



**BUFFALO CITY  
METROPOLITAN MUNICIPALITY**

Buffalo City Metropolitan Municipality

# Credit Control By- Law

**APPROVED BY:**

**BUFFALO CITY METROPOLITAN MUNICIPAL COUNCIL**

# Buffalo City Metropolitan Municipality Credit Control By-Law



## 1. BY-LAW TITLE

# CREDIT CONTROL BY-LAW

## 2. PREAMBLE

WHEREAS section 152 (1) (b) of the Constitution of the Republic of South Africa Act 108 of 1996 (*the Constitution*) provides that one of the objects of local government is to ensure that the provision of services to communities occurs in a sustainable manner;

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

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

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

AND WHEREAS section 4 (1) (c) of the Local Government: Municipal Systems Act 33 of 2000 (*the Systems Act*) provides that the Council of a municipality has the right to finance the affairs of the municipality by charging fees for services, imposing surcharges on fees, rates on property and, to the extent authorized by national legislation, other taxes, levies and duties;

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

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

AND WHEREAS Chapter 9, sections 95, 96, 97, 98, 99 and 100, of the Systems Act provides for Customer Care Management, Debt Collection responsibility of the Municipality, contents of the policy, by-laws that give effect to the policy, Supervisory authority and Implementing authority, respectively.

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## Adoption of a Credit Control By-Law

The Buffalo City Metropolitan Municipality hereby adopted a Credit Control and Debt Collection by-law in terms of section 96(b) of the Local Government: Municipal Systems Act, No. 32 of 2000.

### **3. DEFINITIONS**

In this by-law any word or expression to which a meaning has been assigned in the Local Government: Municipal Systems Act, has that meaning, unless the context, indicates otherwise-

<b>“Arrangement”</b>	means a written agreement entered into between the Municipality and the debtor where specific repayment parameters are agreed to. Such arrangement does not constitute a credit facility envisaged in terms of section 8(3) of the National Credit Act but is deemed to be Incidental Credit as envisaged in terms of section 4(6)(b) read with section 5(2) and (3) of the National Credit Act.
<b>“Arrears”</b>	means those rates and service charges that have not been paid by the due date and for which no arrangement has been made.
<b>“Account”</b>	means an account rendered specifying charges for services provided by the municipality, or any authorized and contracted service provider, and which account may or may not include assessment rates levies;
<b>“Authorized Representative”</b>	means a person or instance legally appointed by the Municipality to act or to fulfil a duty on its behalf
<b>"Billing date"</b>	means the date upon which the monthly statement is generated and debited to the customer's account.
<b>"Business premises"</b>	means premises utilized for purposes other than residential and excludes the following: -  (a) hospitals, clinics and institutions for mentally ill persons which are not operated for gain;  (b) museums, art galleries, libraries and botanical gardens which are registered in the names of private persons and are open to the public, whether admission fees are charged or not;

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	(c) sports grounds used for the purpose of amateur sports and any social activities which are connected with such sports;
	(d) any property registered in the name of an institution or organization which, in the opinion of the Municipality, performs charitable work;
	(e) any property utilized for bona fide church or religious purposes.
<b>"Chief Financial Officer"</b>	means the person appointed as the Chief Financial Officer of the Municipality, or his or her nominee.
<b>"Credit Control"</b>	means all the functions relating to the collection of monies owed by ratepayers and the users of municipal services.
<b>"Council"</b>	means the Municipal Council of Buffalo City Metropolitan Municipality or any duly authorized Committee, political office bearer or official of the said Council.
<b>"Customer"</b>	means any occupier of any premises to which the Municipality 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.
<b>"day/days"</b>	means calendar days, inclusive of Saturdays, Sundays and public holidays.
<b>"Debt Collection Agent"</b>	means a debt collector or attorney or a Project Manager appointed by the municipality to collect rates and service charges.
<b>"Debt Collection"</b>	means the activity to collect monies owed to the municipality by a debtor.
<b>"Debt Impairment Allowance"</b>	means the irrecoverable amount calculated on the billing debtor balance as at 30 June of a financial year by which the debtor balance must be reduced in the Annual Financial Statements.
<b>"Defaulter"</b>	means any person owing the Municipality arrear monies in respect of taxes and/or service charges. in relation to – (a) rates due in respect of any immovable property, means the thirtieth (30) day of September of the financial year for which such rate is made, or any other

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	<p>date determined by the Council by notice in the Provincial Gazette, and</p> <p>(b) in respect of service charges due in respect of any immovable property, means the date for payment indicated on the account.</p> <p>(c) should such day fall on a Saturday, Sunday or public holiday the due date shall be the next working day.</p>
<b>“Due Date”</b>	<p>means:</p> <p>the date the municipal account is due and payable, which is the fifteenth (15<sup>th</sup>) of every month, unless this day falls on a weekend or public holiday, in which case the due date is the first working day following the fifteenth (15<sup>th</sup>) of the month.</p>
<b>"Immovable property"</b>	<p>includes –</p> <p>(a) an undivided share in immovable property, and</p> <p>(b) any right in immovable property.</p>
<b>“Implementing Authority”</b>	<p>means the City Manager or his or her nominee, acting in terms of section 100 of the Local Government: Municipal Systems Act No. 32 of 2000.</p>
<b>"Indigent debtor"</b>	<p>means:</p> <p>(a) the head of an indigent household:</p> <p>(i) who applied for and has been declared indigent in terms of the Municipality’s Indigent Support Policy for the provision of services from the municipality; and</p> <p>(ii) who makes application for indigent support in terms of the Municipality’s Indigent Support Policy on behalf of all members of his or her household;</p> <p>(b) orphaned minor children duly represented by their legal and/or defacto guardians.</p>
<b>“Indigent Support Programme”</b>	<p>means a structured programme for the provision of indigent support subsidies to qualifying indigent debtors in terms of the Municipality’s Indigent Support Policy.</p>
<b>"Indigent Support Policy"</b>	<p>means the Indigent Support Policy adopted by the Council of the Municipality.</p>
<b>“Interest”</b>	<p>means a charge levied on all arrear monies with the same legal priority as service fees and calculated at a rate determined by the Municipality, from time to time;</p>
<b>"Month"</b>	<p>means a calendar month.</p>

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- "Monthly average consumption"** means the monthly average consumption in respect of that property calculated on the basis of consumption over the preceding or succeeding twelve (12) months.
- "Municipal pay point"** means any municipal office in the area of jurisdiction of the municipality designated by the Municipality for such purposes, or any such other places as the Chief Financial Officer may from time to time designate.
- "Municipal services"** means services provided either by the municipality, or by an external agent on behalf of the Municipality in terms of a service delivery agreement.
- "Municipality"** means the Buffalo City Metropolitan Municipality.
- "City Manager"** means the City Manager of the Buffalo City Metropolitan Municipality or his or her nominee acting in terms of power delegated to him or her by the said City Manager with the concurrence of the Council.
- "Occupier"** means the person who controls and resides on or controls and otherwise uses immovable property, provided that -
- (a) the husband or wife or life companion of the owner of immovable property which is at any time used by such owner and husband or wife or life companion as a dwelling, shall be deemed to be the occupier thereof;
  - (b) where a husband and wife or life companion both reside on immovable property and one of them is an occupier thereof; the other shall also be deemed to be an occupier thereof.
- "Owner"** in relation to immovable property means -
- (a) the person in whom is vested the legal title thereto provided that -
    - (i) the lessee of immovable property which is leased for a period of not less than thirty years, whether the lease is registered or not, shall be deemed to be the owner thereof;
    - (ii) the occupier of immovable property occupied under a service servitude or right analogous thereto, shall be deemed to be the owner thereof;
  - (b) if the owner is deceased or insolvent or has assigned his or her estate for the benefit of his creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, the person in whom the administration of such property is vested as executor, administrator, trustee, assignee,

