

MSUNDUZI MUNICIPALITY

CREDIT CONTROL AND DEBT COLLECTION BY-LAWS

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1. Definitions.—

In these By-laws, unless the context indicates otherwise, the word or expression has the following meaning:

- 1.1. **“Accounting Officer”** means the Municipal Manager appointed in terms of section 82 (1) (a) or (b) of the Municipal Structures Act, 1998 (Act No. 117 of 1998); of the Msunduzi Municipality.
- 1.2. **“Account Holder”** includes a customer/consumer and refers to any occupier of any premises to which Council has agreed to supply or is actually supplying services, or if there is no occupier, then the owner of the premises and includes any debtor of the municipality.
- 1.3. **“Actual consumption”** means the measured consumption of a consumer of a municipal service during a specified period.
- 1.4. **“Advance Warning”** means a warning communicated by the consumer to the Chief Financial Officer in the form of an e-mail, fax or telephone call and advising the Chief Financial Officer of the consumers inability to provide a reading at least ten (10) working days before the seventh (7) day of the month following the most recent month during which services were rendered to the consumer, provided that the Chief Financial Officer may, on written motivation by the consumer exempt the consumer from failing to give such advance warning where the consumer submits evidence of exceptional circumstances that prevented the consumer from having communicated such advance warning timeously to the Chief Financial Officer.
- 1.5. **“Arrangements”** means a formal written agreement entered into between the Council and a debtor where specific repayment parameters are agreed to.
- 1.6. **“Arrears”** means any amount due, owing and payable by a customer in respect of a municipal account not paid on the due date.
- 1.7. **“Average consumption”** means the deemed consumption of a customer of a municipal service during a specific period, which consumption is calculated by adding the recorded **monthly consumption for the specific period and dividing the recorded monthly consumption over the specific period.**
- 1.8. **“Bank guarantee”** refers to an undertaking by a registered financial institution whereby it guarantees a specified maximum amount to be paid if the principal debtor (“the consumer”) fails to pay.
- 1.9. **“Calculated amounts”** refers to the amounts calculated by the Chief Financial Officer, in consultation with the relevant technical departments, to be due to the Council by a consumer in respect of the supply of the applicable municipal services for any period during which the exact quantity of the supply cannot be determined accurately for reasons beyond the control of the Chief Financial Officer. This shall normally be based on the average consumption figures, if available, for the service rendered to the customer or, failing the availability of such data, on the average consumption figures applicable to one or more properties of similar size and nature in the area in which the customer resides or carries on business.

- 1.10. **“Chief Financial Officer”** refers to the person so designated in terms of section 80 (2) (a) of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003) or any person duly authorised to act on behalf of such person.
- 1.11. **“Consolidated account”** refers to one combined account for all municipal services, housing rents and installments, rates and basic charges payable, and “consolidated bill” has a corresponding meaning.
- 1.12. **“C D U”** shall mean the central distribution unit that distributes electricity from a central point to an account holder.
- 1.13. **“Consumption”** means the ordinary use of municipal services, including water, sanitation, refuse removal, and electricity services for all categories of consumers.
- 1.14. **“Credit Control and Debt Collection Policy”** shall mean the policy adopted by the Municipality in accordance with the provisions of s. 96 of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000).
- 1.15. **“Electricity and water meters”** means electricity and/or water meters, (including prepaid meters), which are used to determine the supply of electricity and water and which are normally read on a monthly or other basis.
- 1.16. **“Electricity Supply By-laws”** shall mean the **Electricity Supply By-laws**, provided that in the event that such by-laws have not been promulgated at the time of promulgation of these by-laws, the Electricity Supply By-laws that are in existence at the time of promulgation of these by-laws.
- 1.17. **“Council”** refers to the Msunduzi Municipality and its successors in law and includes the Council of the municipality or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any official to whom Council has delegated any powers and duties with regard to these by-laws.
- 1.18. **“Councillor”** refers to any member of a Municipal Council.
- 1.19. **“Deposit”** refers to a minimum sum of money specified by the Chief Financial Officer and payable by the consumer to the Municipality prior to occupation of the property or prior to the date on which services to the property are required.
- 1.20. **“Estimated consumption”** arises when no actual reading can be taken and is equivalent to the average consumption providing that this is done in accordance with the relevant provisions of the water and electricity by-laws.
- 1.21. **“Final date”** in the absence of any express agreement in relation thereto between the Council and the customer, refers to the date stipulated on the account and determined from time to time as the last date on which the account must be paid.
- 1.22. **“Final Demand”** means a notice sent to an account holder calling for settlement of any municipal debt that has not been paid by due date and where legal action may be taken after giving due consideration to the notice period specified in the notice.
- 1.23. **“Financial year”** refers to the period starting from 1 July in a year to 30 June the next year.

