



EMAKHAZENI LOCAL MUNICIPALITY

CREDIT CONTROL AND DEBT COLLECTION POLICY

APPROVED BY COUNCIL ON:

IMPLEMENTATION DATE:

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1 Introduction

1.1 Vision and value statement

It is the vision of Council to “create a secure environmental and sustainable development to promote service excellence and unity”. Council is committed to its mission of creating conducive institutional environment within which communities can thrive economically and socially.

The Values of the Council are:

Transparency
High Quality Service Delivery
Accountability
Serving Communities with Integrity
Efficiency
Professionalism

1.2 Vision

A secure environment with sustainable development to promote service excellence, unity and community participation resulting in a caring society”.

1.3 Mission

. ELM is a category B municipality and a tourist destination within the Nkangala District

Existing to provide sustainable basic municipal services to the local community and the visitors

Creating a conducive environment for socio-economic development

And promoting democracy, accountability and public participation in our affairs

2 Definitions

Definitions:

“**billing**” refers to the process of charging for services provided by issuing accounts;

“**chief financial officer**” means a person designated in terms of section 80(2)(a) of the Municipal Finance Management Act;

“**credit control**” refers to the performance of certain basic credit worthiness checks prior to a municipal service being provided and deposits collected;

“**debt collection**” means the pursuing of uncollected debts that are past the due date;

“**disconnection**” means interrupting the supply of water or electricity to a debtor as a consequence of ignoring the demand for payment;

“**dispute**” refers to the instance when a debtor questions the correctness of any account rendered by Council to him/her and such debtor lodges an appeal with Council;

“**due date**” means the final date of payment as shown on the account;

“**effective disconnection**” means the physical removal of pipes and/or equipment as a consequence of unauthorized reconnection of the disconnected service;

“**financial year**” means the municipality’s financial year ending 30 June;

“**holistic**” refers to the combining of all debt in order to establish the total obligation the debtor has to Council;

“**indigents**” are debtors whose households have been evaluated in terms of the Indigent Policy and who is registered as being indigent;

“**indigent amount**” refers to the applicable value of the indigent subsidy as determined by the Council from time to time;

“**legal process or procedures and/or legal action**” refers to the process and/or action described in the Magistrate Courts Act No. 32 of 1944; Supreme Court Act No. 59 of 1959; Adjustment of Fines Act No. 101 of 1991; Debt Collectors Act No. 114 of 1998, Criminal Procedures Act No. 51 of 1977; Local Government: Cross-Boundary Municipalities Act No. 29 of 2000, Local Government: Municipal Structures Amendment Act No. 33 of 2000; Local Government: Municipal Systems Act No. 32 of 2000;

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“**mayor**” means the councilor elected as the executive mayor of the municipality in terms of section 55 of the Municipal Structures Act; ;

“**the municipality**” means Emakhazeni Local Municipality;

“**municipal manager**” means a person appointed in terms of section 82(1)(a) or (b) of the Municipal Structures Act;

“**payment**” is any form of redemption towards the balance on an account whether by cash cheque or electronic means;

“**sundry debt**” refers to any debt other than for rates, housing, metered services, sewerage and refuse removal;

“**supply**” means any metered supply of water or electricity;

“**tampering**” means the unauthorized reconnection of a supply that has been disconnected for non-payment, the interference with the supply mains or bypassing of the metering equipment to obtain an unmetered service; and

“**total household income or household income**” refers to the total formal and informal gross income of all people living permanently or temporarily on the property on which the account is based.

3 Objectives

The objectives of this policy are to:

- 3.1 provide a framework for the municipality with regard to credit control and debt collection; and
- 3.2 ensure that all the moneys due to the municipality are effectively and efficiently collected;

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4 Scope of Application

This Policy applies to all administrations within the defined boundaries of Emakhazeni Local Municipality and all debtors of these administrations, including employees and Council members of the Municipality.

