debtors is debited with the cost of this action at the approved tariff of the municipality.

6.3 Recovery of Rates in Arrears from Tenants or Occupiers

Section 28 of Property Rates Act makes provision for the following actions in case on non-payment of rates and taxes:

- I) If an amount due for rates levied in respect of a property is unpaid by the owner of the property after the date determined in terms of section 26(2), a municipality may recover the amount in whole or in part from a tenant or occupier of the property, despite any contractual obligation to the contrary on the tenant or occupier. The municipality may recover an amount only after it has served a written notice on the tenant or occupier.
- II) The amount a municipality may recover from the tenant or occupier of the property in terms of subsection (1) is limited to the amount of the rent or other money due and payable, but not yet paid, by the tenant or occupier to the owner of the property.
- III) Any amount a municipality recovers from the tenant or occupier of the property must be set off by the tenant or occupier against any money owed by the tenant or occupier to the owner.
- IV) The tenant or occupier of a property must, on request by a municipality, furnish the municipality with a written statement specifying all payments to be made by the tenant or occupier to the owner.

Action will also be instituted against illegal reconnections, tempering and transgressions of the Electricity By-Law and Water Supply By-Law

6.4 Illegal Reconnection of, or Tampering with, Electricity

If conservative follow-up actions due to a continuous lack of response by the consumer/debtor reveal that illegal consumption of service occurred or a disconnection has been tampered with, the service connection is removed.

6.5 Illegal Reconnection of, or Tampering with Water

If the municipality discover tampering with water meter or service connection or interference with restriction of water service of non-residential consumers will lead to the removal of service connection.

6.6 Credit Control Measures on Accounts for Prepaid Electricity

If a property has a prepaid electricity meter and the other municipal services and taxes/taxes are in arrears, the prepaid electricity meter will be disconnected and buying of electricity will be blocked.

60/40 approach will be used as the credit control mechanism to recoup arrears in other services owed to the municipality. 60% represents the outstanding debt and 40% represents the purchases of pre-paid electricity, provided the current account is paid in full on a monthly basis.

6.7 Disconnection Procedures

Electricity

That the order procedure of disconnection of electricity to defaulters be as follows:

- (i) Switch off the circuit breaker and seal it [if the method fails - (ii) applies]; (defaulters).
- (ii) The removal of the circuit breaker. [If the method fails - (iii) applies];(defaulters).
- (iii) The removal of a meter. [If method (i) and (ii) fails – method (iii) applies and if the customer fails to pay or replace them or re-connect in some other way] (Illegal connection and or any other)
- (iv) Removal of the underground supply cable. [If the resident fails to pay or replace them or re-connect in some other way - (iv) applies]. (Illegal connection and or any other). A notice will be issued in this regard.

7. Debt Collection Measures

Legal steps are taken to collect arrears on all the accounts that are 90 days and more in arrears.

Interest at a rate of 10% per annum will be charged on all overdue accounts.

7.1 Internal Legal Process

The account and details of the debtor are investigated before a summons is prepared. The data of an appointed credit bureau are utilised for this purpose, resulting in telephonic contact with the debtor, which obviates the need for summoning.

The tracing and telephone costs are debited to the account of the debtor at the approved tariff of the municipality (Excluding indigents). If the debtors are officials and councillors of the municipality, arrears may be collected from their salaries or allowances.

If service debtors' accounts are in arrears, final letter of demand shall be sent to them regarding all accounts that are 30 days and more in arrears for payment within 14 days.

7.1.1 Municipal Staff and Councillors in Arrears

7.1.1.1 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 by this Policy. Notwithstanding any other procedure, method or any 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.

7.1.1.2 In accordance with Schedule 1, item 12A of the Systems Act, a Councillor of the Municipality may not be more than 3 (three) month in arrears of the municipal service fees, surcharges on fees, property 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.