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	curator, liquidator or judicial manager, as the case may be, shall be deemed to be the owner thereof;
	(c) if the owner is absent from the Republic or if his address is unknown to the Municipality, any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property, or
	(i) if the Municipality is unable to determine who such person is, the person who is entitled to the beneficial use of such property.
<b>"Premises"</b>	includes any piece of land, the external surface boundaries of which are delineated on: (a) A general plan or diagram registered in terms of the Land Survey Act, (9 of 1927) or in terms of the Deed Registry Act, 47 of 1937; or (b) A sectional plan registered in terms of the Sectional Titles Act, 95 of 1986, which is situated within the area of jurisdiction of the Council.
<b>"Prescribed"</b>	means prescribed by this by-law and where applicable by the the Council or the City Manager.
<b>"Prescribed debt"</b>	means debt that becomes extinguished by prescription in terms of the Prescription Act 68 of 1969.
<b>"Person"</b>	means a natural and juristic person, including any department of state, statutory bodies or foreign embassies.
<b>"Rates"</b>	means any tax, duty or levy imposed on property by the municipality.
<b>"Reconnection fee"</b>	means the penalty fee imposed on a defaulting debtor appearing on the debt collection action list, and is due and payable irrespective if the services have been suspended or not.
<b>"Registered owner"</b>	means that person, natural or juristic, in whose name the property is registered in terms of the Deeds Registry Act, no. 47 of 1937.
<b>"Responsible person"</b>	means any person other than the registered owner of an immovable property who is legally responsible for the payment of municipal service charges.
<b>"Service Agreement"</b>	means the application form that is completed by the owner of the property for the provision of Municipal services

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"Service charges"	means the fees levied by the Municipality in terms of its tariff policy for any municipal services rendered in respect of an immovable property and includes any penalties, interest or surcharges levied or imposed in terms of this by-law.
"Service delivery agreement"	means an agreement between the Municipality and an institution or persons mentioned in section 76(b) of the Local Government: Municipal Systems Act 32 of 2000.
"Sundry debtor accounts"	means accounts raised for miscellaneous charges for services provided by the Municipality or charges that was raised against a person as a result of an action by a person and which was raised in terms of the Council's policies, by-laws and decisions
"Supervisory Authority"	means the Executive Mayor of the Municipality or his or her nominee, acting in terms of Section 99 of the Municipal Systems Act 32 of 2000.
"Tariff"	means any rate, tax, duty and levy or fee which may be imposed by the municipality for services provided either by itself or in terms of a service delivery agreement.
"Tariff Policy"	means a Tariff Policy adopted by the Council in terms of Section 74 of the Local Government: Municipal Systems Act 32 of 2000.
"User"	means the owner or occupier of a property in respect of which municipal services are being rendered.

#### **4. BY-LAW STATEMENT**

**It is the policy of Buffalo City Metropolitan Municipality to effectively collect all revenue due to it.**

#### **5. MAIN PURPOSE**

**The main purpose of the Credit Control By-Law is to effectively collect all revenue due to the Municipality**



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## 6. SCOPE OF THE BY-LAW

The Credit Control By-Law applies to all billed customers within the Buffalo City Metropolitan Municipal boundaries.

## 7. LEGAL FRAMEWORK

The statutory framework on which the Credit Control By-Law is founded is as follows:

Constitution of the Republic of South Africa Act 108 of 1996 ('the Constitution')

Section 152 (1) (b)  
Section 153 (a)  
Section 195 (1)

Local Government: Municipal Systems Act 33 of 2000 ('the Systems Act')

Section 4 (1) (c)  
Section 5 (1) (g), read with subsection (2) (b),  
Section 6 (2) (c), (e) and (f)  
Chapter 9, sections 95, 96, 97, 98, 99 and 100,

## 8. STRATEGIC OBJECTIVES

To collect all Revenue due to the Municipality

## 9. GUIDING PRINCIPLES

The guiding principles supported in this by-law are: -

- (1) The administrative integrity of the municipality must be maintained at all times.
- (2) The by-law must have the full support of the Council and the community.
- (3) Councillors must have full knowledge of the implementation and enforcement of the by-law.

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- (4) The Executive Mayor oversees and monitors the implementation and enforcement of this by-law.
- (5) The City Manager implements and enforces this by-law.
- (6) The City Manager may delegate the implementation and enforcement of this by-law to the Chief Financial Officer.
- (7) Customers must apply for services from the Municipality by the completion of the prescribed application form.
- (8) Customers must receive regular and accurate accounts that indicate the basis for calculating the amounts due.
- (9) Customers must pay their accounts regularly by the due date.
- (10) Customers are entitled to reasonable access to pay points and to a variety of reliable payment methods.
- (11) Customers are entitled to an efficient, effective and reasonable response to appeals, and should not suffer any disadvantage during the processing of a reasonable appeal.
- (12) Debt collection action will be instituted promptly, consistently, and effectively without exception and with the intention of proceeding until the debt is collected.

### **10. GOVERNANCE ISSUES**

- (1) The Executive Mayor oversees and monitors –
  - (a) The implementation and enforcement of the municipality's credit control by-law.
  - (b) The performance of the City Manager in implementing the credit control by-law.
- (2) The Executive Mayor shall at least once a year, cause an evaluation or review of the credit control by-law to be performed in order to improve the efficiency of the Municipality's credit control and debt collection mechanisms, processes and procedures and to the implementation of this by-law.
- (3) The City Manager shall submit a report to the Council regarding the implementation of the credit control by-law at such intervals as the Council may determine.
- (4) The City Manager: -

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- (a) Implements and enforces the credit control by-law.
  - (b) Is accountable to the Executive Mayor for the enforcement of the by-law and shall submit a report to the Executive Mayor regarding the implementation and enforcement of the Credit Control By-Law at such intervals as may be determined by Council.
  - (c) Must establish effective administration mechanisms, processes and procedures to collect money that is due and payable to the Municipality.
  - (d) Where necessary, propose to the Executive Mayor with the aim of improving the efficiency of the credit control and debt collection mechanisms, processes and procedures.
  - (e) Establish effective communication between the Municipality and account holders with the aim of keeping account holders abreast of all decisions by the Council that may affect account holders.
  - (f) Establish customer service centres, which are located in such communities as determined by the Municipality.
  - (g) Convey to account holders information relating to the costs involved in service provision, the reasons for payment of services are utilized, and may where necessary; employ the services of local media to convey such information.
- (5) The City Manager may, in writing, delegate any of the powers entrusted or delegated to him or her in terms of the Council's Credit Control by-law to the Chief Financial Officer.
- (6) A delegation in terms of subsection (5) –
- (a) Is subject to any limitations or conditions that the City Manager may impose;
  - (b) May authorize the Chief Financial Officer to, in writing, sub-delegate power to another official of the municipality;
  - (c) Does not divest the City Manager of the responsibility concerning the exercise of the delegated power.
- (7) The Chief Financial Officer shall be responsible to the City Manager for the implementation, enforcement and administration of this by-law, and the general exercise of his powers in terms of this by-law.

