

CREDIT CONTROL AND DEBT COLLECTION POLICY



**STEVE TSHWETE
LOCAL MUNICIPALITY
MP 313**

INDEX

CHAPTER A	DEFINITIONS
CHAPTER B	PRE-AMBLE
1.	Pre-amble
2.	Vision
3.	Statement
4.	Aim
5.	Objectives
CHAPTER C	GENERAL
1.	Property tax
2.	Accounts
3.	Deposits
4.	Prepayment meters
CHAPTER D	ACCOUNTS
1.	Opening of new account
1.1	Service contract
1.2	Payment of deposits
2.	Monthly accounts
3.	Extension of payments
3.1	Deposits
3.2	Ratepayers/consumers and lessees of Council property
4.	Non-payment of accounts
4.1	Accounts in arrears
4.2	Inactive accounts
5.	Support to evictees from attached properties
6.	Once-off incentive schemes
7.	Dishonoured cheques and/or debit orders
8.	Adjustment to accounts
9.	Water leaks
10.	Adjustment of an incorrect levy
11.	Indigent Support Policy
CHAPTER E	The purchase of erven from the Council
CHAPTER F	Legal prescriptions and requirements
CHAPTER G	Delegated authority
ANNEXURE A	CREDIT CONTROL PROCESS : LEGAL ACTION

CHAPTER A

DEFINITIONS

<i>“Accounting officer”</i>	The municipal manager is the accounting officer of the municipality for the purpose of Act No. 56 of 2003 : Local Government: Municipal Finance Management Act, 2003. (MFMA)
<i>“Council’s attorney”</i>	means a law firm, including all legal practitioners, correspondents and affiliates of such law firms appointed by the council from time to time through a transparent bidding process, to handle all or specifically nominated legal affairs of the council on request.
<i>“Councillor”</i>	means a member of the municipal Council.
<i>“Days”</i>	this will be calendar days unless specifically mentioned otherwise.
<i>“Executive Mayor”</i>	the councillor elected as the executive mayor of the municipality in terms of Section 55 of Municipal Structures Act.
<i>“Head of department”</i>	a senior official in charge of a specific service of the Council.
<i>“Manager”</i>	a senior manager as referred to in Section 56 of the Municipal Systems Act.
<i>“Month”</i>	one of the twelve months of the calendar year.
<i>“Municipality”</i>	a municipal council referred to in Section 157 (1) of the Constitution of the RSA.
<i>“Municipal Finance Management Act”</i>	Municipal Finance Management Act No. 56 of 2003.
<i>“Municipal Manager”</i>	the person appointed in terms of Section 82 of the Municipal Structures Act.
<i>“Municipal Structures Act”</i>	the Local Government: Municipal Structures Act No. 117 of 1998, as amended.

“Municipal Systems Act”

the Local Government: Municipal Systems Act No. 32 of 2000, as amended.

“Chief Financial Officer / Executive Manager Finance”

Means a person designated in terms of section 80(2)(a) of the MFMA

Any reference to the single will include the plural and vice versa.

Any reference to male gender will include female and vice versa.

CHAPTER B

PRE-AMBLE

1. Pre-amble

The Municipal Finance Management Act (MFMA), Act 56 of 2003, aims to modernise budget and financial management practices in municipalities in order to maximise the capacity of a municipality to deliver services to all residents, customers and users. It also gives effect to the principle of transparency as required by sections 215 and 216 of the Constitution.

The Council of the municipality, in adopting this policy on credit control and debt collection, recognises its constitutional obligations as set out in chapter 7 of the Constitution and chapter 9 of the Municipal Systems Act, Act No. 32 of 2000, to develop the local economy and to provide acceptable services to its residents. It simultaneously acknowledges that it cannot fulfil these constitutional obligations unless it exacts payment for the services which it provides and for the taxes which it legitimately levies in full from those residents who can afford to pay, and in accordance with its indigence relief measures for those who have registered as indigents in terms of the Council's approved indigence management policy.