7.1.2 Arrear accounts in excess of R100 000.00 that are to be summonsed at High Court or Regional Court matters, which are referred to Legal Services Division of the Municipality for summonsing in collaboration with a panel of attorneys.

7.1.3 Arrear accounts of less than R100 000.00 are Magistrate Court matters for which the relevant summonses are issued. The different sheriffs of the courts deliver these summonses to the relevant debtors. The expenses of issuing and delivery of the summonses are debited to the debtors' accounts.

If debtors responded to the summonses received within 5 working days after delivery by a sheriff, by either payment in full or partial payment and arrangement for monthly payment of the balance, no further legal costs are debited by the attorneys or debt collection agent, and the matter is not further pursued for as long as the debtor complies with the monthly payment as per the arrangement

7.1.4 Summonses not responded to within 5 working days are referred to the local Magistrate's Court in collaboration with the collection agents, who have jurisdiction in these courts. Default judgement and warrants of execution are obtained and the

relevant debtor is also automatically blacklisted at the major credit bureaus. A notice of the judgement is posted to the debtor by registered mail.

- 7.1.5 Worst case scenario, default judgements not responded to within a further 10 working days give rise to activation of the warrants of execution, which can either order the sale of property of the debtor to recover arrears, or order the debtor to be evicted in case of arrear rentals. If the debtor has no fixed property, a court order can be served on him or her to appear in court, and the magistrate can approve a garnishee order or an emoluments attachment order to recover the debt. A garnishee order will be signed simultaneously with an instalment plan to pay the arrears. Failure to comply with the agreed instalment plan will lead to an application for an immediate court approval to continue with the garnishee order.

7.2 External Legal Process

- 7.2.1 All accounts not paid within 30 days and are in arrears and may be blacklisted through credit bureau agencies after legal steps have been taken in terms of chapter 4 of the National Credit Act, 2005 (Act 34 of 2005).

- 7.2.2 The Accounting Officer may outsource the process of debt collection regarding any portion or category of the debtor book to collection agents. Any cost that arises from such action will be recovered from the debtor. The following principles will apply to agreements with the debt collectors:

7.2.2.1 The Municipality may, when any consumer is more than 90 days in arrears and no agreement have been entered into between the consumers and the Municipality, commence handing over the consumer to the debt collectors. At the discretion of the Accounting Officer the days at which the account can be handed over for collection may be reduced to 60 days.

7.2.2.2A "no success, no fee" will be agreed between the Municipality and debt collectors.

7.2.2.3 The Municipality requires regular progress and statistical reports from the debt collectors.

7.2.2.4 Complete records will be kept of all the steps taken to collect arrears, and these records will be available to the Municipality.

7.2.2.5 All the costs of this process are for the consumer and the Municipality shall recover these costs from the debtor through its panel of attorneys.

7.2.2.6 Individual consumer accounts are protected and are not the subject of public information. However, The Municipality may release consumer information to credit bureaus.

7.2.2.7 Customers will be informed of the powers, duties and responsibility to observe agreed codes of conduct of such debt collectors.

7.2.2.8 Any cash or any bank-guaranteed cheque for the full outstanding balance reflected on the accounts will be deemed acceptable payment before a customer's credit motive to be updated on the credit bureau.

7.2.2.9 The total debt that has been handed over to the debt collectors which is 90 days and above will be transferred to a child account while the debt which is not handed over will be kept in the parent account. All amounts which are 90 days and above will be treated separately from the current account up to 60 days.