- 1.24. **“Garnishee order/emoluments order”** refers to a court order for the deduction of an amount of money from the salary or other income of an account holder.
- 1.24. **“Interest”** is a charge levied on arrears, and calculated by the Chief Financial Officer in accordance with relevant legislation.
- 1.25. **“MCB”** means Mini Circuit Breaker **and refers to the size of the amperage demand per supply**
- 1.26. **“Meter audits”** refers to a verification by the municipality of the correctness of the consumption and supply of electricity and water.
- 1.27. **“Municipality”** shall mean the Msunduzi Municipality established in terms of the provisions of s. 12 of the Local Government Municipal Structures Act, 1998 (Act No. 117 of 1998).
- 1.28. **“Municipal Manager”** shall mean the Accounting Officer.
- 1.29. **“Municipal Offices”** shall mean municipal offices located within the area of jurisdiction of the Municipality.
- 1.30. **“Municipal services”** means a municipal service as defined in section 1 of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000).
- 1.31. **“New Service Connection”** means an installation of service connections to a property in respect of which municipal services have never been provided before.
- 1.32. **“Official”**, in relation to the Msunduzi Municipality, and for the purposes of these by-laws, means—
- (a) An employee of the Msunduzi Municipality;
 - (b) A person seconded to the Msunduzi Municipality to work as a member of the staff of the Msunduzi Municipality; or
 - (c) A person contracted by the Msunduzi Municipality to work as a member of the staff of the Msunduzi Municipality otherwise than as an employee.
- 1.33. **“Occupier”** in relation to a property, means a person in actual occupation of a property, whether or not that person has a right to occupy the property.
- 1.34. **“Owner”** means—
- (a) In relation to property referred to in paragraph (a) of the definition of “property”, means a person in whose name ownership of the property is registered;
 - (b) In relation to a right referred to in paragraph (b) of the definition of “property”, means a person in whose name the right is registered;
 - (c) In relation to a land tenure right referred to in paragraph (c) of the definition of “property”, means a person in whose name the right is registered or to whom it was granted in terms of legislation or;
 - (d) In relation to public service infrastructure referred to in paragraph (d) of the definition of “property”, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of “publicly controlled”, provided

that a person mentioned below may for the purposes of this Act be regarded by a municipality as the owner of a property in the following cases—

- (i) a trustee in the case of a property in a trust excluding state trust land;
- (ii) an executor or administrator, in the case of a property in a deceased estate;
- (iii) a trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- (iv) a judicial manager, in the case of a property in the estate of a person under judicial management;
- (v) a curator, in the case of a property in the estate of a person under curatorship;
- (vi) a person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of a property that is registered in the name of a municipality and is leased by it; or
- (viii) a buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;
- (ix) legal occupiers of State Trust Land.

1.35. **“Property”** means—

- (a) Immovable property registered in the name of a person, including, in the 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 the name of a person, excluding a mortgage bond registered against a property;
- (c) A land tenure right registered in the name of a person or granted to a person in terms of legislation; or
- (d) Public service infrastructure.

1.36. **“Rate”** means a municipal rate on property envisaged in section 229 (1) (a) of the Constitution.

1.37. **“Service agreement”** refers to a written agreement for the consumption of electricity and/or water and other services.

1.38. **“Technical department”** shall mean any department located within the Msunduzi Municipality which renders a municipal service.

1.39. **“Variable flow-restricting device”** refers to a device that restricts or closes water supply to the account holder.

- 1.40. **“Visitation fee”** refers to the fee charged for attendance and/or disconnection/reconnection of an electricity/water supply when the supply is been disconnected/reconnected due to non-payment and/or tampering, or where access to disconnect/reconnect has not been gained, which fee shall be determined from time to time by the Council.
- 1.41. **“Municipal Pay-Point”** shall mean all Municipal Cash Offices and third party vendors who are authorised to collect monies on behalf of Municipality.
- 1.42. **“Water Services By-laws”** means the promulgated Water Services By-laws.

2. Area of application.—

- 2.1. These By-laws shall apply through the entire area of jurisdiction of the Msunduzi Municipality and to account holders residing outside the jurisdiction of the Msunduzi Municipality.

