

MSUNDUZI MUNICIPALITY



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The Msunduzi Municipality

DRAFT CREDIT CONTROL AND DEBT COLLECTION POLICY

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1 DEFINITIONS

In this policy, unless the context indicates otherwise, the word or expression has the following meaning:

- 1.1 **“Account”** Any invoice rendered by the Municipality;
- 1.2 **“Accounting Officer”** The Municipal Manager appointed in terms of Section 82(1)(a) or (b) of the Municipal Structures Act, 1998 (Act No. 117 of 1998);
- 1.3 **“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;
- 1.4 **“Actual consumption”** means the measured consumption of a consumer of a municipal service during a specified period;
- 1.5 **“Arrangements”** means a formal 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 average consumption and the current actual consumption and dividing the total by 2;
- 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 authorized to act on behalf of such person;
- 1.11 “Consolidated account”** refers to one combined account for all municipal services, housing rents and instalments, rates and basic charges payable, and “consolidated bill” has a corresponding meaning;
- 1.12 “Collection Charges”**
- 1.13 “C D U”** shall mean the central distribution unit that distributes electricity from a central point to households;
- 1.14 “Consumption”** means the ordinary use of municipal services, including water, sanitation, refuse removal, and electricity services for all categories of consumers;
- 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 fixed interval basis;
- 1.16 “Council”** refers to The Msunduzi Municipality and its successors in law and includes the Council of that 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 the Executive Committee who has delegated any powers and duties with regard to this policy;
- 1.17 “Councillor”** refers to any member of a Municipal Council

- 1.18 “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;
- 1.19 “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;
- 1.20 “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.
- 1.21 “Estimated consumption”** arises when no actual reading can be taken and is equivalent to the existing average consumption providing that this is done in accordance with the relevant provisions of the water and electricity bylaws.
- 1.22 “Financial year”** refers to the period starting from 1 July in a year to 30 June the next year;
- 1.23 “Interest”** is a charge levied and calculated at a rate determined by law.
- 1.24 “MCB”** means Mini Circuit Breaker
- 1.25 “Meter audits”** refers to a verification by the municipality of the correctness of the consumption and supply of electricity and water;
- 1.26 “Municipality”** Means: An organ of state within the local sphere of government exercising legislative and executive authority within an area determined in terms of the local government: Municipal Demarcation Act, 1998.
- 1.27 “Municipal Manager”** is the head of administration and also the accounting officer of the municipality.

1.28 “Municipal services” means a service that a municipality in terms of its powers and functions provides or may provide to or for the benefit of the local community irrespective of whether:

- (a) Such a service is provided, or to be provided, by the municipality through an internal mechanism contemplated in section 76 of the MSA or by engaging an external mechanism contemplated in section 76 of the MSA. Such a service is provided, or to be provided by the municipality.

1.29 “Official”, in relation to a municipality or municipal entity, means,

- a. An employee of a municipality or municipal entity
- b. A person seconded to a municipality or municipal entity to work as a member of the staff of the municipality or municipal entity; or
- c. A person contracted by a municipality or municipal entity to work as a member of the staff of the municipality or municipal entity otherwise than as an employee.

1.30 “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,

1.31 “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.

1.30 “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;

1.31 “Rate” means a municipal rate on property envisaged in section 229 (1)(a) of the Constitution;

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

1.33 “Variable flow-restricting device” refers to a device that is coupled to the water connection that allows the water supply to be restricted or closed;

1.34 “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/restrict has not been gained, which fee shall be determined from time to time by the Council;

1.35 “Garnishee order/Emoluments order” refers to a court order for the deduction of an amount of money from the salary or other income of a customer.

1.36 “Municipal Pay-Point” shall mean all Municipal Cash Offices and third party vendors who are authorized to collect monies on behalf of Municipality”.

2. INTRODUCTION

2.1 The Municipality must develop, maintain and implement a credit control and debt collection policy that is consistent and complies with the relevant legislation.

2.2 This policy is to be read in conjunction with or other relevant legislation, policies and bylaws, (including the Register of Tariffs and Charges).