7.3 Irrecoverable Debt

7.3.1 Criteria for irrecoverable debt

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

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

7.3.1.2 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 endeavours to collect it; or

7.3.1.3 the cost to recover the debt does not warrant further action; or

7.3.1.4 the amount outstanding is the residue after payment of a dividend in the rand from an insolvent estate; or

i. there is a danger of a contribution; or

ii. no dividend will accrue to creditors ;or

7.3.1.5 deceased estate has no liquid assets to cover the outstanding amount following the final distribution of the estate; or

- I. where the estate has not been reported to the Masters office and there are no assets of value to attach;

7.3.1.6 it has been proven that the debt has prescribed; or

7.3.1.7 the debtor is untraceable or cannot be identified so as to proceed with further action; or

- I. the debtor has emigrated leaving no assets of value to cost effectively recover Council's claim; or

7.3.1.8 It is not possible to prove the debt outstanding ;or

7.3.1.9 a court has ruled that the claim is not recoverable; or

7.3.1.10 the outstanding amount is due to an irreconcilable administrative error by the Municipality.

7.3.1.11 Arrears owed by previous Administration, amongst themselves, which now form part of the Lesedi Local Municipality.

7.3.1.12 Expenditure incurred, in respect of internal accounts raised in the name of Lesedi Local Municipality, in any previous year, or

7.3.1.13 Conversion of old dormant/inactive account balances of debtors, inherited from previous municipalities which now form part of the Lesedi Local Municipality, and where reasonable steps have been taken to recover these debts, or

7.3.1.14 All debtors who are registered indigent as more fully set out in the Municipality's Indigent Policy, will have their arrears written off;

7.3.1.15 All arrears may be written off to bad debts where Council expropriate any property

7.3.1.16 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 121 of 1998; or

- i. Where occupiers have been evicted from Council, Provincial or State properties due to criminal activities

7.4 Authorization

7.4.1 As rates are deemed to be recoverable in all instances, all requests to write-off in respect of rates must be presented as individual items to Council.

7.4.2 In respect of other debt, schedule indicating the debtors 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.

7.4.3 Notwithstanding the above, the municipality or its authorised officials will be under no obligation to write-off any debt and will always retain sole discretion to do so.

7.5 Inactive accounts

7.5.1 Outstanding amounts of less than R3 000.00

These debts are written off as bad debt after a final demand has been issued, as the collection cost does not warrant proceeding with further legal action.

7.5.2 Outstanding amount greater than R3 000.00

If older than 90 days, these debts are referred to external debtor collectors for summoning and further legal action if the levy payer has not responded to a final demand for payment.

The collectors will advise the Municipality accordingly should the debt prove impossible to recover and these matters will be referred to Council for write off

7.6 Estate Account Collection

7.6.1 Estate with legal status

The accounts of debtors who are declared insolvent, or are under administration or deceased are dealt with according to normal legal practices by collection staff of the Municipality.

Unsuccessful claim must be submitted to Council for approval to be written off.

7.6.2 Estates without formalised legal status

In cases where the head of a household has died without leaving a will indicating to whom ownership of the family residence is to be transferred upon the event of his or her death OR has abandoned his or her family to fend for themselves. As these exceptions are not provided for in the normal legal practice, the following process will be followed in such cases:

- I. The remaining family must report the situation to the municipality's collection office, who will require the relevant documentation to be obtained by the family, i.e. a death certificate and an order of the local magistrate allocating right of ownership to a member of the surviving family in the case of a deceased estate OR an order of the local magistrate allocating right of ownership to a member of the abandoned family.
- II. In all these cases, extension for the payment of the arrears as at the date of notification will be given by the debt of the municipality. Disconnected electricity will also be reconnected and the remaining family will be expected to pay all amounts levied on monthly current accounts in excess of the amount of the extension until such time as the matter has been finalised. This will prevent any further service restrictions or collection actions at the residence while the family are legalising ownership of the property.
- III. As soon as ownership has been officially allocated by the magistrate, the documents concerned must be presented to the municipality which will then change the name of the account to the new owner. They will also encourage the new owner to make an arrangement for the payment of the arrears to prevent credit control and collection actions by the municipality. Alternatively, if the family qualifies to be registered for assistance in terms of the Municipality Indigent Policy, they can apply for it. After registration, their arrears can be dealt with in terms of the Policy.
- IV. Unsuccessful claims must be submitted to the Municipal Manager for approval to be written off.

