CAPE WINELANDS DISTRICT
MUNICIPALITY • MUNISIPALITEIT • UMASIPALA

CREDIT CONTROL AND DEBT COLLECTION POLICY

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1 OBJECTIVES OF THE POLICY

The objectives of the policy are to:

- Provide a framework within which the municipal Council can exercise its executive and legislative authority with regard to credit control and debt collection.
- 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 in a financially sustainable manner.

Section 96(a) of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) provides that a municipality must collect all money that is due and payable to it subject to this Act and any other applicable legislation.

- Focus on all outstanding debt as raised on the debtor's account and set realistic targets for collection.
- Outline credit control and debt collection policy procedures.
- Provide a framework to link the municipal budget to;
    - tariff policies
- Promote a culture of good payment habits amongst debtors and instill a sense of responsibility towards the payment of municipal accounts and reducing municipal debt.
- Subject to the principles provided for in this policy, Council must use innovative, cost effective, efficient and appropriate methods to collect as much of the debt in the shortest possible time without any interference in the process.
- Effectively and efficiently deal with defaulters in accordance with the terms and conditions of the policy.

2 DEFINITIONS

2.1 "arrears"	refers to any amount due to the Council not paid by the due date.
2.2 "billing"	refers to the process of charging for services provided by issuing accounts.
2.3 "credit control"	It deals with the conditions and procedures to render accounts and to regulate the payment for services rendered.
2.4 "credit control policy"	refers to the regulation of day-to-day actions leading to the issuing of accounts and the payment thereof. This includes issues like service agreements, payment facilities, pay-points, final dates for payment and assistance to the poor.
2.5 "debt collection"	refers to the debt recovery process and includes sanctions (warning, disconnection, adverse credit rating, legal process, etc.) to be applied in the event of non-payment of accounts.
2.6 "debt recovery policy"	refers to the regulating of actions pertaining to arrear accounts, including extensions granted, written arrangements to pay off arrears, the monitoring thereof and legal actions associated with unpaid accounts.

2.7 "due date"	refers to the final date of payment as shown on the debtor's municipal account, demand or notices.
2.8 "holistic"	refers to the combining of all debt in order to establish the total obligation of the debtor
2.9 "indigent amount"	refers to the applicable value of the indigent subsidy as determined by the Council from time to time
2.10 "standard rate"	means a rate of interest which is one percent higher than the rate of interest payable by Council to its bank in respect of an overdraft.

3 PRINCIPLES

- The administrative integrity of the municipality must be maintained at all costs. The democratically elected officials (councillors) are responsible for policy-making, while it is the responsibility of the municipal manager to execute these policies.
- A copy of the application form, conditions of services and extracts of the relevant council's credit control and debt collection policy and by-laws must be handed to every customer on request.
- Billing is to be accurate, timeous and understandable.
- The customer is entitled to reasonable access to pay points and to a variety of reliable payment methods.
- The customer is entitled to an efficient, effective and reasonable response to appeals and should suffer no disadvantage during the processing of a reasonable appeal.
- Enforcement of payment must be prompt, consistent and effective.
- Fraud/criminality will lead to loss of rights and heavy penalties and/or public prosecution.
- The collection process will be cost-effective.
- Collection "Best Practices" will be pursued.
- Results will be regularly and efficiently reported.
- There must be legal cause between the municipality and its customer and customer debt must arise out of a legal framework and must be legally collectable.
- Targets for performance in both customer service and debt collection will be set and pursued and remedies implemented for non-performance.
- Human dignity must be upheld at all times. The policy must be implemented with equity, fairness and consistency.
- Debts and arrangements to repay debts shall be treated holistically, but different repayment periods or methods may be determined for different types of service, debtors or areas within the general rule that the repayment period should be in sympathy with the installments that the debtor can afford (not applicable on levy income).
- The implementation of the policy shall be based on sound business principles which may include credit worthiness checks.
- New applications for services will be subject to prescribed credit information and outstanding amounts may be transferred to the new account. All information furnished on the application form may be verified by Council with any or all data information institutions, credit information bureaus and, or any financial institutions as may be deemed necessary by Council in determining the applicant's credit worthiness.
- Debtors may be referred to third party debt collection agencies and may be placed on the National Credit Rating list.

4 DUTIES AND FUNCTIONS

4.1 *Duties and functions of Council*

- To approve a budget consistent with the needs of communities.

Preferably, the total equitable share should be set aside for this purpose. If this amount is not enough an additional sustainable provision must be made according to the municipality's financial ability.

- To provide for debt impairment, in line with the payment record of the community, as reflected in the financial statements of the municipality.