3. OBJECTIVES

The objectives of the Credit Control and Debt Collection Policy are:

3.1 To define a framework which enables the municipality to bill for and collect its revenues;

3.2 To ensure that all monies due and payable to the municipality are collected and used to deliver municipal services in the best interests of the community, residents and ratepayers and in a financially sustainable manner as prescribed by the Municipal Systems Act, 2000 (Act No. 32 of 2000), and other applicable legislation;

3.3 To maintain and implement a credit control and debt collection policy, which complies with Section 97 of the Municipal Systems Act, 2000 (Act No. 32 of 2000).

4. APPLICATION FOR SERVICES AND SERVICE AGREEMENTS

- 4.1 Only the owner or pending rate payer shall enter into a service agreement for the provision of services. However, in the event that the owner is not resident within the municipal area, he may sign a power of attorney which permits some other person to act on his behalf for the purposes of entering into a service agreement or the tenant may sign surety for the debt pending the finalisation of the P.O.A or the winding up of the Estate.
- 4.2 Directors of companies, members of Close Corporation and Trustees of Trust shall sign personal surety ships with the Municipality when opening services accounts.
- 4.3 A new Service Agreement will only be entered into in respect of a property, once all amounts due including the current account due in respect of the property are settled in full.
- 4.4 Where the owner has failed to enter into an agreement for the provision of services; the owner responsible for the payment of rates on the property will be billed for the consumption of all municipal service charges applicable to the property.
- 4.5 Application forms are available at the municipal offices and the application process must occur at least ten (10) working days prior to taking occupation of the premises. This will ensure that services are available when occupation is taken. Failure to adhere to the timeframe may result in customers not having the services available when occupation is taken. Once the application has been approved, a service agreement will be entered into and services will commence.
- 4.6 The Municipality will render the first account after the first meter reading cycle following the date of signing the service agreement or as soon as is administratively possible.
- 4.7 Occupier who illegally consumes services without a valid service agreement will be subject to disconnection and/or removal of the service and may be prosecuted.
- 4.8 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 Bylaws.

- 4.9 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.
- 4.10 Council may consolidate any separate accounts of persons liable for payments to the Municipality in terms of Chapter 9 of the Municipal Systems Act.

5. DEPOSITS AND GUARANTEES

- 5.1 Deposit are payable on application for the provision of municipal services, before the municipality renders any service to the property.
- 5.2 No interest payable to any debtor will accrue on any deposit.
- 5.3 Council reserves the right to review deposits as and when required.

6. ACCESS TO PROPERTY TO READ METERS

- 6.1 If the municipality is unable to read any meter on any property because the meter has been rendered inaccessible, the municipality shall estimate the consumption of the service concerned and thereafter bill the consumer for the monetary value of such estimated consumption.
- 6.2 In the event that the Council continues to be unsuccessful in obtaining access to the property or meter for a period of 3 months and, therefore, is unable to obtain an accurate meter reading, the Chief Financial Officer or his authorised representative may disconnect the supply.
- 6.3 Readings provided by consumers are subject to the following:
- 6.3.1 Readings will be permitted provided the municipality obtains any final reading should the consumer move to another supply address.
- 6.3.2 Consumers may be liable for a fee to cover the costs of obtaining a reading if no advance warning is given and special arrangements are required to obtain a reading.

6.3.3 An audit reading during the normal reading cycles may be obtained at least once every 6 months. If a special audit reading becomes necessary this will be done at the cost of the consumer.

6.3.4 The consumer may supply voluntary readings subject** to compliance with this policy and By-laws. The Chief Financial Officer may, however, cancel this option if the consumer fails to render readings on two or more consecutive occasions.

***Take wording from Resolution and add it in**

7. ACCOUNTS, BILLING AND PAYMENT

7.1 The Council shall provide the account holder with a monthly bill for rates, services or any other charges.

7.2 The Municipality shall furnish the account to the account holder's address, in South Africa, as supplied by each account holder. However, non-receipt of an account does not negate the responsibility of the account holder 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 rests on the account holder to obtain a free copy of the most recent account, before the final date.