5 Legislative Framework

The policy has been formulated in terms of section 96(b) of the Local Government: Municipal Systems Act.

6 Principles

- 6.1 Human dignity must be upheld at all times.
- 6.2 The policy must be implemented with equity, fairness and consistency.
- 6.3 Details related to the debt and the account of the debtor must be **correct at all times**.
- 6.4 Debts and arrangements to repay debts must be treated holistically, but different repayment periods or methods may be determined for different types of service, debtors or arrears within the general rule that the repayment period should be in sympathy with the instalments that the debtor can afford.
- 6.5 The implementation of this policy should be based on sound business practices. This includes credit worthiness checks when application for services is made, as well as debt collection through sanctions of warnings, disconnections, evictions and other legal processes.
- 6.6 New services will only be provided if a clearance certificate has been issued indicating that all amounts due in respect of municipal services, surcharge on fees, property rates and other municipal taxes, levies and duties at the customer's previous address have been **paid in full**.
- 6.7 Before any property can be transferred from one owner to another, **all arrears are payable**, where after the Municipality issues a certificate to that effect. No transfer can take place without such a certificate.

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- 6.8 New applications for services will be subject to prescribed credit information and outstanding amounts may be transferred to the new account.
- 6.9 Council may provide reduced levels of service to manage the debt growth where alternatives are available.
- 6.10 Debtors may be referred to 3rd party debt collection agencies and may be placed on the National Credit Rating list.
- 6.11 All recoverable costs incurred by Council relating to the collection process shall be recovered from the debtor.
- 6.12 Interest charges on overdue accounts will be levied from the due date if not paid by the following due date and will be calculated for a full month(s) irrespective of when payment is made.
- 6.13 Full and Final settlement payments
- a) Any part payment of an account in full and final settlement can only be tendered to the Accounting Officer.
 - b) Should such a payment not be tendered in accordance with paragraph (a) above and:
 - ◆ such payment being cash or postal orders, the payment will be returned to the payer; or
 - ◆ such payment be in the form of a cheque, the cheque will be returned to the drawer; or
 - ◆ such payment be in the form of a cheque, credit card or electronic payment and deposited, the amount of such payment will be returned to the drawer thereof.
 - c) Should such a payment not be tendered in accordance with paragraph (a) above, the account will be adjusted accordingly and debt management actions in terms of this policy will commence or continue as if no payment had been tendered.
- 6.14 Employer deductions
- a) The Council may enter in to an agreement with employers whose employees are in arrears with their municipal accounts to deduct an agreed amount from their employees' weekly or monthly wages or salary to pay towards the arrears.

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- b) The relevant employees must consent to the deduction in writing and that there is no existing legislation precluding same.

7 Credit Control

- 7.1 All new applications to provide a service must be subject to the payment of a deposit based on the applicant's municipal payment history with a minimum deposit as per the tariff.
- 7.2 The applicant shall be interviewed by an official who must carry out a full credit check and all municipal debt owed by the applicant should be determined. This will require the provision of an Identify Document, binding lease agreement, title deed and other supporting document as required by Council from time to time.
- 7.3 Applicants should give consent to being subjected to credit vetting and/or credit bureau listing.
- 7.4 Application for services for businesses must include the submission of a resolution delegating authority to the applicant and furnishing the business entity's registration number. The names, addresses and all relevant contact particulars of all the entity's directors or members or trustees or proprietors or partners must be submitted with the resolution.
- 7.5 Only owner's accounts will be opened for residential properties
- 7.6 Existing tenant accounts will be phased out once the tenant vacates the property and only the owner's account will be activated

8 Debt Management

8.1 Discretion: Negotiable amounts

- a) Discretion in terms of negotiable amounts as per this policy is delegated to the Accounting Officer.
- b) Discretion will only be used so as to apply the principles embodied within this policy and to ensure that some form of payment acceptable to Council is forthcoming from negotiations with the debtor.