The debt impairment provision should at least reflect the increase in debtors during the previous financial year. The amount provided for can only be reduced by the amount provided for working capital.

- To set an improvement target for debt collection, in line with acceptable accounting ratios and the ability of the Municipal Manager.

A realistic target would be to improve on the previous year's result by at least 2,5%. The target should be reviewed every year until the turnover rate of debtors is less than 60 days.

- To approve a reporting framework for credit control and debt collection.
- To consider and approve by-laws to give effect to the Council's policy.
- To monitor the performance of the Executive Mayor/Mayoral Committee and Municipal Manager regarding credit control and debt collection.
- To revise the budget should Council's targets for credit control and debt collection not be met.
- To take disciplinary action against councillors' officials and agents who do not execute council policies and by-laws.

Including credit control and debt collection.

- To approve a list of attorneys that may act for Council should any legal matters relating to debt collection arise. (Refer to Procurement Policy)
- To delegate the required authorities to monitor and execute the credit control and debt collection policy to the Executive Mayor/Mayoral Committee and Municipal Manager respectively.
- To provide sufficient capacity in the Treasury department for credit control and debt collection.
- To appoint debt collection agents to assist the Municipal Manager in the execution of his duties, if required.

4.2 *Duties and functions of Executive Mayor/Mayoral Committee*

- To ensure that Council's budget cash-flow and targets for the debt collection are met and executed in terms of the policy and relevant by-laws.
- To monitor the performance of the Municipal Manager in implementing the policy and by-laws.
- To review and evaluate the policy and by-laws in order to improve the efficiency of Council's credit control and debt collection procedures, mechanisms and processes.
- To report to Council.

Section 99 of the Local Government: Municipal Systems Act, 2000 provides that the Executive Mayor/Mayoral Committee must –

(a) Oversee and monitor -

1 The implementation and enforcement of the municipality's credit control and debt collection policy and any by-laws enacted in terms of section 98; and

2 The performance of the municipal manager in implementing the policy and any bylaws.

3 When necessary, evaluate or review the policy and any by-law or the implementation of the policy or such by-laws, in order to improve efficiency of its credit control and debt collection mechanisms, processes and procedures; and

4 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 paragraph 1, 2 and 3.

4.3 *Duties and functions of the Municipal Manager*

- To implement good customer care management.
- To implement council's credit control and debt collection policy.
- To install and maintain an appropriate accounting system.
- To bill customers.
- To demand payment on due dates.
- To appropriate payments received.
- To collect outstanding debt.
- To implement "Best Practices".
- To provide different payment methods.
- To determine credit control measures.
- To determine work procedures for public relations, arrangements, summonses, attachments of assets, sales in execution, write-off of debts, sundry debtors and legal processes.
- To appoint firm/s of attorneys to complete the legal process (i.e. attachment and sale in execution of assets, emolument attachment orders etc.).
- To set performance targets for staff.
- To appoint staff to execute council's policy and by-laws in accordance with council's staff policy.
- To delegate certain functions to heads of department.
- To determine control procedures.
- To report to the Executive Mayor/Mayoral Committee.

4.4 *Duties and functions of Communities, ratepayers and residents*

- To fulfill certain responsibilities, as brought about by the privilege and or right to use and enjoy public facilities and municipal services.
- To pay fees imposed by the municipality.
- To observe the mechanisms and processes of the municipality in exercising their rights.
- To allow municipal officials reasonable access to their property to execute municipal functions.
- To comply with the by-laws and other legislation of the municipality.
- To refrain from tampering with municipal services and property.

4.5 *Duties and functions of Political parties*

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- To hold regular meetings.
- To adhere to and convey council policies to residents.
- To adhere to council's code of conduct for councillors.

5 CUSTOMER CARE AND MANAGEMENT POLICY

Section 95(a) of the Local Government Municipal Systems Act, 2000 provides that a municipality must within its financial and administrative capacity, establish a sound customer management system that aims to create a positive and reciprocal relationship between persons liable for payments and the municipality.