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## 11. BY-LAW

### 1. APPLICATION FOR THE PROVISIONS OF MUNICIPAL SERVICES

- (1) A Customer who requires the provision of municipal services must apply for the service from the Municipality, in writing. The absence of a Service Agreement does not absolve the owner of the property from the responsibility to settle the rates and / or service charges rendered to the property.
- (2) No registrations or additions to the customer database can be processed unless legal documentation acceptable to the Chief Financial Officer has been produced in each instance.
- (3) The application for the provision of municipal services must be made by the registered owner of an immovable property. If there is an outstanding debt on the property, this debt must be settled in full before the new customer is registered.
- (4) The Municipality will not entertain an application for the provision of municipal services from a tenant of a property, or any other person who is not the owner of the property.
- (5) The only exception to point (4) above is that individuals and businesses with lease agreements who lease properties from the Municipality will be allowed to open an account in the name of the lessee of the property. Registered indigent tenants will be allowed in terms of the Deceased Estate and Absconded Owner Schemes to open accounts in their name in order to benefit from the rebates offered by the Municipality. A tenant account may be opened in the name of the Government department/s who lease properties to their tenants.

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- (6) An agent may, with a proxy open an account in the name of the owner provided all the statutory information of the owner is supplied provided all the statutory information of the owner is supplied.
- (7) The application for the provision of municipal services must be made in writing on the prescribed application form that is provided by the Municipality.
- (8) By completing the prescribed application form for the provision of municipal services the Customer of services enters into an agreement with the Municipality. Such agreement does not constitute a credit facility envisaged in terms of section 8(3) of the National Credit Act (NCA) but shall be an incidental credit agreement as envisaged in terms of section 4(6)(b) of the NCA, to which the NCA will only apply to the extent as stipulated in section 5 of the NCA. This must be read in conjunction with point 11 (1)(1) above.
- (9) The agreement with the Municipality makes provision for the following:
  - (a) An undertaking by the owner that he or she will be liable for collection costs including administration fees, interests, disconnection and reconnection costs, and any other legal costs occasioned by his or her failure to settle accounts by the due date;
  - (b) An acknowledgement by the owner that accounts will become due and payable by the due date notwithstanding the fact that the owner did not receive the account; and
  - (c) That the onus will be on the owner to ensure that he or she is in possession of an account before the due date.
  - (d) An undertaking by the Municipality that it shall do everything in its power to deliver accounts timeously.

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- (e) An undertaking by the Directors of Companies or members of Closed Corporations and Trustees of Trusts that they will be held individually responsible for the payment of the account, should the company or closed corporation or Trust default on payment of the account, in terms of the terms and conditions as stipulated in the application for services agreement
- (10) The application for the provision of municipal services shall be made at least ten (10) days prior to the date on which the services are required to be connected.
- (11) On receipt of the application for provision of municipal services, the Municipality will cause the reading of metered services linked to the property to be taken on the working day preceding the date of occupation. The onus is on the applicant to ensure reasonable access to the metering device/s.
- (12) The first account for services will be rendered, after the first meter reading cycle to be billed following the date of signing the service agreement.
- (13) Customers who fail to register and who illegally consume services will be subjected to such administrative, civil or criminal action as the Municipality deems appropriate
- (14) Where the purpose for or extent to which any municipal service used is changed, the onus and obligation is on the owner to advise the Municipality of such change.

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### 2. DEPOSITS AND GUARANTEES

- (1) On application for the provision of municipal services the prescribed Customer deposit shall be paid.
- (2) A guarantee in lieu of a deposit will be accepted on application for the provision of municipal services by a business in terms of the prevailing conditions determined by the Municipality at the time of the application.
- (3) Existing Customers moving to a new address are required to pay the prescribed Customer deposit on application for the provision of municipal services at the new address.
- (4) The minimum deposit payable is determined annually by the Council and is contained in the tariff book produced annually.
- (5) The Customer deposit paid on application for the provision of municipal services may be increased or decreased, upon written notice to Customers, if found that the deposit is not equal to the estimated charges for the supply of electricity and water for a period of three (3) months.
- (6) The Municipality may increase the amount of the deposit required from the owner of a property where the electricity supply had been disconnected at least twice during the preceding period of twelve months, after the owner of the property was given notice of the Municipality's intention to increase the deposit.
- (7) On termination of the supply of services the amount of the deposit less any payment due to the Municipality will be refunded to an account holder, provided that payments due are less than the deposit paid, and that the account holder has provided a forwarding address.

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- (8) The Municipality may appropriate a customers' deposit on any account related to that customer

### 3. ACCOUNTS, BILLING AND RESPONSIBILITY FOR PAYMENT

- (1) The Municipality provides all Customers of municipal services, monthly, with a consolidated account for all applicable services rendered.
- (2) The consolidated account will include property rates charges where applicable.
- (3) Accounts are produced on a monthly basis in cycles of approximately 30 days.
- (4) All accounts rendered by the Municipality shall be payable on the due date as indicated on the account.
- (5) Amounts on accounts, which remain unpaid after the due date, shall attract interest on arrears irrespective of the reason for non-payment.
- (6) All accounts are payable by the due date regardless of the fact that the person responsible for the payment of the account has not received the account. The onus is on the account holder to obtain a copy of the account before the due date.
- (7) Customers are required to update their information details with the Municipality as and when their details change. The Municipality will, in a cycle of two (2) years send out a pre-populated document related to the updating and verification of customer information which must be completed by the account holder or proxy and be submitted to the municipality within the prescribed period as determined by the Municipality. Failure to respond to the Municipality's request for updated



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information will result in withholding of services, disconnection of services or any other appropriate action.

- (8) When electricity and water consumption is recorded on a property during a period for which there is no registered customer against whom a bill can be raised, the relevant charges for electricity and water services shall be raised against the registered owner on his/her consolidated bill.
- (9) The Municipality bills an owner of a property for the following rates and service charges: -
  - (a) Property Rates, Refuse and Sewerage charges
    - (i) Property rates, refuse and sewerage charges are billed monthly. The owner of the immovable property must make a written application to the Municipality in order to be billed on an annual basis.
    - (ii) The Municipality's preference is that property rates, refuse and sewerage charges be charged monthly. Due to historical legislation these charges are being charged monthly and annually.
    - (iii) Property rates, refuse and sewerage charges charged annually are billed on the July account of each year and the due date for the payment of these charges is 30 September of each year.
    - (iv) Property rates refuse, and sewerage charges charged monthly are billed on the monthly accounts and the due date for the payment of the charges will be as indicated on the accounts.