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8.2 Rates

8.2.1 Annual rates

- a) Interest will be charged on all overdue accounts above R5000.00 at 1% above the prime overdraft rate of the Municipality's bankers.
- b) If the account is not paid by the due date as displayed on the account, a Notice shall be issued showing the total amount owed to Council.
- c) If the account is not settled or there is no response from the debtor to make acceptable arrangements to repay the debt, summons shall be issued and the legal process followed.

8.2.2 Monthly Rates

- a) Interest will be charged on all overdue accounts above R5000.00 at 1% above the prime overdraft rate of the Municipality's bankers.
- b) Debtors can make application to the Council to pay current and future rates monthly, the approval of which is at the sole discretion of the Accounting Officer.
- c) The monthly amount payable for current annual rates will be calculated to allow the total balance of such amount to be paid in equal instalments by the end of that financial year.
- d) Should the debtors' rates arrears equal the amount of any three monthly instalments or more, the full balance of the annual rates will become due and payable and the account status will be converted from monthly to annual.

8.3 Services and Electricity

- a) Accounts must be paid by the due date as shown on the account.
- b) Interest will be charged on all overdue accounts above R5000.00 at 1% above the prime overdraft rate of the Municipality's bankers.
- c) The debtor must be warned on the monthly account of possible disconnection if payment is not received by the due date.

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- d) If payment is not received by the due date, a hand-delivered Notice shall be delivered to the physical supply address warning of an impending disconnection after 7 days from the date reflected on the Notice.
- e) If payment is not received by the due date as shown on the Notice, the supply will be disconnected.
- f) A notice shall be left at the property advising that the supply has been disconnected with a warning that all electric points should be considered live and that all water outlets should be closed.
- g) The above notice must also advise that the supply will only be reconnected after the total balance of the amount specified on the notice, including the reconnection fee, has been paid or an arrangement acceptable to Council has been made.
- h) The said notices must also warn of the consequences of unauthorised reconnection.
- i) Debtors should be required to pay all penalties and arrears in full before the supply is restored.
- j) Disconnected services will be restored within a reasonable period of time after the debtor produces proof of payment of the required amount.
- k) The onus shall always be on the debtor to request reconnection and to provide proof that the full amount on the disconnection notice was paid or that an arrangement was entered into.

8.4 Right of Access

- a) An authorised representative of, or service provider to Council, must at all reasonable hours be given unrestricted access to the debtor's premises in order to read, inspect, install or repair any meter, service or service connection for reticulation, or to disconnect, reconnect, stop or restrict the provision of any service.
- b) Any person who contravenes paragraph (a) above will be deemed to have contravened the provisions of Section 101 of the Municipal Systems Act, No. 32 of 2000, as amended, and will be charged with an offence and attract the penalties referred to in Section 119 of the said Act.

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8.5 Other debt

8.5.1 Dishonoured payments

a) Rates and general services

If the drawer of the cheque, or the customer who received value from the depositing of the cheque, is an existing debtor of Council, the reversal and penalty fee may be debited to an account of the drawer or beneficiary and a letter of notification must be sent to the debtor. Such fee shall be deemed to be a tariff charge and shall be recovered from the debtor.

Council reserves the right to refuse to accept further cheques from the drawer or beneficiary, to place the matter on the National Adverse credit listing and also institute legal action which may include criminal charges against the offender.

b) Miscellaneous services

- ◆ If the drawer of the cheque is not an existing debtor of Council, then a sundry debtor account is created and the debtor and penalty is raised. Once the account is submitted and the debtor fails to honour the cheque and pay the penalty within 14 days of receipt, a final demand is submitted. If there is still no response, the matter shall be handed over for placement on the National Adverse credit listing and/or institute legal action that may include criminal charges against the offender.
- ◆ If the drawer of the cheque, or the customer who received value from the depositing of the cheque, is an existing debtor of Council, the reversal and penalty fee may be debited to an account of the drawer or beneficiary and a letter of notification must be sent to the debtor. Such fee shall be deemed to be a tariff charge and shall be recovered from the debtor.

c) Motor Vehicle Licensing and payment of fines

Unpaid cheques shall be forwarded to the Community Service Department for further action.

d) Property management leases

The responsible person at the Technical Service Department shall pursue the debtor in accordance with the terms of the specific lease contract, until all avenues are exhausted.