2. Vision

The vision of this policy is:

- to ensure that all consumers pay for the services that are supplied and consumed according to the approved tariff structure of the Steve Tshwete Local Municipality.
- to ensure that all consumer account related enquiries are attended to promptly and diligently.
- to attend to all the consumers' needs regarding credit control in such manner that it should not be necessary to have property or goods attached for a sale in execution unless under the most extreme circumstances..
- to ensure that municipal credit control officials are sufficiently trained and that they will be able to attend to all credit control related functions and enquiries.
- to ensure sufficient notification of outstanding debt to consumers in default.
- to provide consumers timeously with monthly statements in order to allow a fourteen (14) calendar day payment period before due date.

- to ensure sufficient and effective interaction with defaulters and to allow for the conclusion of arrangements for the payment of arrears over agreed periods of time.
- to provide monthly, with the financial report, the payment default position to the executive mayor.

3. **Statement**

The Steve Tshwete Local Municipality believes that in order to promote social and economic development and to provide services to communities in an efficient and sustainable manner, a credit control and debt collection policy should be adopted to collect all money due and payable to the municipality. It is further recognised that credit can not be granted for a long term period other than what is resolved by the Council and delegated for execution by the relevant officials.

4. **Aim**

This policy and the by-laws claims to set down principals for the implementation and enforcement of credit control and collection of all collectable debt.

5. **Objectives**

The objectives of this policy are to provide for:

- credit control procedures and mechanisms.
- debt collection procedures and mechanisms.
- relief to indigent households that are consistent with the municipality's policy on indigent support and free basic services.
- the termination or restriction of services when payments are in arrear.
- procedures relating to unauthorised consumption of services, theft and damages.
- guidelines and procedures for the rendering of accounts.
- realistic targets/benchmarks as set by the municipality which is consistent with:
 - general recognised accounting practices and collection ratios.
 - the estimate income set in the budget minus an acceptable provision for bad debts.

CHAPTER C

GENERAL

1. Property Tax

Property tax levied may be recovered in one annual payment, in which case it is payable before 1 October in a financial year, or in twelve monthly instalments commencing 1 July of a financial year as stipulated by section 26 of the Municipal Property Rates Act, and interest in terms of section 97(1)(e) of the Municipal Systems Act, Act 32 of 2000, and section 64(2)(g) of the Municipal Finance Management Act, Act 56 of 2003 will be levied according to a rate equal to the prime interest rate of the bankers of the municipality as applicable from time to time on all levied outstanding tax not paid at the due date or in regular monthly instalments.

All property tax account is opened for each property separately registered according to the information received from the Deeds Office as well as information received from the Department of Property Valuation Services of the Council.

2. Accounts

A consumer account is opened only after a consumer agreement has been entered into and the necessary deposits paid.

The responsibility to advise Council of any address change remains with the consumer/ratepayer and the fact that an account was not received does not exempt the consumer/ratepayer from paying the account.

The responsibility remains with the consumer/ratepayer to see to it that all payments reach the municipality on or before the last date of payment (called the due date).

3. Deposits

Deposits as mentioned in Council's water service by-law and electricity by-laws are payable for all services rendered in respect of water and electricity except in areas where such deposits were not payable at the date of introduction of this policy.

After the initial minimum deposit is paid, businesses deposits will be adjusted after 3 months to the highest two consecutive months' consumption.

All deposits will be adjusted twice annually in April and October equal to the two (2) consecutive month's consumption on water and conventionally metered electricity preceding April and October respectively as calculated by the Executive Manager Finance.

4. Prepaid Electricity Meters

No prepaid electricity will be sold until the total account, including property tax account, related to the property to which the electricity is consumed has been settled, (irrespective in whose name the account is).

The following conditions are applicable where a prepayment meter has been installed at premises:

- The total outstanding account must be paid on or before the end of the month for which the account has been issued.
- No prepaid electricity may be sold before the total outstanding account, including the property tax account irrespective of the name of the account holder, has been paid.
- In exceptional cases, where an account has not yet been handed over for collection, an authorised official can authorise the selling of electricity when:
 - the previous months account has been paid in full.
 - 50% of the current month's account has been paid.
 - the afore-mentioned arrangement can be authorised for a maximum of three (3) times a year and must be restricted to only one (1) token for the specific month.
- Before an account is handed over for debt collection a defaulter can on discretion be allowed the ultimate opportunity to enter into a re-payment arrangement subject to signing an acknowledgement of debt agreement. This system is regulated by a loan register as follows:
 - The full amount outstanding is transferred to a holding account.
 - The amount transferred must be repaid at the municipality's discretion interest-free over a maximum period of twelve (12) months.
 - The arrangement must make provision for equal instalments over the agreed payment period.
 - The instalments agreed upon, will automatically be debited to the consumer account on a monthly basis.
 - The instalment plus the monthly account will have to be paid in order to purchase pre-paid electricity. **No further extension** of the amount payable can be allowed.
 - When an account is handed over for debt collection, no further agreements, directly or indirectly with the consumer, may be concluded.

CHAPTER D

ACCOUNTS

1. OPENING A NEW ACCOUNT

1.1 Service contract

A service contract shall henceforth be entered into with the municipality for each property to which the municipality is expected to provide any or all of the following services:

- Electricity
- Water
- Refuse Collection
- Sewerage

Such contract shall set out the conditions on which services are provided and shall require the consumer to note the contents of the municipality's credit control and debt collection policy. (A copy of the policy shall be provided to such consumer). The consumer shall note the provision of the Municipal Systems Act in regard to the municipality's right of access to property.

When the consumer is not the owner of the property to which the services are to be provided, a properly executed letter from the owner, or authorised agent, indicating that the consumer is the lawful occupant of the property shall be attached to the service contract.

1.2 Payment of Deposits

Deposits as mentioned in Council's Water Services By-laws and Electricity By-Laws are payable for all services rendered in respect of water and electricity except in areas where such deposits were not payable at the date of introduction of this policy.

After the initial minimum deposit is paid, businesses deposits will be adjusted after 3 months to the highest two consecutive months' consumption.

All deposits will be determined twice annually, in April and October by the Executive Manager Finance, equal to two (2) consecutive month's consumption preceding April and October of water and conventionally metered electricity as calculated by the Executive Manager Finance.

2. MONTHLY ACCOUNTS

Accounts are delivered to all consumers/ratepayers an estimated fourteen (14) days before the due date as indicated viz \pm 7th of the following month.

The due date for payment will be approximately the fifth working day of the following month as will be reflected on the account and the account serves as a notification that services will be terminated unless payment is received on or before the due date.

All payments received by the Executive Manager Finance will be allocated on the consolidated account in the following sequence.

- | | |
|--------------------|--------------------------------------|
| (1) Sundry Debtors | (9) Sewerage |
| (2) Estates | (10) Availability Fees : Electricity |
| (3) Interest | (11) Availability Fees : Sewerage |
| (4) Deposit | (12) Availability Fees : Water |
| (5) Property Rates | (13) Fixed Levies |
| (6) Adjustments | (14) Water Consumption |
| (7) VAT | (15) Electricity : Basic Charge |
| (8) Refuse Removal | (16) Electricity : Consumption |

The consumer has no right to prescribe the sequence of allocation of payments made.

Should the full payment not be received on or before the due date of payment the electricity supply will be terminated and thereafter the water supply will be restricted unless a formal repayment arrangement including an acknowledgement of debt agreement has been signed.

Should the water or electricity supply be restricted or the electricity supply terminated due to an oversight, a written apology by the Executive Manager Finance will be provided to the consumer within seven (7) days.

3. EXTENSION OF PAYMENTS

The following criteria regarding the extension of payment will be strictly followed:

3.1 Deposits

No extension of payment of a deposit will be granted unless approved by Executive Manager Finance.

When a new consumer occupies a property after official work hours the electricity supply will be connected and the occupant has until 10:00 on the following work day to enter into the necessary consumer agreement with the municipality.

The consumer will be informed by the 24 Hour Control Centre that, should the consumer not pay his deposit and the normal connection fee before 10:00 on the following work day such consumer would be disconnected and be held liable for a further reconnection fee.