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- (v) The tariffs to calculate the Property rates, refuse and sewerage charges are determined annually and approved by the Council and are contained in the tariff book produced by the Municipality.
- (b) Electricity and Water Charges
  - (i) Consumption of electricity and water is billed in terms of metered consumption. In the absence of actual metered consumption, the municipality may charge an estimate based on historical consumption of the customer, which will be reversed at the next instance of billed metered consumption. In the absence of historical consumption, the municipality will bill an interim, as determined by the Chief Financial Officer from time to time.
  - (ii) Monthly accounts are rendered for electricity and water consumption and the due date for the payment of the accounts will be the date as indicated on the account.
  - (iii) The tariffs to calculate the electricity and water charges are determined annually and approved by the Council and are contained in the tariff book produced by the Municipality.
  - (iv) Consumption that is not metered will be charged at a tariff as determined by the Municipality.
- (c) Fire levy
  - (i) Property owners within Buffalo City Metropolitan Municipality area are charged a fire levy instead of being charged when the Fire Department responds to fire calls in respect of dwellings and businesses and vacant land.

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- (ii) The fire levy is charged monthly on the account produced by the Municipality.
  
- (d) Sundry Debtor accounts
  - (i) Sundry debtor accounts are raised for miscellaneous charges for services provided by the Municipality or charges that are raised against a debtor as a result of an action by a debtor or person which necessitates a charge to be raised by the Municipality against the debtor or person in terms of the Council's policies, by-laws and decisions.
  - (ii) The sundry debtor account is included in the monthly consolidated account produced by the Municipality.
  
- (10) Final accounts
  - (a) On receipt of an application for termination of services the final readings of metered services will be taken by the Municipality, the accounts will be finalized, the customer deposit will be appropriated and if a debit balance remains the balance will be payable by the Customer and if a credit balance remains the balance will be refunded to the Customer, on condition that the Customer has provided the Municipality with a forwarding address.
  - (b) Where the municipality is not able to obtain a final reading from the metering devices, the municipality may charge a final reading based on daily consumption up to the date of

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termination, appropriate the service deposit and proceed to produce a final account.

(c) The Municipality will not pay interest on any security deposit held in respect of service charges.

(11) The due date for payment of accounts in all areas in the Buffalo City Municipal area is the 15<sup>th</sup> day of the month. Should the 15<sup>th</sup> day of the month fall on a Saturday, Sunday or public holiday then the due date shall be the first working day thereafter.

(12) Back charges

(a) The Municipality may, if it is found that the relevant Customer of services has been undercharged for a period of time irrespective of the reason, charge the Customer for a period not exceeding six (6) months from the date that the Customer is made aware of the back charge, in writing by the Municipality.

(b) The Customer may settle the back charge in equal instalments over the same period in the relation to the period of the back charge. This arrangement period does not include back charges due to meter tampering.

(c) If it is found that the Customer is back charged due to meter tampering, then the municipality must recover the consumption for the period, not exceeding three (3) years from the date that the Customer is made aware of the back charge in writing by the Municipality. The back charge must be settled in full and no repayment terms will be entertained by the Municipality and the

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services will remain suspended until the back charge is settled in terms of chapter 16 of the Credit Control By-Law.

(13) Billing of Government Funded (RDP) properties

- (a) The Municipality will only commence to raise charges in respect of rates and applicable service charges once the property has been officially handed over to the beneficiary (i.e. the keys to the house) by the Directorate responsible for Human Settlements within the municipality, and the applicable service agreement must have been entered into.
- (b) Availability charges will not be raised on Government Funded (RDP) properties.

(14) Responsibility for Payment

14.1 In terms of Section 118 (3) of the Municipal Systems Act No 32 of 2000, an amount due for municipal service fees, surcharge on fees, property rates and other municipal taxes, levies and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property.

14.1.1 Accordingly, all such Municipal debts shall be payable by the owner of such property without prejudice to any claim which the Municipality may have against any other person.

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- 14.1.2 Where applicable, the Municipality reserves the right to cancel a contract with the customer in default and register the owner only for services on the property.
- 14.1.3 No new services will be permitted on a property until debts on the property are paid in full.
- 14.2 Where the property is owned by more than one person, each such person shall be jointly and severally liable, the one paying the other to be absolved, for all Municipal debts charged on the property.
- 14.3 Except for property rates, owners shall be held jointly and severally liable, the one paying the other to be absolved, with their tenants who are registered as customers, for debts on their property.
- 14.4 Should any dispute arise as to the amount owing, the customer shall pay all amounts which are not subject to the dispute, including an average amount of the service which is in dispute.
- 14.5 The owner of the property will be held liable for meter tampering on the property as well as charges that arise there from.

#### **4. METERING OF MUNICIPAL SERVICES**

- (1) The Municipality may introduce a specific type of metering equipment and may encourage Customers to convert to such a system, which is preferred by the Municipality it considers this to be beneficial to its functioning and operations.
- (2) The Municipality's preferred metering system to measure electricity is the prepayment electricity metering system for residential customers and for certain businesses, and where applicable the prepayment water metering system, in respect of water consumption

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- (3) In the instance where there is a credit meter and the Customer's account is in arrears and the service has been disconnected, the owner of the immovable property must apply for the conversion of the credit meter to the prepayment electricity meter, or in the case of water, the owner will be required to apply for the conversion of the credit meter to a prepayment (if applicable) Once application is made and the debt is settled in terms of the conditions of the Credit Control Policy, then the supply will be restored. This conversion will be related to the applicable type of metering device and customer type.
- (4) Electricity and water consumption is measured with credit and prepayment electricity and water meters, where applicable.
- (5) The following applies to the reading of credit meters: -
  - (a) Credit electricity and water meters are read in cycles of approximately thirty (30) days.
  - (b) If for any reason the credit electricity and water meters cannot be read, the Municipality will render an account based on estimated consumption. A notice will left at the premises on the day of the reading informing the customer of non-access. The Customer will then be required to provide a reading of the relevant meters to the Municipality. This must be read in conjunction with point 3(9) (b) (i) above.
  - (c) The account based on estimated consumption will be adjusted in the subsequent account based on the actual consumption.
  - (d) The Customer is responsible to ensure access to metering equipment for the purpose of obtaining meter readings for billing purposes.

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- (e) Customers can, for reasons of non-accessibility to their properties by meter readers, provide the Municipality with meter readings for billing purposes, provided that an audit reading can be obtained by the Municipality once every six (6) months and provided that a final reading can be obtained should the Customer vacate the property.
- (f) If any calculation, reading or metering error is discovered in respect of any account rendered to a Customer –
  - (i) the error shall be corrected in a subsequent account.
  - (ii) Any such correction shall only apply in respect of account for a period of six (6) months preceding the date on which the error in the account was discovered,
  - (iii) the correction shall be based on the tariffs applicable during the period, and
  - (iv) the application of this section shall not prevent a Customer from claiming overpayment for any longer period where the Customer is able to prove the claim in the court of law if it is certified that the leak occurred on a pipe listed on the schedule of approved pipes and fittings prescribed by the Director responsible for Infrastructure Services.
- (g) When a Customer vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made and the final account rendered accordingly.
- (6) The following applies to prepayment metering: -
  - (a) Prepayment electricity and water are purchased at prepayment vending points for consumption after the date of purchase.