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8.5.2 Employee debt

a) Definition

Employee debts include any debt owed to the Municipality by *an official or former official* which originated while the debtor was/is in the employ of the Municipality, and any other debt classified as such by the Chief Financial Officer.

b) Service charges

A staff member of a 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 member's salary after this period.

c) Management of employee debt

- ◆ A debt account must be opened on the approved financial system when a debt has not been settled within 30 days of notification of such debt to the debtor.
- ◆ It is the responsibility of officials entrusted with the collection of debt to take all possible steps to recover the debt by:
 - i) Notifying the debtor of the amount payable;
 - ii) Sending of monthly statements; and
 - iii) Sending of reminders for payments outstanding/overdue.
- ◆ If no response is received the following steps must be taken:
 - i) A reminder must be sent per registered mail and the registered mail number must be noted on the file copy of the letter;
 - ii) if no response is received on the reminder sent by registered mail legal steps must be taken to recover the debt; and
- ◆ Should registered mail be returned undelivered the institutions referred to in paragraph (d) must be approached to obtain the debtor's current address.

d) Tracing of employee debtors

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- ◆ The following institutions/persons, although not the only, can be approached in an endeavour to obtain a debtor's current address.
 - i) Other Municipalities
 - ii) Post Offices
 - iii) The Department of Home Affairs
 - iv) Relatives

- ◆ If enquiries to at least 2 or more of the above-mentioned institutions are unsuccessful such debt may be referred to 3rd party debt collectors for recovery.

8.6 Arrangements

8.6.1 Principles for Residential Debtors

- a) Certain categories of debt may be subject to category specific repayment parameters.
- b) Current charges must be paid in full and is not negotiable.
- c) For prepaid electricity once a customer has been block for non payment, an amount equals to 50% of the total outstanding amount will be required before the unblocking of electricity
- d) The debtor may be required to prove levels of income and must agree to a monthly payment towards arrears based on his/her ability to pay or based on his/her total liquidity.
- e) All negotiations with the debtor should strive to result in an agreement that is sustainable and is most beneficial to Council.
- f) Interest will be charged on all overdue accounts above R5000.00 at 1% above the prime overdraft rate of the Municipality's bankers.
- g) Interest on arrears in respect of all services and rates may be frozen whilst the debtor adheres to the conditions of the arrangement.
- h) Debtors who default on three occasions in respect of arrangements made will be denied the privilege of making further arrangements and the full amount becomes payable. All services may be disconnected and legal action will be

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taken against such debtors and such debt may be referred to 3rd party debt collectors for recovery.

8.6.2 Arrangement criteria for Residential Debtors

- a) All debtors who are in arrears and apply to make arrangements to reschedule their debt will be subject to the following payment requirements at the time of making the arrangement:
 - ◆ Current account, and
 - ◆ An agreed payment towards arrears
- b) Each following month the debtor will be required to pay:
 - ◆ Current account, and
 - ◆ An instalment as agreed upon
- c) Should the debtor not honour the above arrangements, payments will be as follows:
 - ◆ First default : Current account + the monthly payment as determined increased by 50% of that payment
 - ◆ Second default : Current account + double the monthly payment as determined
 - ◆ Third default : Current account + full arrears

Failure to respond to notices will result in normal credit control procedures and/or legal processes being followed.

8.6.3 Principles for Non-residential debtors

- a) Non-residential debtors may make arrangements to liquidate their arrears where it would be financially beneficial to the Council for them to do so.
- b) The final decision to make these arrangements will rest with the Accounting Officer.