7.7 Clearance Certificates

Before any property can be transferred from one owner to another, all outstanding amounts associated with the relevant property are payable, where after the Accounting Officer will issue a certificate to that effect in terms of section 118 (1) of the Systems Act, 2000. No transfer of ownership will be processed at the Deeds Office without such a certificate.

All monies provided for in respect of section 118 of the Systems Act, 2000 that have not become prescribed in terms of the Prescription Act, 1969 will be subject to the

Municipality's hypothec/lien provided for in section 118 (3) of the Systems Act. Notwithstanding payment by the applicant of the outstanding amounts for the preceding two years as provided for in subsection 118, the clearance certificate will be withheld until the applicant or transferring attorney, as the case may be, has provided sufficient security to the Finance Department to the effect that upon day of registration of transfer of the property, the outstanding amount will be paid, provided that in the event of registration of transfer of a property falling within the insolvent estate, such hypothec/lien will be subject to the provisions of section 89 of the Insolvency Act, 1936 (Act 24 of 1936).

Where the applicant or transferring attorney has given security in respect of such hypothec/lien, he or she or it will inform the Finance Department in writing of the following dates:

- I. Date of lodgement at the registrar of deeds
- II. Date on which the set of transfer documents comes for preparation to be transferred
- III. Date of registration after the transfer of the Finance Department by no later than 09:00 of the first following business day of such registration of transfer.

A prescribed clearance certificates issued by a municipality is valid for a period of 120 days (4 months). However if the 4 months period end after the 30th June, the new rate will apply in line with the Tariff Policy.

7.8 Approval of Building Plans

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

7.9 Supplies of Goods and Services to the Municipality

- I. All supplies of goods and services to the Municipality are required to provide proof that all their accounts are paid in full upon application for registration as vendors, as well as every six months thereafter.
- II. Service providers should not be in arrears on their municipal accounts if they are in arrears. The Municipality will set off against invoices received.
- III. In the event of a service provider not being able to remedy the accumulated arrears, the Municipality reserves its rights to terminate the procurement agreement, unless the service provider enters into an arrangement to settle the debt within the term of the contract.

8. Service Recovery

8.1 Disputes

In this item "dispute" refers to the instance when a debtor questions the correctness of any account rendered by the Municipality with the Accounting Officer as per the process contained in sub-item below.

In order for a dispute to be registered with the Municipality, the following procedures must be followed:

8.1.1 By the debtor

- (a) The dispute must be submitted in writing or dictated to the official who will record it in writing and have it signed as correct. The document must then immediately be lodged with the relevant authorised official.
- (b) No dispute will be registered verbally whether in person or over the telephone.
- (c) The debtor must furnish full personal particulars including all their account numbers held with the Municipality, direct contact telephone numbers, fax numbers, postal and e-mail addresses and any other relevant particulars required by the Municipality.
- (d) The full nature of the dispute must be described in the correspondence referred to above.
- (e) The onus will be on the debtor to ensure that he received a written acknowledgement of the dispute.

In the interim while the debtor is awaiting the outcome of the dispute, the debtor must pay the average of the last 3 months of the account every month until the dispute is resolved.

Failure by the debtor to make an interim payment during dispute period as per the above paragraph, the municipality has every right to suspend/limit service/s to the property.

8.1.2 By the Municipality

On receipt of the dispute the following action are to be taken:

- 8.1.2.1 All disputes received are to be recorded in a register kept for that purpose. The following information should be entered into this register:

- i. Debtors account number;
- ii. Debtors name;
- iii. Debtors address;
- iv. Full particulars of the dispute;
- v. Investigation and resolve in accordance with the provisions contained in this policy;
- vi. Actions that have, or were taken to resolve the dispute;
- vii. Signature of the controlling official.

8.1.2.2 An authorised official will keep custody of the register and conduct a daily or weekly check follow-up on all disputes as yet unresolved.