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- (b) Amounts tendered for the purchase of prepayment electricity and water will not be refunded after the prepayment meter token has been produced.
- (c) On request of the Customer copies of the previous prepayment meter tokens will be produced.
- (d) Credits remaining in the prepayment meter will not be refunded when a premises is vacated by a Customer.
- (e) The Municipality shall not be liable for the reinstatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of prepayment meters.
- (f) The Municipality will apply all the debt collection actions available on the prepayment system to collect all arrear debt on the account of the debtor.
- (g) The Municipality may appoint vendors for the sale of prepayment electricity and /or water and does not guarantee the continued operation of any vendor.
- (h) The following applies to water leaks that are found on properties: -
  - (i) Water leaks in the reticulation system on a property and after the water meter is the responsibility of the owner of the property.
  - (ii) The position mentioned in 4(6)(h)(i) above can be changed by a Council Resolution to solve a water management problem in a certain area or areas.
  - (iii) If the water leak is on the owner's side of the meter, the Municipality may repair the leak to prevent further water losses and charge the cost of the repair to the account of the owner.

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- (iv) When a water leak is discovered on a property which resulted in excessive water charges on the account of the Customer, the Customer will be entitled to a water leak tariff rebate if: -
  - (a) The Customer submits a certificate from a registered plumber or sworn affidavit from any other person who has repaired the leak within ten (10) days of the leak having been repaired.
  - (b) The said certificate must clearly state the date on which the leak was repaired,
  - (c) It is confirmed that the leak was not discernable from the surface,
  - (d) It is certified that the leak occurred on a pipe listed on the schedule of approved pipes and fittings prescribed by the Director responsible for Infrastructure Services.
  - (e) The leak must have been repaired within forty-eight hours (48) after detection.
- (i) The cost of repairs shall be for the account of the Customer.
- (j) The excess charge for water on the account of the Customer due to a water leak will only be adjusted after three (3) consecutive monthly readings, following the repair of the water leak, to determine the average consumption during the period the leak occurred.
- (k) During the period that the water leak occurred the charge for water will be based on average consumption of water.

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### 5. PAYMENT OF ACCOUNTS

- (1) All accounts rendered by the Municipality are due and payable on or before the due date as indicated on the account.
- (2) All payments, whether made by cash, cheque, stop order, electronic payments or payments made through agents should be receipted by the Municipality by the close of business on the due date.
- (3) Accounts rendered by the Municipality can be paid at any Municipal cashier office and any other pay point as determined by the Municipality, from time to time.
- (4) The payment methods and facilities supported by the Municipality can be used to make payments on accounts.
- (5) Every effort will be made to ensure that all payments particularly from 3<sup>rd</sup> party agents are received within the maximum of five (5) days of the original payment date. However the onus is on the customer to make allowance for delays of such payments. Customers must ensure that payments made through 3<sup>rd</sup> party agents are received in the Municipality's bank account by the due date. The Municipality will not accept responsibility for delays in receipting of payments.
- (6) Payments received in respect of rates and service charges will be allocated by the Municipality entirely within its own discretion, on the account of the account holder.
- (7) Payments tendered by a Customer can be allocated to any of the customer's accounts at the discretion of the Municipality.
- (8) Part payment received on an account shall be allocated firstly to reduce any penalty charges that may have accrued on the account,

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then to interest charges and then to capital charges raised related to a specific service, at the discretion of the Municipality.

- (9) An official receipt issued by the Municipality will be the only proof of payment made.
- (10) Any amount paid by the customer in excess of an existing debt may be held in credit for the customer in anticipation of future rates and service charges , and no interest will be payable on that amount by the Municipality. The onus is on the customer to claim any refund of such amount paid in advance, along with supplying proof of such overpayment made.
- (11) Where any payment made to the Municipality, or its authorized agent, by negotiable instrument or direct debit, is later dishonored by the bank, the municipality or its authorized agent:
  - (a) will recover the average bank charges incurred relating to a dishonored negotiable instrument against the account of the customer;
  - (b) may regard such an event as default on payment and the account shall be dealt with as an arrear account;
  - (c) reserves the right to take legal action on the negotiable instrument or for recovery of arrears.
  - (d) Will not accept future cheque payments by the debtor.

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### 6. INTEREST ON ARREAR DEBT

- (1) Amounts on accounts, which remain unpaid after the due date, shall attract interest irrespective of the reason for non-payment.
- (2) The interest rate charges on overdue debt will be the interest rate charges to the Municipality by its banker on its primary bank account, plus one (1) percentage point.
- (3) The following categories of arrear debt shall not attract interest on arrears:
  - (a) Indigent debt
  - (b) Closed accounts
  - (c) Deceased estates
  - (d) Insolvent estates
  - (e) Debtors under administration
  - (f) Debt under Debt Review
  - (g) Any other category of debt as determined by the municipality
- (4) No interest shall be charged on any outstanding amounts in respect of which an agreement had been concluded for the payment by way of installment thereof, provided the instalment is paid in full plus the monthly current account, by the due date.
- (5) Interest on arrear debt shall be calculated as stipulated in the National Credit Act No.34 of 2005 (NCA), for each month for which such payment remains unpaid shall be charged after thirty (30) days after the statement was delivered to the Customer.

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- (6) The Municipality will charge a “standard rate” in relation to interest on overdue debtors which is one percent higher than the rate of interest payable by the Municipality to its banker in respect of a debit balance.

### 7. ENQUIRIES AND APPEALS

- (1) Any aggrieved person may address a grievance or query regarding charges for municipal rates and services to the Chief Financial Officer in writing or may visit any Customer Care office or facility provided by the Municipality.
- (2) The aggrieved person shall clearly state the basis of his or her dissatisfaction and the desired resolution. The dispute must relate to specific charges raised on the account.
- (3) The lodging of an inquiry shall not relieve the aggrieved person of the responsibility to settle his or her account. A monthly payment equal to an average account must be paid by the due date pending finalization of the enquiry. Such arrangement must not exceed ninety (90) days from the registration of the query by the customer.
- (4) The Municipality will respond to all inquiries from Customers in writing within sixty (60) days from the lodging of the enquiry.
- (5) Objections and Appeals on Property valuations do not stop Credit Control and Debt Collection Procedures and any other applicable action.

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### 8. DEBT COLLECTION

- (1) The Chief Financial Officer is authorized to institute agreed upon debt collection mechanisms without exception and with the intention to proceed until the debt is collected.
- (2) All rates and services accounts rendered by the Municipality shall be paid on or before the due date as indicated on the account. It is unlawful not to pay property rates and / or service charges rendered.
- (3) Amounts on accounts, which remain unpaid after the due date, shall attract interest, irrespective of the reason for non-payment.
- (4) Amounts on accounts, which remain unpaid after the due date, will be subject to a fourteen (14) day notice period notification prior to the intended debt collection action that will be instituted.
- (5) Debt collection action will be taken on the total amount outstanding on the account after the due date. The total amount outstanding includes property rates, refuse, sewerage, water, electricity, fire levy and sundry debtor charges, and includes handed over debt for which settlement arrangements have not been entered into.
- (6) The debt collection action to be taken will be as follows: -
  - (a) Disconnection of electricity supply
    - (i) The Municipality shall disconnect the electricity supply to a property if the account rendered by the Municipality is not paid by the due date as indicated on the account and in terms of the fourteen-day pre-termination notice referred to in section 8(4) above.