3.2 Ratepayers/consumers and lessees of private property

Extension of payment can be approved as follows:

- A formal repayment agreement as well as an acknowledgement of debt agreement in the prescribed format must be entered into. The signature must be that of the account holder, his identity must be verified, and a copy of his identification document must be attached.
- The total amount in arrears for the previous months must be paid in full unless arrangements were made.
- 50% of the current account must be paid.
- The balance can be repaid no later than the end of the specific month.
- Should extension be granted as a result of:
 - the death of a family member within the household – a death certificate must be obtained.
 - unemployment of the breadwinner – proof must be obtained that he/she is registered with the Department of Labour. The possibility to enter the municipality's indigent support programme must be offered to the consumer.
 - salaries being received at a different time than the payment date – proof must be obtained from the applicant's employer. Extension can only be granted if such employer formally agrees to future salary deductions.
- A maximum of three (3) extensions per year is allowed.
- Should the electricity supply be terminated more than twice during a twelve (12) month period, no further extensions will be allowed.

- The attention of the consumer must be drawn to all of the conditions mentioned above.

3.3 **Consumers and lessees of Council property:**

- Payment of rental and property tax is controlled by the specific lease agreement entered into and is not subjected to extension.
- The total amount in arrears for previous months must be paid in full.
- A formal repayment agreement and an acknowledgement of debt, only in relation to consumer services, in the prescribed format, must be completed and signed.
- 50% of the current account must be paid.
- The balance can be repaid no later than the end of the specific month.
- No extension can be granted on an extension date.
- A maximum of three (3) extensions per year is allowed.
- Should the **electricity supply be terminated** more than twice in a twelve (12) month period no further extension will be allowed.
- The attention of the consumer must be drawn to all of the conditions mentioned above.

4. **NON -PAYMENT OF ACCOUNTS**

4.1 **Consumer accounts in arrears**

A. **CONSUMER ACCOUNTS**

i. Reading of meters

All meters must be read between the 25th of the month and the 7th of the following month.

ii. Distribution of accounts

All accounts must be sent out to consumers by approximately the 25th of the month.

iii. Due date for payments

Accounts are payable when levied and the final payment date will be as reflected on the account issued.

iv. Amounts in arrears

All amounts not received on the final payment date will be reckoned as to be in arrear.

v. Telephone warning system

The municipality has a system whereby consumers can be notified that their accounts are in arrears and that supply will be cut if payment is not received prior to the cut-off date. This service is subject to a fee as determined from time to time by the municipality. This service also provides for sending short messages (sms's) to indicated mobile phones.

vi. Amounts not paid on due date

All accounts not paid on the due date and for which no arrangements for extension have been made services will be terminated on the cut-off date.

If the amount is not paid within 7 calendar days after the termination of electricity supply, the water supply will also be restricted.

vii. Utilisation of deposit:

The account will be closed after a further 7 days and the deposit held will be utilised.

viii. Opening of a new account

After the account was closed and the deposit utilised, the full amount due must be paid before a new agreement can be entered into and the necessary deposits paid. This should also be subjected to offering to the consumer the opportunity of enlisting with the indigent support and free basic services scheme.

ix. Final notice and legal action

Should an active account remain outstanding for a period of fourteen (14) days a final notice will be sent to the ratepayer/consumer wherein they will be given another period of fourteen (14) days to pay the outstanding amount or make acceptable arrangements for settling the account.

x. Handing over of accounts to debt collectors

After the 14 day period the account will be handed to the debt collectors for collection. They will have a period of 30 days for collection of the amount due or a portion thereof.

The ward councillors should be notified of all amounts handed to the debt collectors in order to do the necessary interaction, simultaneously with the action of the debt collectors.

Within the above-mentioned 30 days period another opportunity is afforded to the consumer to make full payment or arrangements to be entered into.

xi. Handing over of accounts to attorneys

When the 30 day period has lapsed and no or insufficient response was received, the account will be withdrawn from the debt collectors and handed over to the attorneys for collection.

All accounts where the necessary arrangements have not been complied with are also handed over to the attorneys.

The attorneys will exhaust all the legal processes until the property is attached and sold at a sale in execution.