5.1 Communication and feedback

5.1.1 The municipality will, within its financial and administrative capacity, conduct an annual process of compiling its budget which will include:

a) A First Budget Meeting, in January, wherein Executive Mayor / Mayoral Committee will consider budget priorities, principles and a budget framework.

b) A first round of public meetings will then be called, to invite at least the following: political parties; ratepayers and civic organizations; chambers of business and organized labour; the general public and other interested parties, at which the budget priorities, principles and framework will be outlined and debated.

c) Need identification workshops will be conducted throughout the Region (IDP meetings), the objects of which will be:

i) To identify all the needs of B Municipalities that are legitimately in the area of responsibility of the council.

ii) To involve the community in prioritizing these needs.

iii) To involve the community in Council's planning, and to provide the community with much basic information as to what Council does and what other levels of government do.

iv) To inform the community of the levels of payment and non-payment in specific areas, and to devise strategies in that regard.

d) A council workshop, which will marry the results of the first budget meeting, the public meetings, and the need identification workshops with Council's Integrated Development Plan.

e) Thereafter Council's draft Capital and Operating budgets, informed by the above processes, will go through Council's Executive Mayor/Mayoral Committee for the creation of a draft budget.

f) This draft budget implications, will then be presented to a second round of public meetings.
g) Thereafter a final draft of the budget appears before Council for approval.

5.1.2 Council's Credit Control and Debt Collection Policy, will be available in English, Afrikaans, and will be made available by general publication and on specific request, and will also be available at Council's cash collection points.

5.1.3 Council aims to establish:
a) Decentralised complaints/feedback offices according to the constituencies of direct elected Councillors;
b) A centralized complaints database to enhance co-ordination of complaints, their speedy resolution and effective communication with customers;
c) Appropriate training for officials dealing with the public to enhance communications and service delivery; and
d) A communication mechanism to give council feedback on service, debt and other issues of concern.

6 ACCOUNTS AND BILLING

Section 95(d) of the Local Government Municipal Systems Act, 2000 provides that a municipality must, within its financial and administrative capacity take reasonable steps to ensure that the consumption of services has to be measured through accurate and verifiable metering systems.

- Customers will receive an understandable and accurate bill from the municipality.
- Settlement or due date is 14 days from date of statement.
- Accounts must be consumer friendly and must clearly reflect the following minimum information :
  (a) the name, address and contact numbers of the Council;
  (b) the name and postal address of the account holder;
  (c) details of the service in respect of which the account is issued;
  (d) the contents of the account must be reflected in the language of the account holder
  – at present, a choice between Afrikaans and English is offered;
  (e) the balance brought forward from the previous account as well as a summary of transactions for the present period;
  (f) all services for which the account is rendered as well as amounts billed for such services;
  (g) the final amount payable;
  (h) the final date for payment;
  (i) the situation of payment facilities and modes of payment accepted and hours for payment; and
  (j) VAT Registration number and account number.

6.1 *Full and final settlement payments*

- Any part payment of an account in full and final settlement can only be tendered to the Executive Director of Finance or his delegated authority.
- Should such a payment not be tendered in accordance with abovementioned, cash or postal orders will be returned to the payer. If such payment is in the form of a credit card or electronic payment, the amount will be returned to the drawer thereof.
- The account will be adjusted accordingly and debt management actions will commence as if no payment has been tendered.

6.2 *Payment facilities and methods and stop orders and debit orders*

- The municipality will operate and maintain suitable banking and cash facilities which will be accessible to all users.
- The municipality will at its discretion allocate a payment between service debts – a debtor who has overdue debt may not specify that the payment is for a specific portion of the account.
- The municipality may with the consent of a customer approach an employer to secure a debit or stop order arrangement.

6.3 *Arrangements*

Arrangement Criteria for debtors

A debtor may make a payment arrangement for a period of not longer than 6 months, if the first installment will be done immediately.

6.4 *Enquiries, Appeals, Service complaints and Disputes*

- If a customer is convinced that his or her account is inaccurate, he or she can lodge an appeal with the municipality for recalculation of this account.

Section 95(f) of the Local Government: Municipal Systems Act, 2000 provides that a municipality must provide accessible mechanisms for those persons to query or verify accounts and appeal procedures which allow such persons to receive prompt redress for inaccurate accounts.

- Duplicate accounts must be available upon request.
- "Dispute" referred to in Section 102(2) of the Municipal Systems Act, No. 32 of 2000 as the instance when a debtor questions the correctness of any account by Council to him and such debtor lodges an appeal with Council.
- In order for a dispute to be registered with Council the following procedures must be followed :
    - The debtor must render the dispute in writing to Council and this must be actually received by Council.
    - The debtor must furnish his full personal particulars including his account number, telephone number, e-mail addresses and any other relevant particulars.

- The full nature of the dispute must be described in the correspondence.

On receipt of the dispute the Council will take the following actions:

- A Register must be kept in which all disputes received are to be entered.
- An authorized controlling official will keep custody of the register and conduct a daily or weekly check or follow-up on all disputes as yet unresolved.
- A written acknowledgement of receipt must be provided to the debtor.
- All appeals regarding disputed amounts must be unilaterally concluded by Council's authorized officials within 14 calendar days from receipt thereof.
- Council's authorized official's decision is final and will result in the immediate implementation of any debt collection and credit control measures after the debtor is provided with the outcome of the appeal.
- The same dispute will not be reconsidered and will not again be defined as a dispute.
- If the debtor is not satisfied with the outcome of his appeal he may under protest pay the amount in dispute and redress his action to a court of law.

