

# **INTSIKA LOCAL MUNICIPALITY**



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

**INTSIKA YETHU LOCAL MUNICIPALITY**  
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**A) PREAMBLE**

AND WHEREAS section 153 (a) of the Constitution provides that a municipality must structure its administration, budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community;

AND WHEREAS section 195 (1) of the Constitution provides that the public administration must be governed by the democratic values and principles enshrined in the Constitution, including-

- The promotion of the efficient, economic and effective use of resources;
- The provision of services impartially, fairly, equitably and without bias; and
- The fact that people's needs must be responded to.

AND WHEREAS section 4 (1)(c) of the Local Government: Municipal Systems Act 32 of 2000 provides that the Council of a municipality has the right to finance the affairs of the municipality by charging fees for services, imposing surcharges on fees, rates on property and, to the extent authorised by national legislation, other taxes, levies and duties;

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

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

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

## 1. BACKGROUND

### 1.1 Legal Framework

1.1.1 This policy has been compiled in accordance with the Local Government: Municipal Systems Amendment Act (MSA), 2003, Act No 44 of 2003. Where this policy is contrary to other legislation, such legislation will override this policy. It is an explicit responsibility of the Municipal Manager to bring such conflicts immediately to the attention of the Council once he/ she becomes aware of such conflicts and to propose changes to this Policy to eliminate such conflicts.

### 1.2 Provision of Services

1.2.1 The Municipal Council must give priority to the basic needs of the community, promote the social and economic development of the community and ensure that all residents and communities in the municipality have access to at least the minimum level of basic municipal services in terms of section 152 (1) (b) and 153 (a) of the Constitution.

1.2.2 In terms of the MSA the municipal services provided to residents and communities in the Municipality must:

- be within the municipality's financial and administrative capacity;
- be provided in a manner that –
  - is fair and equitable to all its residents and communities;
  - ensures the highest quality service at the lowest cost and the most economical use and allocation of available resources; and
  - is financially and environmentally sustainable; and
- regularly be reviewed with a view to upgrading, extension and improvement.

1.2.3 According to the MSA the phrase "financial sustainable", in relation to the performance of a municipal service, means the performance of a municipal service in a matter that:

- is likely to ensure that revenues from that service are sufficient to cover the cost of –
  - operating the service; and
  - maintaining, repairing and replacing the physical assets used in the performance of the service;
- is likely to ensure –
  - a reasonable surplus in the case of a service performed by the Municipality itself;
  - a reasonable profit, in the case of a service performed by a service provider, other than the Municipality itself;
- is likely to enable the Municipality or other service provider to obtain sufficient capital requirements for the performance of the service; and
- takes account of the current and anticipated future –
  - level and quality of that service;
  - demand for the service; and
  - ability and willingness of residents to pay for the service.

### **1.3 Credit Control and Debt Collection**

- 1.3.1 The Municipal Council must ensure that all money that is due and payable to the Municipality is collected, subject to the provisions of the MSA.
- 1.3.2 For this purpose the Municipal Council must adopt, maintain and implement a credit control and debt collection policy consistent with its rates and tariff policies and complying with the provisions of the MSA.
- 1.3.3 The credit control and debt collection policy may differentiate between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters as long as the differentiation does not amount to unfair discrimination.
- 1.3.4 The Municipal Council must adopt by-laws to give effect to its credit control and debt collection policy, its implementation and enforcement.

## **2. PURPOSE OF THE POLICY**

- 2.1 The purpose of this policy is to ensure that credit control forms part of the financial management system of the INTSIKA YETHU Municipality and to ensure that the same procedure be followed for each individual case.

## **3. RESPONSIBILITY FOR CREDIT CONTROL**

### **3.1 Supervisory Authority**

3.1.1 In terms of the MSA the Municipality's Executive Committee must:

- Oversee and monitor:
  - the implementation and enforcement of the Municipality's credit control and debt collection policy and any by-laws enacted; and
  - the performance of the Municipal Manager in implementing the policy and any by-laws.
- 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.