7.3 The account holder shall notify the Municipality in writing of any change of address, including an e-mail address, and contact details.

7.4 Accounts must be paid in full on or before the final date as indicated on the account. Failure to comply with this section shall result in credit control measures being instituted against the consumer. Interest on the capital arrears will accrue after final date if the account remains unpaid.

7.5 Only Bank guaranteed and attorney trust cheques will be accepted at the Municipal Offices and no 3rd party agencies can accept cheques

8. INTEREST ON ARREARS AND OTHER PENALTY CHARGES

8.1 Interest shall be charged on all arrear capital amounts for a full month, irrespective of when payment is made.

8.2 The Municipality will be entitled to raise the following charges in addition to the interest charge contemplated in clause 8.1

8.2.1 In the case of arrear rates, a collection charge equal to 10% will be raised sixty (60) days after the date of final instalment on the capital amount in arrears.

8.2.2. Charges for disconnection or reconnection of electrical services

8.2.3. Charges for restriction or removal of water services

8.2.4. Charges for reconnection or reinstatement of water services

8.2.5. Charges for notices of default and other correspondence

8.2.6. Surcharge penalty charges for illegal reconnections

8.2.7. Penalty charges for dishonoured cheques

8.3 Interest on Indigent Customers

8.3.1 Interest relating to Indigent Consumers will be waived on all arrear service debt provided they honour their monthly arrangements

9. AGREEMENTS AND ARRANGEMENTS FOR PAYMENT OF ARREAR ACCOUNTS

9.1 The Municipality is authorised to enter into agreements with account holders in arrears with their accounts and to grant account holders extensions of time for settlement of the amounts due to Council.

9.2. Where an account holder in arrears, is a business or commercial concern, a minimum of 50% of the total overdue amount and the current amount due, as an initial payment, shall be paid, and the balance of the account shall be paid in equal instalments over a maximum period of six months. Upon written application by an account holder the maximum repayment period may be extended and the minimum amount due reviewed at the discretion of the Municipal Council subject to the supply of the previous years audited financial statements, six months bank statements, valid tax clearance certificate and any other documentation deemed relevant. Any future monthly current accounts shall be paid on or before the final dates for the month in question. In respect of business or commercial account holder who are in arrears.

9.3. Where a customer in arrears is a domestic consumer, a minimum of 10% of the total overdue balance and the current amount due, as an initial payment, and the balance of the account shall be paid in equal instalments over a maximum period of twelve months. Upon written application by an account holder the repayment period may be extended to a maximum of thirty six (36) months and a percentage lower than the above 10% may be permitted at the discretion of the Municipal Council, subject to the supply of three months bank statements and any other documentation deemed relevant.

Any application with a repayment period greater than thirty six (36) months will be referred to the Municipal Council.

9.4 Should an account holder breach the arrangement in any way, the balance of the arrear account, together with the balance of interest outstanding on the account, shall immediately become due and payable to the municipality.

9.5 A customer who fails to comply with any credit arrangement **shall not be permitted to enter into any further arrangement or extension of time** for payment and shall have his services terminated, however a customer who brings his credit arrangement up to date by an immediate payment shall have his services reconnected as soon as is practically possible.

9.6 An account holder who fails to comply with any arrangement of debt shall have the electricity credit meter or prepaid meter removed, the water service restricted.

9.7 Only debtors with positive proof of identity or an authorized agent with a Power of Attorney shall be permitted to enter into an Acknowledgment of Debt agreement with the Council.

9.8 Where a debtor is a close corporation, trust, or a company, the person who signs an acknowledgment of debt on behalf of such close corporation, trust or company, shall produce written proof that he is authorized to sign such acknowledgment on behalf of all members and/or directors of the close corporation, trust, or the company.

9.9 Any account holder who makes an arrangement in terms of 9.2 or 9.3 shall ensure that the owner completes a waiver in terms of section 118 (i) of the Systems Act (Act 32 of 2000).