7 BUSINESS WHO TENDER TO THE MUNICIPALITY

The Procurement Policy and Tender Conditions include the following:

(i) When inviting tenders for the provision of services or delivery of goods, potential contractors may submit tenders subject to a condition that consideration and evaluation thereof will necessitate that the tenderer obtain from the municipality a certificate stating that all relevant municipal accounts owing by the tenderer or its directors, owners or partners have been paid or that suitable arrangements (which include the right to set off in the event of non-compliance) have been made for payment of any arrears.

(ii) A municipal account to mean any municipal service charge, or other fees due in terms of a contract or approved tariff or rate, which is outstanding after the due date normally appearing on the consolidated account or overdue in terms of the contract or any other due date that has passed.

(iii) Tender conditions contain a condition allowing the municipality to deduct moneys owing to the municipality from contract payments in terms of a reasonable arrangement with the debtor.

8 CUSTOMER ASSISTANCE PROGRAMMES

Arrangements for settlements

- If a customer cannot pay his/her account with the municipality then the municipality may enter into an extended term of payment with the customer. He/she must:
  (i) Sign an acknowledgement of debt;
  (ii) Sign a consent to judgment;
  (iii) Provide a garnishee order/emolument order/stop order (if he or she is in employment);
  (iv) Pay the current portion of the account in cash; and
  (v) Sign an acknowledgement that, if the arrangements negotiated are later defaulted on, that no further arrangements will be possible and that disconnection of water and electricity will immediately follow, as will legal proceeding.
- Council reserves the right to raise the deposit/security requirement of debtors who seek arrangements.

9 DEBT COLLECTION POLICY

9.1 Interest Charges on Outstanding Amounts

- If an account for Landfill Site Activities, Municipal Health and Fire Services is not paid by the due date, at least 30 (thirty) days will be allowed to elapse before interest is charged. Where interest on unpaid accounts is raised by the Municipal Manager, it will be based on a full month and any part of a month will thus be deemed to be a full month.
- unless specifically provided for in other agreements.
- interest will be one percent higher than the prime rate; and
- interest will be determined by the posting date, or where relevant.

9.2 *Personal contact*

Telephonic contact

9.2.1 *Agents calling on clients*

- Council will endeavour, within the constraints of affordability, to make personal or telephonic contact with all arrear debtors to encourage their payment, and to inform them of their arrears state, and their rights (if any) to conclude arrangements or to indigence subsidies, and other related matters, and will provide information on how and where to access such arrangements or subsidies.

- The municipality shall maintain a schedule of debtors with large amounts outstanding (the cut-off amount will be agreed by Council) and will maintain intensive contact with these debtors.
- Council may consider the use of agents and innovative debt collection methods and products. Cost effectiveness, the willingness of agents to work under appropriate codes of conduct and the success of such agents will be closely monitored by Council.
- Such contact is not a right that debtors enjoy – other collection proceedings will continue in the absence of such contact for whatever reason.

9.3 *Legal Process/Use of attorneys/Use of credit bureaus*

- Council will, when a debtor is 60 days in arrears, commence legal process against that debtor, which process could involve final demands, summonses, court trials, judgements, garnishee orders and/or sales in execution of property.
- Council will exercise strict control over this process, to ensure accuracy and legality within it, and will require regular reports on progress from outside parties, be they attorneys or any other collection agents appointed by council.
- Council will establish procedures and codes of conduct with these outside parties by their attorneys, the courts, etc.
- Garnishee orders, in the case of employed debtors, are preferred to sales in execution, but both are part of Council's system of debt collection procedures.
- All steps in the credit control procedure will be recorded for Council's records and for the information of the debtor.
- Individual debtor accounts are protected and are not the subject of public information. However Council may release debtor information to credit bureaus. This release will be in writing and included in Council's agreement with its customers.
- Customers will be informed of the powers and duties of such agents and their responsibilities including the observation of agreed codes of conduct.
- Any agreement concluded with an agent or product vendor shall include a clause whereby breaches of the code of conduct by the agent or vendor will see the contract terminated.

9.4 *Dishonoured payments*

- Receipts issued in respect of dishonoured ACB deductions must be written back upon receipt of such notices. Debtors must be notified and debt recovery actions be instructed where necessary.
- Should payments be dishonoured regularly, the debtors system must be encoded to not accept debit order transactions of such a debtor and he/she must be informed in writing.