### **3.2 Implementing Authority**

3.2.1 In terms of the MSA 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.

### **3.3 Unsatisfactory Levels of Indebtedness**

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

3.3.1 If the level of indebtedness in a particular ward or part of the Municipality exceeds the level of the acceptable norm as determined in the Municipality's budget guidelines, the supervisory authority (Executive Committee) must, without delay, advise the Councillor for that ward or part.

3.3.2 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 Service Agreement**

4.1.1 The owner of the property or premises must enter into the Service Agreement with the Council. Accounts will only be opened in the name of the owner.

4.1.2 The owner must inform the Council of the vacation of the property or premises or termination of services on or before the date of vacation or termination of services by submitting to the Council a Notice of Vacation of Occupation.

4.1.6 Should the owner fail to submit a Notice of Vacation of Occupation in terms of par 4.1.3 above, the owner will be liable for the payment of the full of the municipal account.

4.1.7 Should the owner be represented by an agent or other representative, such agent or representative must submit a power of attorney authorising such agency or representation in a form and contents to the satisfaction of the Chief Financial Officer.

## **4.2 Liability for Payment**

4.2.1 The owner will be liable for payment of the municipal account, no account will be in the name of the occupier.

4.2.5 Nothing contained in this policy will prohibit the Council to collect payment of any amount from the owner or any other person, in terms of applicable legislation.

4.2.6 The Chief Financial Officer may consolidate separate municipal accounts, or portions thereof, of persons liable for payment to the Council.

4.2.7 An increase in a consumer deposit in terms of par 4.4.3 and 4.4.6 below, becomes payable within twenty one (21) days from the date on which the consumer is thereof or should the consumer appeal against such increase, then within twenty one (21) days from the date on which the consumer is informed of the decision of the Municipal Manager, if the appeal is not upheld.

4.2.8 A copy of the South Africa identity document, marriage certificate, must be submitted with the Service Agreement.

## **4.3 Juristic Person**

4.3.1 Should the owner be a juristic person, the following will apply:

- (a) If the owner is a Company registered in term of the Companies Act, 1973, Act no 61 of 1973, the Directors of such Company shall agree to be jointly and severally liable for payment in terms of the Service Agreement, if the Company fails to make such payment.
- (b) If the owner is a Closed Corporation registered in terms of the Closed Corporations Act, 1984, Act no 69 of 1984, the Members shall agree to be jointly and severally liable for payment in terms of the Service Agreement, if the Closed Corporation fails to make such payment.
- (c) If the owner is an Association with legal persona, the Members of the Association shall agree to be jointly and severally liable for payment in terms of the Service Agreement, if the Association fails to make such payment.

4.3.2 Any Service Agreement signed by a person on behalf of a legal person in par 4.3.1 above must be accompanied by a resolution authorising such person to sign on behalf of the legal person.

#### **4.4 Control over Deposits of Security**

- 4.4.1 The deposit to be paid must be an amount not less than a sum equal to one month's service levies or a minimum amount determined by Council from time to time.
- 4.4.2 The Chief Financial Officer may before entering into a Service Agreement with a customer, or at any time thereafter, if deemed necessary, make such credit rating enquiries with other municipalities and/ or a credit bureau.
- 4.4.3 Should the Chief Financial Officer determine that the customer poses a payment risk to the Council, the Chief Financial Officer may determine a consumer deposit reflecting such payment risk.
- 4.4.4 Should the customer wish to appeal against a decision of the Chief Financial Officer in terms of par 4.3.3 above, the customer may submit an appeal and reasons in writing to the Municipal Manager, within twenty one (21) days from the date on which the customer is notified of the determination of the Chief Financial Officer meant in par 4.3.3 above.
- 4.4.5 The Municipal Manager must consider the appeal within six weeks from the date of the appeal and must notify the customer of his/ her decision within a reasonable time thereafter.
- 4.4.6 After the disconnection of services by the Municipality, an increased deposit of a sum equal to two month's service levies may automatically be required in addition to a reconnection fee.
- 4.4.7 Where the services are not readily available and the Municipality must incur additional costs to provide such services, the Municipality may require bank guarantees for the provision of municipal services.
- 4.4.8 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) to be refunded without interest to the customer.