8.1.2.3 A written acknowledgement of receipt of the dispute must be provided to the debtors.

8.1.2.4 The following provisions apply to the consideration of dispute:

- i. All disputes must be concluded by the Accounting Officer.
- ii. The Accounting Officer's decision is final and will result in the immediate implementation of any debt collection and credit control measures. Provided debtor has been provided with the outcome of the appeal.
- iii. The same debt will not again be defined as a dispute in terms of this paragraph and will not be reconsidered as the subject of a dispute.
- iv. Should a debtor not be satisfied with the outcome of the dispute, a debtor may lodge an appeal in terms of section 62 of the Systems Act.

8.2 Arrangements

8.2.1 Principles for Residential Debtors

According to the following instalment plan, arrangements for payment can be entered into between the municipality (Finance Department's Debt Collection and Credit Control Section) and debtors, either to prevent debt collection measures or to normalise service delivery (reconnection) after credit control measures were instituted.

8.2.1.1 Full Settlement of the amount for which action was taken.

8.2.1.2 Partial settlement of preferably 60% of the arrear amount, but less than the sum total of the last month's current levies, and entering into a repayment contract with the municipality for monthly repayment of the balance over a period not exceeding twelve (12) months.

- i. When a debtor enters into a payment arrangement plan with the municipality, an upfront deposit amount will be requested and the amount paid will determine the period of repayment. It is the Accounting Officer's prerogative to decide on the parameters of an arrangement plan with customers.

- ii. All debtors entering into arrangements shall provide proof of income to determine affordability and those with the facility to sign a debit order with their banking institution shall do so.
 - iii. With regards to business accounts and other parastatal accounts, a 60% upfront partial deposit on the capital amount will be requested and limited to a payment period of twelve (12) months.
- 8.2.1.3 The payment period can in cases of special merit be extended beyond twelve (12) months, but not more than 24 months, at the discretion of the Accounting Officer. The extension period must reflect a balance between the municipality's best financial interests as well as the customer's interest.
- 8.2.1.4 The discretion of the Accounting Officer is exercised within the following parameters:
- i. If no partial settlement is possible immediately, it can be extended to the end of that month or included in the monthly repayment contract.
 - ii. Monthly repayment contracts can be made interest free under the following conditions:
 - a. For residential household debtor on a property with a total market value of R150 000 (hundred and fifty thousand Rands) or less.
 - b. If a debtor has never received an account due to an incorrect postal address as a result of an administrative error by the municipality.
 - c. If a financial correction to a residential household account is made for any reason and the debtor requests an arrangement for payment of debit.
 - iii. Extension for normal full payment of a current account which has no arrear balance can be made until the end of a month or next salary payment date of an employed client
- 8.2.1.5 Breaching of repayment contracts is regarded as a violation of this Policy and will lead to renewed disconnection of services as well as legal procedures to collect the arrears.
- 8.2.1.6 In cases of such contract breach, services can only be reconnected and legal procedures put in abeyance after the reinstatement of the contract by payment of all repayment instalments in arrears and the unpaid current account,
- 8.2.1.7 In cases where the reinstatement of a breached contract is not possible, a new repayment contract can be considered due to unforeseen financial and personal circumstances of the debtor. In such cases, the municipality to save on the current levies by either curbing consumption or by requesting some of the services to be discontinued or restricted for an agreed period of time. By so doing, the repayment of

the arrears together with the current account is made more affordable. In cases where the debtor is unable to enter into an arrangement due to affordability thereof, the interest levied and collection costs should be taken into consideration for possible reversal to assist the consumer. The customer can then enter into an arrangement for the lowered debt amount.