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- (ii) Credit electricity meters and prepayment electricity meters will be disconnected for the non-payment of consolidated municipal accounts.
  - (iii) Disconnection of electricity supply will be for the total amount outstanding on the account, including unpaid amounts handed over for collection to the panel of Collection Agents and not just for the electricity portion of the account.
  - (iv) Disconnection of electricity supply for the non-payment of an account will be during the 30 day period following the due date.
  - (v) Penalty fees will be charged to the account of the defaulting debtor.
- (b) Blocking from the purchase of electricity
- (i) The Municipality will block a Customer from the purchase of electricity on the prepayment electricity system if the account rendered by the Municipality is not paid by the due date as indicated on the monthly account.
  - (ii) The block from purchase of electricity will be for the total amount outstanding on the account, including unpaid amounts handed over for collection to the panel of Collection Agents and not just for a portion of the account.
  - (iii) The block from purchase of electricity for the non-payment of an account will be during the 30 day period following the due date as stipulated on the monthly account.
  - (iv) Non-Indigent Customers with arrears will be blocked on a block type that will require the Customer to pay in full the



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amount due to the Municipality before prepayment electricity can be purchased.

(v) Indigent Customers with arrears will be blocked on a block type on the prepayment system that will require the Customer to pay the current monthly account due before prepayment electricity can be purchased and with the purchase of electricity forty (40) % of the amount tendered to purchase electricity will be allocated to arrear debt. **The amount of the current monthly account due is the amount after the indigent subsidy has been deducted.**

(vi) Customers will be placed on a total block from the purchase of electricity for the following reasons and will only be permitted to purchase electricity after a visit to the Municipal offices by the Customer to attend to the reason for blocking: -

(a) When a Customer moved into a property and failed to apply for services from the Municipality and failed to pay the required security deposit.

(b) When the disconnection of electricity, blocked from the purchase of electricity and the restriction of water flow to the property did not have the desired effect to persuade the Customer to pay the arrear debt.

(c) Restriction or disconnection of water flow

(i) The Municipality will restrict the water flow to a property for the following reasons and will only restore the water flow after a visit to the Municipal office by the Customer to attend to the reasons for the restriction of the water flow: -

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- (a) When the disconnection of electricity supply or blocked from the purchase of electricity on the prepayment system did not have the desired effect to persuade the Customer to pay the arrear debt.
  - (b) When the water consumption by indigent Customers is more than the 6kl free water allocation provided by the Municipality to indigent Customers where the account remains unpaid.
- (ii) The Municipality will disconnect the water flow to a property under the following circumstances and will only restore the water flow after a visit to the Municipal office by the Customer to attend to the reasons for the disconnection of the water flow: -
- (a) The water supply to a business with an unpaid account will be disconnected if the disconnection of electricity supply to the property or blocked from purchase of electricity from the prepayment electricity system did not have the desired effect to persuade the Customer to pay the arrear debt.
  - (b) When the Customer moved into a property and failed to apply for services from the Municipality and failed to pay the required security deposit.
- (d) Handover of debt to Collection Agents for legal collection
- (i) Collection Agents will commence with pre-legal action in the form of:
    - (a) Letters of Demand

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- (b) Telephone Calls
- (c) Other electronic communication
- (ii) The following types of debt will be handed over to Collection Agents: -
  - (a) Debt that is 120 days and older.
  - (b) Debt for which no payment arrangements were made.
  - (c) Debt that relates to non- indigent debtors living in RDP houses. The legal process will be proceeded with as far as sale of movable property.
- (iii) The following types of debt will **not** be handed over to Collection Agents: -
  - (a) Debt of indigent debtors that are registered as indigent as at the date of handover, or debt where there is a pending indigent application, provided the pending status does not exceed three (3) months from date of application.
  - (b) Debt that is being paid off as per arrangement with the debtor.
  - (c) Debt that is under valid query in terms of section 102(2) of the Municipal Systems Act no 32 of 2000.
  - (d) Debt that is under administration or debt review.
  - (e) Debt of deceased indigent estates.
- (iv) The process of legal collection includes (but is not limited to) the following: -

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- (a) Final demands for payment.
- (b) Emolument attachment orders on debtor's salaries.
- (c) Summons issued for debt to be paid.
- (d) Default judgment to be obtained against the debtor.
- (e) The attachment of moveable properties and sale in execution of moveable property
- (f) The attachment of immovable property and the sale of immovable property.
- (g) Only the Municipality will hand debt over to Collection Agents for legal collection and the same debtor will not be handed over to more than one Collection Agent irrespective of the period that the debt relates to.

(e) Withholding or offsetting grants-in-aid.

The Municipality provides annual grants-in-aid to Institutions on approval of application. If an institution is in arrears with its services account, then the Municipality will withhold the grant-in-aid or the grant-in-aid will be off set against the arrear debt with the Municipality.

(f) Withholding or offsetting payment on contracts.

Institutions or individual persons, who are in contract with the Municipality to provide a service, and who are in arrears with their services account, will have payments to them withheld by the Municipality until the arrear debt with the Municipality is

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settled or the payment will be off set against the arrear debt with the Municipality.

(g) Section 118 of the Local Government: Municipal Systems Act No 32 of 2000.

a. The Municipality will issue a certificate required for the transfer of immovable property in terms of Section 118 of the Local Government: Municipal Systems Act No 32 of 2000, which is lodged with the Municipality in the prescribed manner, only when all amounts that became due in connection with that property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate have been fully paid. The Municipality will not accept letters of undertaking and will only release the clearance certificate once the charges contemplated in section 8(6)(d)(g)(a) have been fully paid, whether in cash or by irrevocable bank guaranteed cheque, or an Attorney's Trust account cheque.

(i) Debt older than two years on the property irrespective of whether the owner of the property had accumulated the debt will also have to be paid before the transfer of the property by the owner.

(ii) If the owner refuses to pay the debt which is older than two years, then the Municipality will apply to a competent Court for an order in the following terms:

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- (a) In the case where there is already a judgment for the payment of the amount, an order that the judgment debt be paid out of the proceeds of the sale, before the mortgage debt is settled.
- (b) In the case where there is no judgment debt, for an order staying transfer of the property pending the finalization of a civil action to be instituted against the person who is in law liable for the payment of the outstanding debt.
- (c) The action contemplated in section 8(6)(g)(a)(ii)(b) and 8(6)(g)(a)(ii)(c) must be taken before the property is transferred as the statutory lien created by Section 118(3) of the Act only endures until the property has been transferred and in terms of Section 118(5) of the Act can the new owner of the property not be held liable for the debt that became due before a transfer of a property took place.

(h) Withholding approval of building plans.

Institutions or individual persons, who apply to the Municipality for the approval of a building plan, and who are in arrears with their services account, will have approval of the building plan withheld by the Municipality until the arrear debt with the Municipality is settled.

(i) Other debt collection methods

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The debt collection methods mentioned in paragraph 8(6)(a) to 8(6)(h) above are not an exhaustive list of methods that can be applied to collect debt and any other methods that can be initiated, will be implemented with the consent of the Municipal Council, to collect debt.

(7) Debt Collection Cost

Any costs, which include collection costs, charges, disbursements and legal fees to any of the debt collection methods applied to collect the debt, will be charged to the account of the defaulting debtor. The “reconnection fee” charged is due and payable irrespective of whether the electricity and / or water supply was disconnected or not.