B. RATES ACCOUNTS IN ARREARS

i. a. Property Rates

The property rates levied per annum is owing and payable in equal monthly instalments over twelve (12) months commencing from 1 July each year or in a single payment before 1 October of that year as per section 26 of the Municipal Property Rates Act, Act 6 of 2004 and interest on such rates in terms of section 64(2)(g) of the Municipal Finance Management Act, Act 56 of 2003 as amended, will be levied on all property tax not paid on the due date or in regular monthly instalments.

b. Due Date

When a rates account is levied monthly it is payable as per the due date on the consolidated consumer account issued.

ii. Amounts in arrears

Amounts outstanding for a period of 60 days will be assumed to be in arrears.

iii. Final notice

A final notice for payment will be send for accounts outstanding for 60 days.

If property tax remain unpaid for a period of three (3) months after the fixed day, the municipality may at any time within twelve (12) months after the fixed day demand payment of such amount or any part thereof from any tenant or occupier of the rateable property concerned or any agent of the owner of such property to the extent of any rent due and payable by the tenant at the date of such demand, and by non-payment thereof may, after one (1) month from such demand, recover such amount from such tenant or occupier or agent in the same manner as if he/she were the owner. Section 28 and 29 of the Local Government Property Rates Act 2004, Act No. 6 of 2004.)

iv. Non-payment after 14 days : Debt collectors

All accounts not paid after a period of 14 days from sending out of the final notice should be handed to the debt collectors for collection. They will have a period of 30 days for collection of the amount due or a portion there-off.

The ward councillors should be notified of all amounts handed to the debt collectors in order to do the necessary interaction simultaneously with the action of the debt collectors.

Within the above-mentioned 30 day period another opportunity is afforded to the consumer to make full payment or arrangements to be entered into.

v. Handing over of accounts to attorneys

All accounts not paid after 30 days or where arrangements have not been made with the debt collectors should be handed to Council attorneys for collection after being withdrawn from the debt collectors.

vi. Attaching and selling of properties

a. All vacant stands, business premises and unoccupied residential properties will be attached by Council attorneys after following the necessary legal steps.

b. Occupied residential properties

All occupied residential properties must be attached as per the normal procedures by the attorneys as stated above. The property may only be sold in execution after the Council has been able to supply the evictees of suitable alternative accommodation in terms of the Housing Act 1997, Act. No. 107 of 1997. (Refer para. 5 below.)

C. ESTATE ACCOUNTS IN ARREARS

i. Estate accounts

Estate accounts are amounts owed to the Municipality for properties sold and financed by the Municipality prior to 1st July 2004.

Properties rented out by the Municipality is also categorised under this section.

ii. Due date

The due date for instalments on these properties is as specified in the sale and purchase agreement or the lease agreement.

iii. Final notice

If an instalment is outstanding for a period of 30 days a final notice should be issued to the purchaser or lessee.

iv. Referring to Senior Manager Legal and Administration

If no payment is received after 7 days the matter will be handed to the Senior Manager Legal and Administration for further action.

v. Second final notice

The Senior Manager Legal and Administration must then issue a final 30 day notice to the consumer advising them of the amounts in arrears.

vi. Notification of cancellation of agreement

If after 30 days the amount due is still outstanding, the Senior Manager Legal and Administration must cancel the agreement with the consumer/lessee with immediate effect in accordance with the stipulations of the agreement with the purchaser/ lessee.

vii. Handing over to attorneys

In the situation where the property is registered in the name of the defaulter, the matter will then be handed over to the attorneys to repossess the property.

The property will be sold in execution to recover the outstanding amount due. If there is a surplus after the sale, the balance will be refunded to the party concerned. Alternatively if the property is not sold in execution the property will be sold over the counter and the Municipality shall not be liable to pay compensation as stipulated on the deed of sale or deed of lease.

If it is a leased property the attorney will proceed with legal action at his disposal to recover the outstanding amount due.

D. SUNDRY DEBTORS IN ARREARS

i. Sundry debtors accounts

This includes all sundry levies for services not contained under a specific trade or economic service of the municipality and is mostly regulated by a separately entered into agreement.

ii. Due date for payments

Credit control measures must follow the stipulations as per the individual agreements with the various debtors.

iii. Final notices

Where services are not specifically governed by agreements and the applicable by-laws do not stipulate collection procedures, final notices should be issued 30 days from due date for payments, and if no response was received after 14 days from then, debts must be handed to the municipality's attorneys for collection.