#### **4.5 Rendering of Accounts**

- 4.5.1 Although the Municipality must render an account for the amount due by a debtor, failure thereof shall not relieve a debtor of the obligation to pay the amount.
- 4.5.2 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 allowed for the payment of services and rates.

- The land and address in respect of which the payment is required.
- Any discount for early or prompt payment (if applicable).

4.5.3 The Municipal Account shall reflect amounts due but not limited to that for the following:

- (i) Rental
  - (ii) Refuse removal.
  - (iii) Property rates.
  - (iv) Other charges, levies and taxes.
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- (i) Any arrear amount due.
  - (ii) Interest on arrear amounts.
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- (i) The total amount payable.
  - (ii) The date on or before which payment must be made.

#### **4.6 Dishonoured Payments**

4.6.1 Where the bank later dishonours any payments made to the Municipality, the Municipality may levy such costs and administration fees against an account of the defaulting debtor in terms of the Municipality's tariff provisions.

4.6.2 Any dishonoured payment in par 4.7.1 above due to insufficient funds with the financial institution on which it is drawn, will be sufficient grounds for a review of the credit rating of the customer in terms of par 4.4.2 and 4.4.3 above.

4.6.3 The Chief Financial Officer may determine not to accept a cheque or other negotiable instrument as payment from a customer, other than a cheque or negotiable instrument on which payment is guaranteed by the financial institution on which it is drawn, should a payment or previous payment by the customer has been dishonoured as meant in par 4.7.1 above.

## **4.7 Legal Fees**

- 4.7.1 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.
- 4.7.2 The Council may levy and recover such collection charges not included in par 4.8.1 above.

## **4.8 Interest Charges**

- 4.8.1 Only accounts which are in arrear for a period of 60 days and above will be charged interest at the rate of 16.5% p.a.
- 4.8.2 Interest will be charged on simple interest rate.

## **4.9 Payment of Accounts**

- 4.9.1 The Municipality may:
- Consolidate any separate accounts of persons liable for payments to the Municipality,
  - 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.
- 4.9.2 When payment is received from a debtor, the principle of oldest debt first will be followed and consumer accounts credited as such. Credits will be allocated as follow:
- Interest.
  - Arrears.
  - Assessment Rates (current account).
  - Refuse (current account).
  - Sundry (VAT) (current account).

#### **4.10 Disputes and Payments during Disputes**

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

#### **4.11 Full and Final Settlement of an Amount**

- 4.11.1 The Chief Financial Officer shall be at liberty to appropriate monies received in respect of any of its municipal services it deems fit.
- 4.11.2 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.
- 4.11.3 The provisions above shall prevail notwithstanding the fact that such lesser payment was tendered and/or accepted in full settlement.
- 4.11.4 The Chief Financial Officer and/or his/her delegate shall consent to the acceptance of such a lesser amount in writing.

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

- 4.12.1 The main aim of an agreement will be to promote full payment of the current account and to address the arrears on a consistent basis. A debtor may enter into a written agreement with the Municipality to repay any outstanding and due amount to the Municipality under the following conditions:
- The outstanding balance, costs and any interest thereon shall be paid in regular and consecutive monthly instalments;
  - The current monthly amount must be paid in full; and
  - The written agreement has to be signed on behalf of the Municipality by a duly authorised officer.
- 4.12.2 In order to determine monthly instalments, a comprehensive statement of assets and liabilities of the debtor must be compiled by a treasury official. To ensure the continuous payment of such arrangement the amount determined must be affordable to the consumer, taking into account that payment of the monthly current account is a prerequisite for concluding an arrangement.