8.2.1.8 Agreement with employer

Section 103 of the Municipal Systems Act, 2000 (Act 32 of 2000) reads as follows:

"A Municipality may:

- a) With the consent of a person liable to the municipality for the repayment of rates or other taxes, or fees for the municipality services, enter into an agreement with that person's employer to deduct from 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"

8.2 Settlement Offers

Settlement offers by debtors for full and final payments of arrear amounts can be considered and granted by the Accounting Officer subject to the following conditions:

- i. Not more than the arrear interest levies on the account or a portion thereof can be granted as a credit against such an account if it is in the best financial interest of the municipality.
- ii. Out of court settlement offered by debtors against whom legal action is pending can be considered after consultation with the municipality.

8.3 Indigent Relief Programme

Except for the provisions as contained in the policy, all persons registered as indigent with the municipality will be treated in accordance with such Indigent Management Policy as may be amended by the council from time to time.

8.4 Obligation to pay by an indigent

8.4.1 If a household was approved as an indigent, the credit control and debt collection policy will be applicable on the household if the excess portion is not paid in full.

8.4.2 Indigents will only be recognized as indigents once the application has been approved by council.

8.4.3 Upon clearance application, the debt that was reversed as per the Indigent Management Policy will be re-instated.

9. Reconnection of Services

When services are disconnected or restricted as a result of applying this policy, these services can only be reconnected under the following circumstances:

- 9.1 Water services supply disconnected or restricted for no payment by non-residential debtors can only be normalised after either receiving the amount in arrears or concluding a settlement arrangement for payment of the arrears in terms of this policy.
- 9.2 Water supply restricted for non-payment by residential debtors will be normalised after either full payment of the arrears or upon receipt of an appeal for normalisation due to the arrangement made to pay the arrears. The Accounting Officer will receive each such an appeal and evaluate it against the arrangement default history of the customer before instructing the immediate normalisation of the restricted service.
- 9.3 Water supply to non-residential debtors which has been disconnected due to tampering can only be normalised if the debtor has arranged to pay the arrear account in terms of this policy, has in writing undertaken not to tamper or allow further tampering with the water installation, and has paid the required fee for restoring the service connection.
- 9.4 Electricity supply that has been discontinued /blocked due to non-payment can only be reconnected /unblocked after receipt of the amount in arrears in terms of this policy. The prepayment sales restriction of consumers/debtors with arrangements will be lowered to enable them to afford both the monthly arrangement payment and electricity.

Should the Municipality discover any tampering on a prepayment installation, no unblocking /reconnection will be done unless the account of that consumer/debtor has been arranged and the service installation is certified by the electricity division as being normalised.

- 9.5 Any services which are discontinued as a result of tampering with the Municipality's distribution networks and/or mechanisms will only be reconnected if such a debtor can obtain a court interdict compelling the Municipality to do so.

However if the affected consumer /debtor admits in writing that he or she permitted or committed the tampering ,undertakes to not repeat the action, concludes a settlement arrangement for payment of the arrears in terms of this policy and pays the relevant connection fee for the new service connection, service reconnection can also be made. Such written admission will be kept for further use in case of repeated tampering.

10. Sundry Debtors

- 10.1 If sundry debtors are in arrears, a final demand for payment within 14 days is submitted to them.
- 10.2 If there is no response after the final demand, the matter is handed over to external collection agencies for further collection action.
- 10.3 Where there is a response to make arrangements, a payment based on a percentage of the outstanding debt has to be made as an interest-free arrangement for the balance over a period not exceeding six (6) months, depending on the outstanding amount.
- 10.4 In cases of payment not being received as agreed, the matter is handed over to external collection agencies for further action.
- 10.5 The minimum amount for an account to be handed over to the collection agency is R3 000 (three thousand Rands) for accounts older than 90 days. All accounts of less than R3 000 (three thousands Rands), are written off after all collection efforts other than legal have failed.
- 10.6 An invoice regarding the rental of bulk containers and utilization of landfill will be sent to customers. Collection actions as set out above will also apply to non-payers of these services.