9.10 Where consumers using prepaid meters have arrear amounts in respect of any Municipal Debt rendered by the municipality the Council shall allocate a proportionate amount as determined by the Municipal Council, of any future prepaid purchases to arrear amounts until such time as the arrears have been brought up to date or a payment arrangement is entered into and being maintained.

10. ALLOCATION OF PAYMENTS

10.1 Any payment made shall be allocated in the following order:

- 10.1.1 to any unpaid property rates;
- 10.1.2 to any unpaid interest raised on the account;
- 10.1.3 to any other sundry debtors (miscellaneous);
- 10.1.4 to housing rents and instalments;
- 10.1.5 to any unpaid refuse collection charges;
- 10.1.6 to any unpaid sewerage charges;
- 10.1.7 to any unpaid water charges;
- 10.1.8 To any other unpaid charges and
- 10.1.9 to any other unpaid electricity charges

11. QUERIES IN RESPECT OF ACCOUNTS

11.1 A customer who has lodged an enquiry is not relieved of the responsibility to maintain regular payment on his account. In the event of an account holder providing 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.

11.2 When an enquiry has been investigated and responded to, the entire amount becomes payable.

12. DISCONNECTIONS/RESTRICTIONS OF SERVICES

- 12.1 The Council is obliged to issue any final request notices or other reminders to customers whose accounts are in arrears, prior to disconnection in terms of the Promotion of Administrative Justice Act, 2000 (Act No.3 of 2000) in so far as possible.
- 12.2 The account, if in arrears for 30 days or more, shall reflect a warning message.
- 12.3 In the event that full payment of the account, including any accumulated arrears, is not received on or before due date, the electricity supply and thereafter the water supply shall be disconnected/restricted, unless a formal acknowledgement of debt has been signed by the customer and the necessary arrangement for an extension of payment has been approved by the Relevant authority
- 12.4 Even though a customer may have concluded satisfactory credit arrangements, the Council is not obliged to effect a reconnection of services on the day that payment is received or the agreement has been signed but shall do so as soon as possible after such arrangement have been approved by the relevant authority. .
- 12.5. Where a customer's services are disconnected/ reconnected, the customer shall be charged a visitation fee, as determined by the council from time to time,
- 12.6. Where a customer or owner's account is in arrears and no credit arrangement for the settlement of any outstanding debt has been entered into, and whether the services to the property have been disconnected/restricted or not, the Council may, regardless of whether the service agreement is terminated or not, implement the procedures for debt collection as set out in Section 12 of this policy, if such action is deemed by the Chief Financial Officer to be in the best interests of the Council.
- 12.7. Should the termination of services, in respect of an arrear account result in the endangerment of the life of any person, the Municipal Council may appropriately restrict rather than terminate the services in question.

13. RECONNECTION/REINSTATEMENT OF TERMINATED/RESTRICTED SERVICES

13.1 Services which have been terminated or restricted shall only be reconnected or reinstated by the municipality only when all the following conditions have been met:

- (a) The arrear account has been paid in full, including the interest raised on such account;
Or an acceptable arrangement has been entered into with the municipality for the payment of the arrear account, including the interest raised on such account;
Or a query, as contemplated in Section 11, has been resolved and arrangements for payment as approved by the Municipal Council have been concluded;
- (b) A revised service agreement has been entered into or an existing one reinstated with the municipality, as contemplated in Section 4 of this policy; and
- (c) A deposit, as determined by the Municipal Council in terms of Section 5, has been paid to the municipality.

14. PERIOD FOR RECONNECTION OR REINSTATEMENT

The municipality shall endeavour to reconnect or reinstate terminated or restricted services within 3 (three) working days after the date on which the conditions set out in Section 13 of this policy have been met, unless unable to do so because of circumstances beyond the control of the municipality.

15. PROCEDURE FOR DEBT COLLECTION

Where consumer accounts are in arrears, the Municipal Council is authorised to institute any action available in law for the purposes of recovering such debt, including making application to a competent court of law for the issuing of garnishee/ emoluments orders.