### 9. ARRANGEMENTS TO PAY ARREAR DEBT

- (1) The Municipality will not permit arrangements for settlement of debt in instalments for debt in the current and 30 day, ageing categories. Such charges must be paid up front.
- (2) One arrangement to settle debt in instalments for debt in 60 days days and older will be allowed. A new arrangement will not be permitted if the customer has entered into a prior arrangement, which is outstanding.
- (3) No payment extensions will be allowed on Current accounts due and payable by the due date.
- (4) Once the debt is handed over to a Collection Agent, the defaulting debtor may enter into one (1) arrangement with the Collection Agent as stipulated in terms of section 9 of this by-law. However, the arrangement application will not apply to the current and 30 day, ageing categories.

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- (5) The Customer, by signing the arrangement agreement to payoff arrear debt acknowledges the following: -
- (a) That debt is owed to the Municipality.
  - (b) That current and 30 day ageing categories of debt has been settled.
  - (c) That on default to honour the arrangement agreement, interest on arrears will be charged on the amount due, electricity supply will be disconnected to the property of the Customer or the Customer will be blocked from the purchase of electricity on the prepayment system and/or the water supply to the property of the Customer will be restricted and legal proceedings will be instituted to collect the debt. The full amount due will be payable.
  - (d) That the Customer will be liable for all costs, which includes legal costs, incurred to collect the debt.
  - (e) Consents to default judgment in terms of section 57 of the Magistrates Court Act of 1944.
- (6) Broken arrangement
- In the event that an arrangement has been broken by an account holder, no further arrangements will be entertained and the full amount due on the account plus any penalties will become due and payable. The services will be suspended and where applicable legal action will be implemented.



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### (7) Arrangements by Indigent Customers

- (a) Indigent Customers must have their credit electricity meters converted to prepayment electricity meters.
- (b) Indigent Customers are required to pay their current monthly account, which is the amount after indigent subsidy has been deducted, every month on or before the due date.
- (c) Indigent Customers with arrears will be blocked on a block type on the prepayment electricity system that will require the Customer to pay the current monthly account due before prepayment electricity can be purchased and with the purchase of electricity, 40% of the amount tendered to purchase electricity will be held back and be allocated to arrear debt. The amount of the current monthly account due is the amount after the indigent subsidy has been deducted.

### (8) Arrangements by Residential Customers

- (a) No arrangements or payment extensions for payment will be allowed for current and 30 day, debt ageing categories.
- (b) The current and 30 day, debt must be paid up front.
- (c) A once-off arrangement can be entered into by the customer to settle the 60 day and older debt in equal instalments up to twenty four (24) months plus the monthly current account.
- (d) Only written arrangements will be accepted and must be entered into by the account holder or proxy.

### (9) Arrangements by Non-Residential Customers

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- (a) No arrangements or payment extensions for payment will be allowed for current, 30 day, 60 day and 90 day debt ageing categories.
- (b) The current, 30 day, 60 day and 90 day debt must be paid up front.
- (c) A once-off arrangement can be entered into by the customer to settle the 120 day and older debt in equal installments up to twelve (12) months plus the monthly current account.
- (d) No arrangement will be entertained or permitted for Government and Parastatal Debtors. The debt must be settled in full on or before the due date as stipulated on the account.
- (e) Only written arrangements will be accepted and must be entered into by the account holder or proxy.

(10) Debt Incentive Scheme

Customers who are in arrears with 120 days and older debt with their rates and service accounts may apply to the municipality for a debt settlement discount as and when the Municipality approves the implementation of such a scheme.

(11) Arrangements on partially collectable debt

- (a) Partially collectable debt can be described as debt that cannot be collected in full through application of debt collection processes and that it is in the best interest of the Municipality to accept part payment of the debt in full and final settlement.
- (b) All the debt collection processes must have been followed and if at the sale-in-execution of the property no interest is shown by prospective bidders to purchase the property, offers for the

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purchase of the property must be obtained and the relevant Debt Collection Agent must submit a report to the Municipality.

- (c) In the event where the full debt was not collectable after the entire collection process was implemented, the market value of the property must be obtained and a report must be submitted to the Municipal Council on the offer to purchase that was received.
- (d) The Municipal Council must make a decision to accept the offer for full and final settlement of the debt and by accepting the offer the Municipal Council must also resolve to write off the remaining debt on the property as irrecoverable.

### 10. INDIGENT DEBTORS

- (1) An account holder (Customer) may apply, for Indigent support as prescribed in the Indigent Support Policy of this Municipality.
- (2) Debt of deceased indigent estates –
  - (a) Until the property is transferred from the deceased estate to the new owner or heir all the services from the account of the deceased owner as at the date of death will be transferred to the account of the occupant, which must include the valuations of the property in order to charge the occupant for property rates.
  - (b) The occupant of the property must sign an agreement in which the occupant agrees to pay all the rates and service charges that are to be raised on the property that is occupied.
  - (c) The following circumstances must prevail to transfer the services to the account of the occupant: -

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- (i) The house must be a government funded RDP house.
- (ii) The occupant of the house must be a registered indigent Customer with the Municipality and be receiving an indigent subsidy from the Municipality.
- (iii) The Director responsible for Land Administration will, on approval of the “Affidavit: Deceased Estate” agreement, proceed with the transfer of the property from the deceased indigent estate to the name of the appointed registered Indigent heir of the property at the Municipality’s cost.
- (iv) Once the property has been transferred, the debt of the Deceased Indigent Estate will be submitted to Council for approval to write off.

### 11. MUNICIPAL STAFF AND COUNCILLORS – PAYMENT OF ARREARS

- (1) Section 10 of schedule 2 of the Local Government: Municipal Systems Act, No 32 of 2000 provides the following: -

*“A staff member of a municipality may not be in arrears to the municipality for rates and service charges for a period longer than three (3) months, and a municipality may deduct any outstanding amounts from a staff member’s salary after this period.”*

- (2) Arrear debt relating to rates and service charges will be collected from staff and Councillors in terms of collection arrangements approved by the City Manager from time to time.
- (3) The financial situation of each applicant will be assessed.
- (4) If the staff member or Councillor cannot afford to repay the debt over six months, the debt be spread over twelve months or the repayment

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installment will not be greater than 50% of the staff member's nett salary. In each case, the size of the debt and the nett salary may be considered.

- (5) Municipal staff and Councillors are not entitled to benefit from the Indigent Support subsidy whilst employed and if it is discovered that a staff member or Councillor has benefitted from the Indigent Support subsidy after the date of their employment with the Municipality, this will result in disciplinary action being taken against the relevant staff member or Councillor.
- (6) No owner or tenant of a property may benefit from the Indigent support subsidy whilst a municipal staff member or Councillor is residing on the same property.

### 12. ADMINISTRATION ORDERS – PAYMENT OF ARREARS

- (1) A person can apply for the administration of its estate in terms of section 74 of the Magistrates Court Act, 1944.
- (2) On notification that the order had been granted, the Municipality will manage the debt that is part of the administration order separately to the current account.
- (3) The debtor will be responsible for the payment of the current monthly account and if the debtor defaults on the payment of the account, debt collection action will be implemented.

### 13. WRITE OFF OF IRRECOVERABLE DEBT

- (1) The objective to write off irrecoverable debt is to have a debt book that does not reflect irrecoverable debt.