11. Allocation of old Debt

- 11.1 In terms of section 102 (a) of the Systems Act, this municipality deems all separate accounts of a person liable for payment to the municipality, to be consolidated, regardless of the fact that separate accounts for such debtor may be rendered, and includes all prepaid services for which no account is rendered.
- 11.2 All separate debts owed to this municipality by a debtor shall be deemed to be consolidated. Payment of any undisputed debt, will firstly be allocated to the oldest debt first divided equally amongst all amounts outstanding progressing to the latest debt

12. Property Rentals and Sales

12.1 Rentals Accounts

- 12.1.1 If no payment has been received before the end of the month, a reminder for payment is printed on the statement for the following month, indicating that if payment is not received within 14 days, then the municipality will proceed with collection action.
- 12.1.2 Arrangement for payment of arrears by debtors of lease/sales agreement may not exceed 24 months. Tenants may vacate the municipality's premises anytime, therefore arrangement over an extended period increases the risk of not recovering the debt.
- 12.1.3 For all accounts that are more than 60 days in arrears, a payment demand notice is served, advising debtors to either pay or to make the necessary arrangements for payment within 14 days at the municipality.
- 12.1.4 If the debtor does not respond within 14 days, the account is handed over to the appointed debt collector. The debt collector can negotiate affordable arrangement plan for repayment with such debtors. Non-compliance with such arrangements will lead to the eventual eviction of such tenant.
- 12.1.5 Upon making an arrangements with debtors, debtors are informed that the monthly arrangement amount must be paid in addition to the monthly (current) levy.
- 12.1.6 Restriction of services may be applied for arrear rental.

12.2 Sales Accounts

- 12.2.1 Accounts are followed up by the Finance Department with the Legal Services Department in order to establish progress with the finalisation of each agreement of sale between municipality and the buyer, while monthly statement for the balance is send to the debtor. The Finance Department will not certify the transfer of ownership to the purchaser unless the full purchase price has been paid.

13. Fraud, Tempering, Illegal Connection and Other Criminal Activities

- 13.1 Any person who undertakes or allows or causes any other person to undertake an illegal connection will be guilty of an offence.

- 13.2 The municipality will immediately disconnect any illegal connection and remove the wiring, piping or other equipment or installation relating to an illegal connection without prior notice.
- 13.3 The municipality shall not supply water/electricity to a customer who is found guilty of or who has admitted that fraud, theft or any other criminal action involving the use of these services existed until the total costs, penalties (in terms of municipal policies and By-Laws), other fees and tariffs and property rates, if applicable, that are due to the municipality have been paid in full or an acceptable arrangement is made in terms of the court ruling.
- 13.4 All persons working on the municipality supply network or metering devices shall at all times be properly clothed, complying with the requirements of the applicable legislation such as, but not limited to, the Occupational Safety and Health Act, 1993 (Act 85 of 1993), and carrying positive identification and/or permission from the municipality authorising them to execute such work.
- 13.5 Work being conducted in conflict with the provision in the paragraph 13.4 above shall constitute prima facie evidence of tampering and/or other illegal conduct with criminal intent.
- 13.6 Anyone who wilfully or intentionally supplies the municipality with incorrect information shall be guilty of fraud in terms of this Policy and/or the applicable By-Laws of the municipality.
- 13.7 Anyone found to have contravened the above or to have illegally tampered with any of the municipality metering devices or with the supply network shall be guilty of an offence and subject to the maximum penalty as may be provided for in the Criminal Procedures Act, 1997 (Act 51 of 1977), read together with the Magistrate Court Act, 1944 (Act 32 of 1944), as may be amended from time to time.

14. Conflicting Laws

If there is any conflict between a provision in this policy and a provision of any other policy of the Council, the provisions of this policy shall prevail.

15. Review of Policy and Promulgation of By-Laws

Council shall ensure that by-laws are promulgated to give effect to its credit

control and debt collection policy.

Council shall further ensure that this policy is annually reviewed as part of the process of preparing the annual budget, and that any resultant amendments to the policy are consequentially effected in its by-laws.