8.6.4 Arrangement criteria for Non-residential Debtors

- a) If any non-residential debtor wishes to make an arrangement for a period of not longer than six months, and will pay the first instalment immediately, interest on the arrangement amount may be suspended as long as the terms of the arrangement are maintained.

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8.7 Dispute

8.7.1 Procedure to be followed

The following procedures must be followed in terms of a dispute:

Debtor	Council
<ol style="list-style-type: none"> 1. The debtor must render the dispute in writing to Council. 2. The dispute must actually be received by Council. 3. No dispute will be registered verbally. 4. The debtor must furnish his/her full personal particulars (including his/her account number and direct contact details). 5. The full nature of the dispute must be described in the above correspondence. 6. The onus will be on the debtor to ensure that he/she receives a written acknowledgement of the dispute. 	<p>On receipt of the dispute, the following action are to be taken:</p> <ol style="list-style-type: none"> 1. All Administrations must keep a register in which all disputes received are to be entered. 2. The following information should be reflected in the register: <ul style="list-style-type: none"> ◆ Debtor's account number ◆ Debtor's name ◆ Debtor's address ◆ Full particulars of the dispute ◆ Name of the official to whom the dispute is given to investigate and resolve ◆ Actions that have/were taken to resolve the dispute ◆ Signature of the controlling official 3. An authorised controlling official will keep custody of the register and conduct a weekly check and follow-up on unresolved disputes. 4. A written acknowledgement of receipt of the dispute must be provided to the debtor. 5. All appeals regarding disputed amounts must be unilaterally concluded by Council's authorised officials within 14 calendar days from receipt thereof.

- a) Council's authorised official's decision is final and will result in the immediate implementation of any debt collection and credit control measures provided for in this policy after the debtor has been notified of the outcome of the appeal.
- b) The same dispute will not be considered and will not again be defined as a dispute.
- c) If the debtor is not satisfied with the outcome of the appeal, he/she may under protest pay the amount in dispute and redress his/her action to a court of law.

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8.8 Irrecoverable debt

a) Debt will be regarded as irrecoverable if:

- ◆ All reasonable steps have been taken to recover a specific outstanding amount; or
- ◆ if the amount to be recovered is too small to warrant further endeavours to collect it; or
- ◆ the cost to recover the debt does not warrant further action; or
- ◆ the amount outstanding is the residue after payment of a dividend in the rand from an insolvent estate; or
- ◆ a deceased estate has no liquid assets to cover the outstanding amount; or
- ◆ it has been proven that the debt has prescribed; or
- ◆ the debtor is untraceable; or
- ◆ the debtor cannot be identified so as to proceed with further action; or
- ◆ it is impossible to prove the debt outstanding; or
- ◆ the outstanding amount is due to an administrative error by the Municipality.

b) Authorisation

- ◆ All requests to write-off debt in respect of rates must be presented as individual items to the responsible officials.
- ◆ Schedules indicating the following must be compiled:
 - i) Debtor account number
 - ii) Debtor's name
 - iii) Physical address in respect of which the debt was raised
 - iv) Address
 - v) Amount per account category
 - vi) Reason to write off the amount
- ◆ The above schedules with an item requesting authorisation to write off the indicated debt must be submitted to:

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Responsibility	Amount
Chief Financial Officer	Debt less than R1 000 per debtor
Accounting Officer	Debt over R1 000 but less than R10 000 per debtor
Council	Debt over R10 000 per debtor

- c) Council or its authorised officials will be under no obligation to write off any debt and will always have the sole discretion to do so.

9 Unauthorised connection of water/electricity supply

9.1 Principles

- a) Council is unlawfully and unfairly deprived of its benefits and income due to illegal connections by consumers.
- b) The unauthorised reconnection of, or tampering with, a service supply is considered a criminal offence which may result in legal action being taken.