4.2 Inactive accounts

If an inactive account remains outstanding for fourteen (14) days, a final notice will be sent, giving the debtor seven (7) days to make arrangement or to pay in full.

If the debtor does not respond, and it can be determined that he resides within the municipal area the amount on the inactive account must be transferred to his current account. Should the debtor not respond, the account will be handed over to the municipality's debt collectors for collection within a period of 30 days.

If the debtor can not be traced within this period all amounts owing in respect of water, refuse, sewerage and solid waste removal will be transferred to the owners account for the related property.

Should the amount of such untraceable debtor be less than R2 000,00 the amount must be regarded as irrecoverable and listed to be written off by the municipality. The debtors must be listed with the ITC Credit Bureau. The normal credit collection procedures will continue if the amount is in excess of R2 000,00.

5. Support to evictees from attached properties

The eviction of defaulters only becomes necessary when the property is attached and sold at public auction as the last step of the debt collection process.

Section 10B of the Housing Act, Act 107 of 1997 stipulates with regard to the involuntary sale of state-subsidised housing:

- "1) Notwithstanding any provisions to the contrary in any other law, it shall be a condition of every housing subsidy, as defined in the (Housing) Code, granted to a natural person in terms of any national housing program for the construction or purchase of a dwelling or serviced site, that such person's successors in title or creditors in law, other than creditors in respect of credit-linked subsidies, shall not sell or otherwise alienate his or her dwelling or site unless the dwelling or site has first been offered to the

relevant provincial housing department at a price not greater than the subsidy which the person received for the property.

- 2) Any such offer to the provincial housing department shall be made in writing and shall be accepted or rejected by the MEC within a period of 60 days from receipt thereof”.

The purpose of the attachment and public sale of houses of defaulters is not to cause total havoc of human rights, but only sufficient disruption as a threat to defaulters and alternatively as an effort to have an unwilling payer replaced. It would also be necessary for the Council to support a new buyer of such property in the obtaining of a suitable eviction order and to resettle the evictee in terms of the Prevention of Illegal Eviction from and the Unlawful Occupation of Land Act, 19 of 1998. For the purpose of resettling provision must be made in the budget for the provision of suitably serviced land with basic services.

6. **Once-off incentive schemes**

The municipality can from time to time decide on an incentive scheme or schemes that will have the purpose to decrease the outstanding debts to the municipality and depending on available funds. This will only be done to the advantage of the municipality and to improve the municipality's cash flow situation. This policy can not dictate such incentive schemes.

7. **Dishonoured cheques and /or debit orders**

No extension of payments will be allowed when dishonoured payments are received.

Should cheques or debit orders be returned by the bank, the electricity supply will be terminated immediately, irrespectively whether the supply is by conventional or prepaid meters.

Should no payment be received within seven (7) calendar days the water supply will also be terminated.

Should two (2) dishonoured payments be received in a financial year the debit order via the ACB debit order system will be cancelled and/or the consumer / ratepayer will not be allowed to make further payment by means of a cheque or a debit order for at least one year.

8. **Adjustment on an account**

Where a situation arises that an exceptionally large debt is levied to an account due to, for example, a large water leak or an adjustment on an incorrect levy, extension of payment can be arranged as follows:

8.1 **Water leak**

The amount, over and above the normal consumption can be repaid over three (3) to six (6) months, subject to the discretion of the Chief Financial Officer.

8.2 **Adjustment of an incorrect levy**

The amount can be repaid over a maximum period equal to that over which the incorrect levy has taken place.

9. **Indigent Support Policy**

The above policy must always be followed in the case were a consumer is in need of such support.