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- (2) The Municipal Council's approval must be obtained to write off irrecoverable debt, with the exception of the Indigent Debt
- (3) In cycles of thirty (30) calendar days the Municipality will write off the debt of registered Indigent debt and a report will be submitted to Council on a quarterly basis, for noting.
- (4) In the submission to the Municipal Council to write off debt the Council must be provided with details of –
  - (a) The debt collection procedures implemented to recover the debt and the costs incurred as a result thereof;
  - (b) The reasons why the debt collection procedures were not successful and had to be abandoned;
  - (c) The debtors financial position, if known;
  - (d) Reasons why the debt or a portion thereof is regarded as being irrecoverable.
- (5) Debt can be regarded as irrecoverable under the following circumstances: -
  - (a) Debt that was subjected to all the debt collection procedures provided for in this by-law and still was unsuccessful to collect the debt and where the debt collection process had to be abandoned.
  - (b) Debt of which the cost to collect debt has exceeded the debt amount.
  - (c) Debt of indigent debtors that cannot be collected after the implementation of the debt collection procedures applicable to indigent Customers provided for in this by-law.
  - (d) Small amount debt of which the cost to collect the debt is more than the debt amount.

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- (e) Debt of deceased estates –
  - (i) Claims must have been submitted to the estate of the deceased
  - (ii) The executor of the estate advised the Municipality in writing that there are no funds in the estate.
- (f) Debt of debtors who have emigrated –
  - (i) Debt collection procedures must have been implemented.
  - (ii) The Municipality was informed by a reliable source that the debtor had emigrated.
  - (iii) The emigrating authorities had confirmed that the debtor had emigrated.
- (g) Debt that has prescribed –
  - (i) Debt collection procedures must have been implemented.
  - (ii) Debt must be older than three years.
  - (iii) Debt must comply with the provisions of section 10 Chapter III of the Prescription Act No 68 of 1969.
- (h) Debt of insolvent estates –
  - (i) Debt collection procedures must have been implemented.
  - (ii) Claims must have been submitted to the liquidators of the insolvent estate.
  - (iii) The liquidators of the insolvent estate must advise the Municipality in writing that there are no funds in the estate.

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(iv) The Municipality received dividends on the amount owing and was advised that the estate had been finalized and there will be no further dividends forthcoming.

(6) The annual Revenue Budget will include an amount to provide for the amount to be written off.

### **14. DEBT IMPAIRMENT ALLOWANCE**

- (1) In terms of the relevant Generally Recognised Accounting Practise (GRAP) standards, the Municipality must determine a debt Impairment Allowance related to the debtors book.
- (2) The objective of the debt impairment allowance is to make a realistic provision annually in the Revenue budget to cater for charges raised in terms of the annual budget that cannot be collected.
- (3) The calculation of the debt impairment allowance will be based on an extract of the Municipality's debtors' book as at the last day of the financial year.
- (4) The Debt Impairment Allowance Methodology will be determined Chief Financial Officer, from time to time.

### **15. CERTIFICATES REQUIRED FOR TENDERS**

- (1) A person or an institution reacting to a tender published by the Municipality or wishing to enter into a contract to either provide services or goods to the Municipality must produce a certificate, on the prescribed form, which states that regular payment of rates and services accounts are maintained and that the account are currently up to date.



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- (2) A person who fails to provide such a certificate shall be disqualified from the tendering process.
- (3) When inviting tenders for the provision of services or delivery of goods, potential contractors / service providers / suppliers (hereinafter referred to as tenderer) must declare that all relevant municipal accounts owing by the tenderer or its directors, owners or partners have been paid.
- (4) The Municipality will, at its sole discretion check whether all the Municipal accounts are up to date. A copy of the consolidated bill and rates account must be attached to all tender documents.
- (5) Where a contractors place of business or business interests are outside the jurisdiction of the Municipality, a Debt Clearance Certificate from the relevant Municipality must be produced.
- (6) When a tender is awarded, the Municipal debts of the tenderer must be paid in full before the contract with the Municipality is concluded.
- (7) Where payments are due to a tenderer in respect of goods or services provided to the Municipality, any arrear amount owing to the Municipality may be set off against such payments.
- (8) This by-law applies to quotations, public tenders and tenders in terms of the Supply Chain Management policy.

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### **16. THEFT AND FRAUD**

- (1) The Municipality does not condone theft and fraud of municipal services and will monitor the service networks for signs of tampering or irregularities.
- (2) The Municipal Council may approve specific penalties and distinguish between cases of vandalism and theft.
- (3) Subsequent acts of tampering may lead to a refusal to supply certain services for determined periods.

### **17. REPORTING AND PERFORMANCE MANAGEMENT**

- (1) The Chief Financial Officer shall report monthly to the City Manager in a suitable format to enable the City Manager to report to the Executive Mayor as supervisory authority in terms of section 99 of the Systems Act, read in conjunction with section 100(c).
- (2) This report shall contain particulars on cash collection statistics, showing high-level debt recovery information, where available (such as numbers of customers; enquires; arrangements; default arrangements; growth or reduction of arrear debt). Where possible, the statistics should ideally be divided into wards, business (commerce and industry), domestic, state, institutional and other such divisions.
- (3) If in the opinion of the Chief Financial Officer, the Municipality will not achieve cash receipt income equivalent of the income projected in the annual budget as approved by the Municipal Council, the Chief Financial Officer will report this with motivation to the City Manager who will, if in agreement with the Chief Financial Officer, immediately move

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for a revision of the budget according to realistically realizable income levels.

- (4) The Executive Mayor as Supervisory Authority shall, at intervals of three (3) months, submit a report to the Council as contemplated in section 99(c) of the Systems Act.

### **18. INCOME COLLECTION TARGET**

Income collection targets will be set by the Chief Financial Officer to achieve the optimum debt collection ratio i.e. receipt / billing, that will satisfy the Municipality's IDP objectives.

### **19. APPLICATION, IMPLEMENTATION AND REVIEW OF THE BY-LAW**

19.1 The Municipal Council reserves the right to differentiate between different categories of Customers, debtors, services or service standards when applying this by-law. The Municipal Council will on application of the credit control by-law avoid discrimination as forbidden by the Constitution unless it is established that the discrimination is fair as allowed by the Constitution. No debtor may be exempted from credit control action as a sign of goodwill for any period of time as this is in contravention of the actions applied in this by-law and the Credit Control principles contained in the Municipal Systems Act No. 32 of 2000

19.2 The Chief Financial Officer is the custodian of the Credit Control by-law and responsible for implementation and review of the by-law.

19.3 In terms of section 17(1)(e) of the Municipal Finance Management Act no. 56 of 2003, this by-law must be reviewed on an annual basis and

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the reviewed by-law must be tabled to the Municipal Council for approval as part of the budget process.

### 12. COMPETENCE AND CAPACITY TO IMPLEMENT THE BY-LAW

- 1.1 The by-law should be available and communicated to all staff
- 1.2 All staff must be aware of the prescriptions of the by-law
- 1.3 All staff must be aware of the procedures contained in this by-law
- 1.4 Supervisors/Managers must ensure compliance with this by-law

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## **13. COUNCIL APPROVAL AND MINUTE NUMBER**