3. Application for services and service agreements.—

- 3.1. Only the owner shall enter into a service agreement for the provision of services, provided that the Chief Financial Officer may accept the power of attorney where the owner is not resident within the jurisdictional area of the Msunduzi Municipality, provided further that the purchaser of an immovable property in whose name registration of ownership has not yet taken place and in respect of which the necessary documents for the transfer of the property in question to the purchaser have been lodged in the Deeds Office, shall for the purpose of this by-law be authorised to apply for services and be empowered to conclude such a service agreement.
- 3.2. Directors of companies, members of Close Corporations and Trustees of Trusts shall sign personal deeds of surety with the Municipality when opening services accounts.
- 3.3. A new Service Agreement shall only be entered into in respect of a property, once all outstanding amounts owed in respect of the property are settled in full.
- 3.4. The owner of the property shall be responsible for the payment of rates and all municipal service charges applicable to the property notwithstanding the owner not having concluded a service agreement with the Msunduzi Municipality.
- 3.5. The Municipality shall make application forms available for the rendering of services at its municipal offices **and on the municipal website** and such completed application forms shall be submitted to the Municipality at least 10 days prior to the intended occupation of the property failing which the applicant for services shall not be entitled to supply and provided further that this by-law shall not be interpreted to apply for new service connections.
- 3.6. The Municipality shall render the first account after the first meter reading cycle following the date of signing the service agreement or as soon as is reasonably possible.

- 3.7. Any occupier who illegally consumes services without a valid service agreement shall be subject to disconnection and/or removal of the service and may be prosecuted in terms of these By-laws or any other relevant legislation.
- 3.8. The service agreement shall set out the conditions under which the services are provided and shall require the signatories thereto to agree to abide by the provisions of the Municipalities Credit Control Policy and these By-laws.
- 3.9. The owner of the property shall be jointly and severally liable with the consumer in respect of all amounts due for the municipal services provided to the property notwithstanding any other provisions of these By-laws.

4. Deposits and guarantees.—

- 4.1. Deposits shall be payable on all new applications for municipal services at the time of application and prior to the rendering any services.
- 4.2. No interest shall accrue to the benefit of the applicant on any deposit.
- 4.3. The Council shall, subject to the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), have the power to increase the deposit payable by the account holder based on the consumption and payment patterns of the account holder and in the event of any contraventions of these By-laws, including but not limited to the theft, tampering or interference with any services.

5. Access to property to read meters.—

- 5.1. The municipality shall estimate the consumption of the service and thereafter bill the account holder for the monetary value of such estimated consumption, where the meter is in accessible or unreadable. Such estimation shall be in accordance with the provisions of the Water Services By-laws and the Electricity Supply By-laws of the Municipality.
- 5.2. Where the Council is unsuccessful in obtaining access to the property or meter for a period of **12** months, the Chief Financial Officer may disconnect the supply of services.
- 5.3. The consumer may **by arrangement with the Municipality**, supply readings of consumption on the Electricity and Water meters to the Municipality, subject to the following conditions—
 - 5.3.1. The Municipality is timeously provided with a final reading should the consumer move to another supply address;
 - 5.3.3. The Municipality **may** undertake an audit of the readings supplied at least once every six months provided that where additional readings are required during the six month period, the costs thereof shall be borne by the consumer;
 - 5.3.4. Where the consumer fails to render readings on two or more consecutive occasions, the Chief Financial Officer may terminate this arrangement to supply voluntary readings subject to compliance with this policy and By-laws.

6. Accounts, billing and payment.—

- 6.1. The Council shall provide the account holder with a consolidated monthly bill for rates and service charges.
- 6.2. **The Municipality has established a number electronic systems / platforms to deliver the Municipal Monthly accounts/statement, these are an email system, a mobile based Application, & Web based platforms. On registration on any of these electronic platforms would automatically withdraw the postage of Municipal Monthly accounts/statement to the postal address, and the customer shall be deemed to have received their statements once uploaded to or delivered through the technological system / platform.** Non-receipt of an account shall not negate the responsibility of the customer to pay the amount owing by final date nor prevent interest charges and debt collection procedures. In the event of non-receipt of an account, the onus shall be on the account holder to obtain a free copy of the most recent account, before the final date.
- 6.3. The account holder shall notify the Municipality in writing of any change of address, including an e-mail address, and contact details.
- 6.4. Accounts must be paid in full on or the final date as indicated on the account, failure to comply with this section shall result in credit control measures being instituted against the account holder. Interest on capital arrears will accrue after the final date if the account remains unpaid.
- 6.5. **The Chief Financial Officer shall determine the manner and place of payment of any accounts.**

7. Interest on arrears and other penalty charges.—

- 7.1. Interest shall be charged on all arrear capital amounts for full month irrespective of when payment is made.
- 7.2. The Municipality shall be entitled to raise the following charges in addition to the interest charge contemplated in Bylaw 7.1—
 - 7.2.1. A collection charge equal to 10% shall be raised sixty (60) days after the date of the final installment on the capital amount in arrears.
 - 7.2.2. Charges for disconnection or reconnection of electrical services.
 - 7.2.3. Charges for restriction or removal of Water Services.
 - 7.2.4. Charges for reconnection or reinstatement of Water Services.
 - 7.2.5. Charges for notices of default and other correspondence.
 - 7.2.6. Surcharges and charges for contraventions of these by-laws, the Water Services By-laws and Electricity By-laws including but not limited to illegal connections and tampering.