9.5 *Irrecoverable Debt*

Debt will be regarded as irrecoverable if:

- All reasonable notifications and cost effective legal avenues to recover a specific outstanding amount have been exhausted; or amount to be revised by the Executive Director: Finance annually.
- 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 to be reported to Council.
- The debtor is untraceable or cannot be identified so as to proceed with further action.
- The outstanding amount is due to an administrative error by Council.

10 AUTHORIZATION

- As rates are deemed to be recoverable in all instances, all requests to write-off debt in respect of rates must be presented as individual items to Council.
- In respect of other debt, schedules indicating the debtor account number, the debtor's name, the physical address in respect of which the debt was raised, address erf number, if applicable, amount per account category as well as a reason to write off the amount must be compiled.
- Notwithstanding the above Council or its authorized officials will be under no obligation to write off any particular debt and will always have the sole discretion to do so.

11 DISCRETION - NEGOTIABLE AMOUNTS

- Discretion in terms of negotiable amounts as per this policy is delegated to the Executive Director of Finance with the right to sub-delegate.

- Officials with delegated powers may use discretion as a final tool by which decisions can be made in accordance with this policy.
- At all times and at all levels, discretion will only be used so as to apply the principles embodied within the policy and to ensure that some form of payment acceptable to Council is forthcoming from negotiations with the debtor.
- At all times the most financially beneficial arrangement to Council must be entered into whilst still retaining the principles of this policy.

12 ABANDONMENT

- The Municipal Manager, must ensure that all avenues are utilized to collect the debt.
- There are some circumstances that allow for the valid termination of debt collection procedures:
  (i) The insolvency of the debtor, whose estate has insufficient funds.
  (ii) A balance being too small to recover, for economic reasons considering the cost of recovery.
- The municipality will maintain audit trials in such an instance, and document the reasons for the abandonment of the debt.

13 PERFORMANCE EVALUATION

13.1 *Income Collection Targets*

Council to create targets that include:

(i) Reduction in present monthly increase in debtors in line with performance agreements determined by council.

14 CUSTOMER SERVICE TARGETS

Council to create targets that would include:

(i) Response time to customer queries.
(ii) Date of first account delivery to new customers.

15 ADMINISTRATIVE PERFORMANCE

Council to create targets that will include:

(i) Cost efficiency of debt collection.
(ii) Query rates.
(iii) Enforcement mechanism ratios.

Council will create a mechanism wherein these targets are assessed; Council's performance is evaluated and remedial steps taken.

16 REPORTING TO COUNCIL

- The Executive Director: Finance shall report monthly to the Municipal Manager in a suitable format to enable the municipal Manager to report to Council. This report shall report on:
  - (i) Cash flow information for the capital and operating accounts, and combined situation, showing Council's actual performance against its cash flow budgets.
  - (ii) Cash collection statistics, showing high-level debt recovery information (numbers of customers; enquires; default arrangements; growth or reduction of arrear debtors; ideally divided into wards, business (commerce and industry) domestic, state, institutional and other such divisions.
  - (iii) Performance of all areas against targets agreed to in item 6 of this policy document.
  - (iv) Council's ongoing income and expenditure statements, comparing both billed income and cash receipt income, against ongoing expenditure in both the capital and operating accounts.
- If in the opinion of the Executive Director: Finance, Council will not achieve cash receipt income equivalent of the income projected in the annual budget as approved by Council, the Executive Director: Finance will report this with motivation to the Municipal Manager who will, if he agrees with the Executive Director: Finance, immediately move for a revision of the budget according to realistically realizable income levels.

17 STRUCTURES OF THE FINANCE DEPARTMENT

Council shall regularly receive a report from the Executive Director: Finance, if necessary after consultation with suitable consultants, on the manpower and systems requirements of treasury which requirements take into account Council's agreed targets of customer care and management, and debt collection, and, after considering this report, Council will within reason vote such resources as are necessary to ensure that treasury has the staffing and structures to meet Council's targets in this regard or to outsource the service.

~~REFERENCES:~~

~~1 LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT 32 OF 2000)~~
~~2 THE CONSTITUTIONAL ACT OF THE REPUBLIC OF SOUTH AFRICA, 1996 (ACT 108 OF 1996)~~
~~3 DEBT MANAGEMENT POLICY – CITY OF CAPE TOWN~~
~~4 CREDIT CONTROL – WEST COAST DISTRICT COUNCIL~~
~~5 CUSTOMER CARE MANAGEMENT AND DEBT COLLECTION POLICY – BREEDE VALLEY MUNICIPALITY~~