CHAPTER E

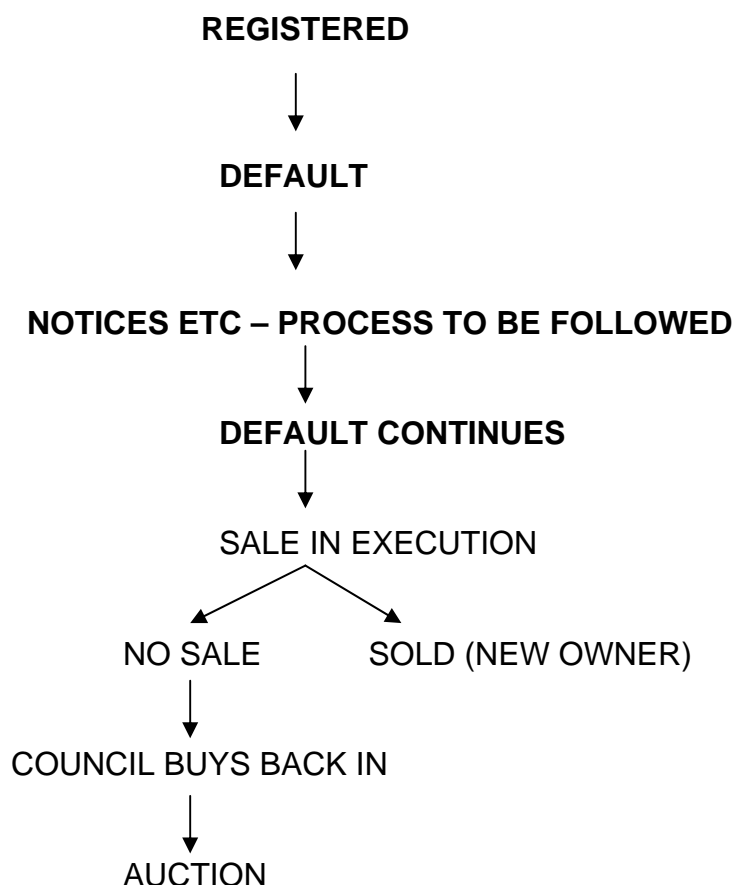
THE PURCHASE OF ERVEN FROM COUNCIL

All payments must be made strictly according to the stipulations of the Deed of Sale.

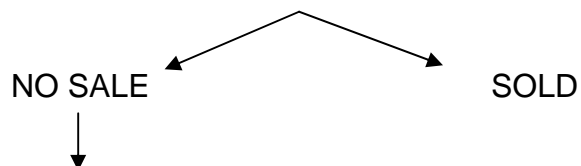
Should the payments not be made timeously the stipulations of the Deed of Sale will be strictly pursued.

No extensions will be allowed and no electricity sold if the full account is not paid up to date, this therefore includes rates, taxes, services as well as stand instalments.

SALE OF REGISTERED ERVEN VIA AUCTION DUE TO DEFAULT



(Original defaulter may purchase before 15:00 on the day before the date on which the auction for the selling of such properties takes place.)



MADE AVAILABLE FOR SALE TO THE GENERAL PUBLIC OVER COUNTER OR A FIRST COME FIRST SERVE BASIS.

Inset price at auction

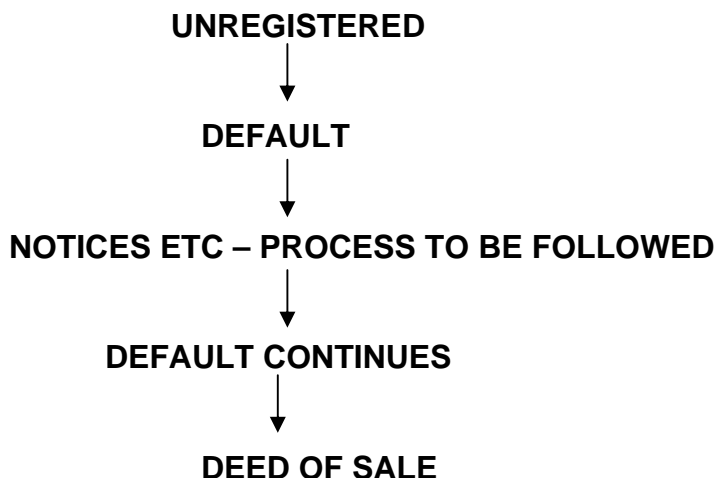
All costs incurred and owing to the Council including but not limited to service charges, auctioneer costs and legal costs, will form the basis of the inset price.