### **4.13 Interest on Arrears**

4.13.1 One of the key objectives of debt collection is to encourage debtors to start paying their monthly accounts in full. In addition it is also necessary to ensure that arrear debt is addressed. The current average balances on consumer accounts necessitates that innovative ideas be implemented to encourage consumers to pay off their arrears. At the same time it is also of utmost importance that regular payers not be discouraged through the implementation of any possible incentives.

4.13.2 Implementation of the following principles will enhance the success of debt collection to a great extent:

- Levying of interest on arrear accounts should be immediately suspended upon completion of a debt agreement. This will allow debtors to see progress on their accounts, as continued payments will reflect a decrease on the balance.
- As long as the agreement is honoured no further interest will be added. However, in case of defaulting the suspended amount will be reversed and interest will again be levied from date of default.
- Where arrangements are made to pay off the arrear amounts in instalments, such instalments should be determined on the outstanding amount including the interest.
- Where debtors fail to honour their arrangements without prior consultation, only

## **5. PERSONNEL AND FINANCIAL IMPLICATIONS**

5.1 Where a credit control and debt collection function does not exist, this implies that a dedicated structure be established with a credit control officer in charge. In view of the fact that credit control and debt collection must always be able to operate in isolation to any customer management service, it is imperative that staff establishment for this function be implemented.

5.2 The establishment of a credit control and debt collection division will have to be financed from the operating budget, which will have an incremental impact on the budget. However, this will be offset by improved cash inflow as a result of an efficient collection system.

## **6. AGENTS, ATTORNEYS AND OTHER COLLECTION AGENTS**

6.1 All external agents acting on behalf of the Municipality are to be named, together with their details and contact information. Likewise, all agents are to be supplied with a copy of the credit control measures.

6.2 Clear instructions to agents and other arrangements must be explained for the customers' benefit. Under no circumstances may agents negotiate terms, extend payment periods or accept cash on behalf of municipality, unless specifically instructed in writing to do so. The agent on request by consumers must produce this instruction.

6.3 The costs to the Municipality and to the debtor must be detailed for each stage of the credit control measures and for all possible actions. The liability for the costs of legal action and other credit control actions must as far as is legally possible be for the account of the debtor

## **7. CREDIT CONTROL POLICY TO BE APPLIED FOR INDIGENT HOUSEHOLDS**

### **7.1 Introduction**

7.1.1 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.

7.1.2 Provided that grants are received and funds are available, the indigent subsidy policy should remain intact.

7.1.3 To achieve the purpose it is important to set a fair threshold level, and then to provide a fair subsidy of tariffs. The consumer, in order to qualify for indigence, needs to complete the necessary documentation as required.

### **7.2 Aims of the Policy**

7.2.1 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;
- To establish an indigence directory of all persons who comply with the policy.

### **7.3 Obligation to Pay**

7.3.1 It is important to note that the subsidy received may not cover the full account. In such event the consumer is still responsible for the balance between the full account and the subsidy received. Where applicable, credit control must still be applied for these outstanding amounts.

## **8. IMPLEMENTATION AND REVIEW OF THIS POLICY**

8.1 This policy shall be implemented once approved by Council. All future credit control and debt collection measures must be taken in accordance with this policy.

8.2 In terms of section 17(1) (e) of the MFMA this policy must be reviewed on annual basis and the reviewed policy tabled to Council for approval as part of the budget process.

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**CREDIT CONTROL AND DEBT COLLECTION REGULATIONS FOR ASSESSMENT RATES, REFUSE, AND SUNDRY DEBTORS.**

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

1. Accounts must be posted or delivered where accounts are in arrear for 60 days (2 months) or more. The 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 handing over the account for legal.

2. Account over 90 days and no regular payment is made 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.

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CLLR K. MDLELENI