9.2 Inspection

- a) Council will from time to time send a team of employees to inspect illegal connections.
- b) Council shall issue a notice to the consumer to be available on a day specified by Council.
- c) If the consumer fails to adhere, the water/electricity supply will be effectively disconnected.
- d) Council shall incur no liability for any loss sustained as a result of these processes or termination.
- e) The inspection will and is not limited to or confined to Council trading hours or working days.
- f) Council shall have an unlimited right of access to premises in which such services are rendered.

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9.3 Fine / penalty

Council shall within 7 working days of removal or disconnections issue a fine.

The following punishment will be handed down:

- b) First time illegal connectors:
Meter will be removed and a fine of R12 122.16 will be payable.
- c) Second time illegal connectors:
Meter will be removed and a fine of R24 244.32 will be payable.

10 Roles and Responsibilities

10.1 Mayor

A municipality's mayor shall—

- a) oversee and monitor—
 - (i) the implementation and enforcement of the municipality's credit control and debt collection policy and any by-laws enacted; and
 - (ii) the performance of the Accounting Officer in implementing the policy and any by-laws;
- b) when necessary, evaluate or review the policy and any by-laws, or the implementation of the policy and any such by-laws, in order to improve efficiency of its credit control and debt collection mechanisms, processes and procedures; and
- c) at such intervals as may be determined by the council report to a meeting of the council, except when the council itself performs the duties mentioned in paragraphs (a) and (b).

10.2 Accounting Officer

The Accounting Officer shall—

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

The accounting officer of a municipality shall be responsible for the management of the revenue of the municipality.

The accounting officer shall take all reasonable steps to ensure-

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- a) that the municipality has effective revenue collection systems consistent with section 95 of the Municipal Systems Act and the municipality's credit control and debt collection policy;
- b) that revenue due to the municipality is calculated on a monthly basis;
- c) that accounts for municipal tax and charges for municipal services are prepared on a monthly basis, or less often as may be prescribed where monthly accounts are uneconomical;
- d) that all money received is promptly deposited in accordance with the Municipal Finance Management Act into the municipality's primary and other bank accounts;
- e) **that the municipality has and maintains a management, accounting and information system which-**
 - (i) recognises revenue when it is earned;
 - (ii) accounts for debtors; and
 - (iii) accounts for receipts of revenue;
- f) that the municipality has and maintains a system of internal control in respect of debtors and revenue, as may be prescribed;
- g) that the municipality charges interest on arrears, except where the council has granted exemptions in accordance with its budget-related policies and within a prescribed framework: and
- h) that all revenue received by the municipality, including revenue received by any collecting agent on its behalf, is reconciled at least on a weekly basis.

The accounting officer shall immediately inform the National Treasury of any payments due by an organ of state to the municipality in respect of municipal tax or for municipal services, if such payments are regularly in arrears for periods of more than 30 days.

10.3 Senior managers

Each senior manager of a municipality and each official of a municipality exercising financial management responsibilities shall take all reasonable steps within their respective areas of responsibility to ensure that all revenue due to the municipality is collected.

11 Monitoring, Evaluation and Reporting

The accounting officer of a municipality shall by no later than 10 working days after the end of each month submit to the mayor of the municipality and the relevant provincial treasury a statement in the prescribed format on the state of the municipality's budget reflecting the actual revenue, per revenue source following particulars for that month and for the financial year up to the end of that month.

The accounting officer should furthermore include an explanation of:

- a) any material variances from the municipality's projected revenue by source, and from the municipality's expenditure projections per vote;
- b) any material variances from the service delivery and budget implementation plan; and
- c) any remedial or corrective steps taken or to be taken to ensure that projected revenue and expenditure remain within the municipality's approved budget.

The above statement must include a projection of the relevant municipality's revenue and expenditure for the rest of the financial year.

12 Implementation

This Credit Control and Debt Collection Policy will be implemented and adopted after approval thereof by the Council.