7.2.7. Penalty charges for dishonored cheques, **direct debits or electronic funds transfers**

7.2.8 Legal costs incurred by the Municipality in the collection of the debt.

8. Agreements and arrangements for payment of arrear accounts.—

- 8.1. The Municipality may enter into agreements with account holders in arrears and to grant account holders extensions of time for settlement of any amount due in accordance with its Credit Control and Debt Collection Policy any. Any breach of the aforesaid agreement shall be dealt with in accordance with the aforesaid policy.
- 8.2. Any arrangement entered into between the account holder and municipality as contemplated above shall have no force and effect unless the owner of the property consents to such arrangement in writing. In such instances, the owner shall acknowledge that the municipality does not waive its rights as contemplated in section 118 (i) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).
- 8.3. Where consumers using prepaid meters have arrear amounts in respect of other rates and/or services rendered by the municipality the Council shall be entitled to allocate an amount up to a maximum of 40% of every purchase of prepaid electricity to arrear amounts until such time as the arrears have been brought up to date.

9. Allocation of payments and part-payments.—

- 9.1. Where an account holder pays only part of any amount due, the Municipality shall allocate such payment in the order as provided for in the Credit Control and Debt Collection Policy of the Msunduzi Municipality.

10. Queries in respect of accounts.—

- 10.1. An account holder who has lodged an enquiry on an account is not relieved of the responsibility to maintain regular payment on the account. Where an account holder provides reasonable grounds as a basis for a query on any item or items on the monthly municipal account, no action shall be taken against the account holder provided the account holder has paid, by due date, an amount equal to the monthly average of the three most recent undisputed accounts in respect of the service in dispute, as well as all undisputed balances on such account. When an enquiry has been investigated and finalised, the amount due determined by the Chief Financial Officer shall immediately become payable in full.

11. Disconnections/restrictions of services.—

- 11.1. The municipality shall disconnect and restrict the services of account holders who are in arrears in accordance with the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) and in terms of its Credit Control and Debt Collection Policy.

12. Reconnection/reinstatement of terminated/restricted services.—

- 12.1. Services which have been terminated or restricted shall only be reconnected or reinstated by the municipality when all the conditions that are outlined in the Credit Control and Debt Collection Policy for such reconnection and reinstatement have been met.

13. Period for reconnection or reinstatement.—

- 13.1. Where it is practically and reasonably possible, the municipality shall to reconnect or reinstate terminated or restricted services within 3 (three) working days after the date on which the conditions set out in the Credit Control and Debt Collection Policy relating to reconnection have been complied with or met.

14. Procedures for debt collection.—

- 14.1. Where accounts are in arrears, the municipality may institute any action available in law for the purposes of recovering such debt in accordance with the procedure outlined in the Credit Control and Debt Collection Policy.

15. Recovery of overdue rates.—

- 15.1. Where accounts are in arrears, the municipality may institute any action available in law for the purposes of recovering such debt in accordance with the procedure outlined in the Credit Control and Debt Collection Policy.

16. Tampering with and/or theft of services.—

- 16.1. With regard to electricity and water services, if tampering of any nature or theft of such services is identified, the electricity supply to the property may be discontinued by the removal of the meter and the cable and the water supply may be restricted and/or discontinued subject to the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).
- 16.2. Water and electricity metering and connection equipment remain the property of the municipality and anyone involved in instances of tampering, damaging or theft thereof will be liable for criminal prosecution and upon conviction be liable to a fine or

imprisonment in accordance with the penalties as provided for in the Water Services and Electricity Supply By-laws.

- 16.3. No person shall connect to the Municipality's Services without the consent of the Municipality, or in any way tamper or interfere with its services.
- 16.4. Where there is evidence of an illegal connection or services are found to have been tampered with, the owner or occupier of the property, on or in which such illegal connection or tampering has taken place, shall be presumed to have tampered with or illegally connected the services unless such owner or occupier proves otherwise.
- 16.5. Where the restricted water supply or any variable flow-restricting device is tampered with the water supply shall be discontinued and the meter shall be removed.

17. Audit of services on properties.—

- 17.1. The municipality may audit all services on properties in accordance with the provisions of the Credit Control and Debt Collection Policy.

18. Water leaks.—

- 18.1. Any water leak will be dealt with in terms of the relevant Water Supply By-laws.

19. Enforcement of other legislation.—

- 19.1. These by-laws shall not detract from the provisions of any other relevant legislation.
- 19.2. The provisions of these by-laws shall prevail in the event of any conflict between these by-laws and other by-laws of the Municipality.

20. Repeal.—

- 20.1. All Credit Control and Debt Collection By-laws previously published in terms of section 98 of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000), are hereby repealed.