15.1 The Municipal Council shall issue a final demand for all amounts in arrears.

15.2 The Municipal Council shall withhold payment to suppliers whose accounts are in arrears in terms of the Supply Chain Management policy.

- 15.3 The Accounting Officer may direct the Chief Building Inspector to withhold/ reject the approval of building plans relating to improvements on properties if there are arrears on that property.
- 15.4 Arrear rates, service charges and other charges may be recovered from tenants/occupiers and or agents by attaching the rentals as set out in Sections 28 and 29 of the Municipal Property Rates Act no 6 of 2004 and in terms of Section 104 (f)(iii) of the Municipal Systems Act 32 Of 2000.
- 15.5 Where consumers using prepaid meters have arrear amounts in respect of rates and/or services rendered by the municipality the Council may remove the prepaid metered supply and a new application for a prepaid supply will be required. Council reserves the right to refuse a prepaid supply in instances of arrears.
- 15.6 The Municipal Council may publish the names of account holders, persons or entities with outstanding debt.

16. RECOVERY OF OVERDUE RATES

- 16.1 The municipality may publish a list of all rates defaulters who have failed to pay within 60 days after the final installment of the rates assessment calling on the ratepayer to settle the arrears within a specified time frame, failing which an application will be made to a court of competent jurisdiction for an order for the sale by public auction
- 16.2 If the rates remain unpaid in terms of 19.4 above, the municipality shall make application to a court of competent jurisdiction showing the amount of rates, penalties and surcharges then in arrear, and that all notices have been given and requesting the court to order any such rateable property be sold by public auction and the proceeds thereof to be paid in to court, and to direct payment to the Municipality of all rates and penalties accrued in respect of the date of such sale together with the costs of obtaining the said order and all expenses of such sale.
- 16.3 If before the sale of any rateable property in terms of an order made under subsection (19.5) there is produced to the Deputy Sheriff or other person charged with the sale thereof, a certificate by the Municipality that all amounts owing in terms of outstanding and arrear rates and penalty charges have been paid, the said property shall be withdrawn from the sale.

16.4 Notwithstanding that all outstanding and arrear rates penalty charges may have been paid before the said sale, the Municipality shall not be liable to any person for any loss or damage suffered by such person by reason of the sale of any such property in respect of which no such certificate has been produced to the said Deputy Sheriff or other person.

17. TAMPERING WITH AND/OR THEFT OF SERVICES

17.1 With regard to electricity and water services, if tampering of any nature or theft of such services are 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.

17.2 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.

17.3 If the restricted water supply is tampered with the water supply will be discontinued or removed.

17.4 All required outstanding amounts shall be paid in full, or a payment arrangement is entered into; before any reconnection however the tampering fee is payable up front and in full.

17.5 Where a tampered supply is unmetered, Council reserves the right to calculate back charges in respect of the meter/s that have been tampered with

17.6 Back charges will be raised in respect of meters that have been tampered with for the following reasons:

17.6.1 Broken seals in order to tamper with the bridge screw

17.6.2 Bridge wire illegally connected

17.6.3 Illegal bypassing of meter and of MCB

17.6.4 Direct connection to main supply including CDU

17.6.5 Direct connection to another consumer

17.6.6 Meter tampered with or MCB rating has been scratched off

17.6.7 Any other illegal activity not covered above amount that will be levied against the account for the period under review. The calculated amount is payable before services are reinstated.

18. AUDIT OF SERVICES ON PROPERTIES

When the services supplied by Council to a property are subjected to an audit the following rules should be applied subject to confirmation and supply of relevant written documentation from the relevant technical department:

18.1 Council reserves the right to audit meters from time to time.

18.2 If the MCB size of the meter on the property differs from the MCB size being billed on the account then:

The difference in AMPS (MCB Size) to be debited or credited, may be backdated 36 months or from the date of application (maximum 36 months)

18.3 Where readings are provided by a consumer, Council may conduct an Audit during the normal reading cycle at least once every six (6) months. An audit reading during the normal reading cycles must be obtained at least once every 6 months.