Price of erf for sale over the counter

Deed of Sale to be entered into:

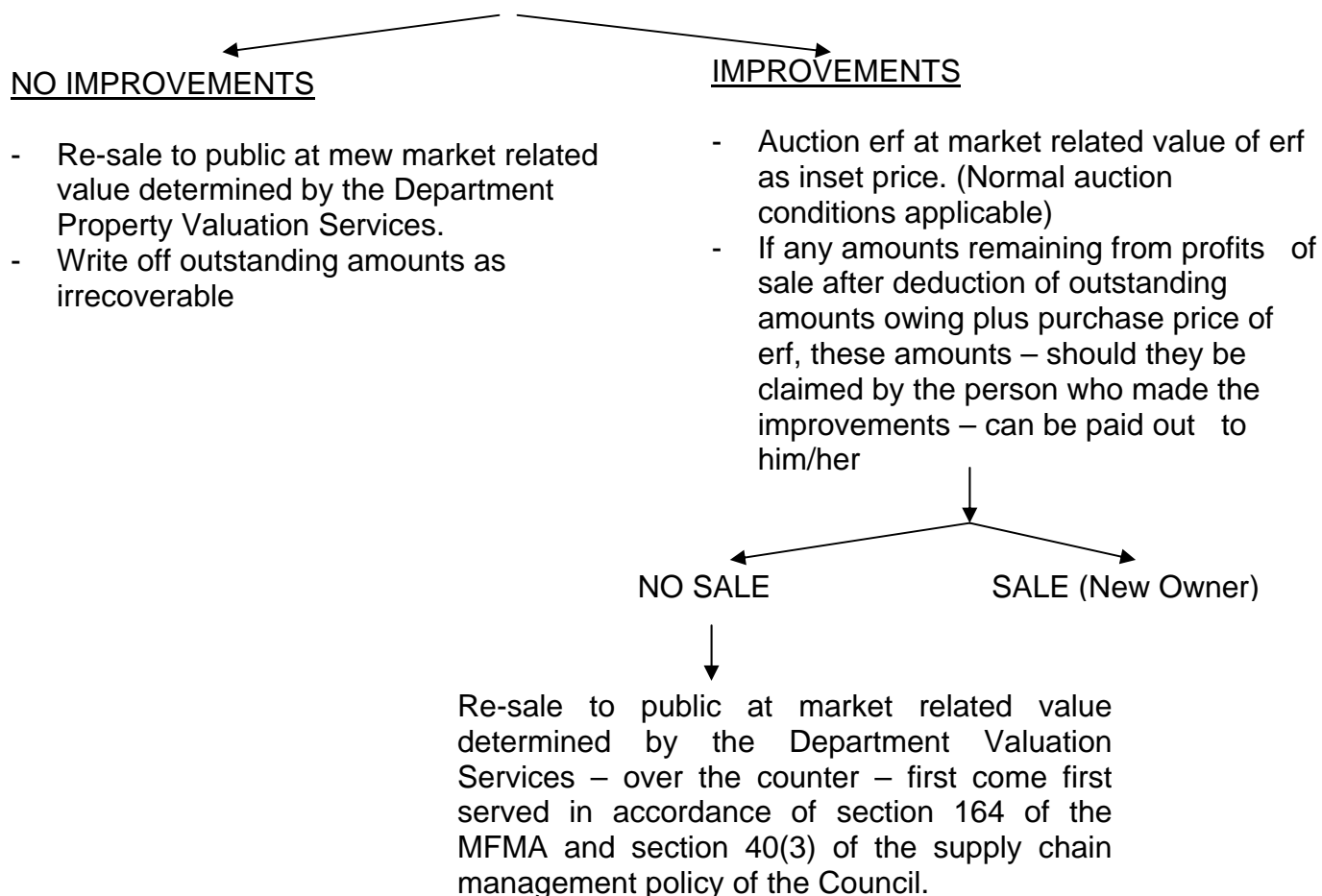
- the erf will be made available for sale on a cash basis at the same price as the inset price of the erf for auction purposes.
- in the event that the erf is not sold for cash within 1 month from the date when it is made available for sale to the general public, that it then be sold in accordance with the normal conditions of sale for residential erven at a price to be redetermined by the Department Property Valuation Services.

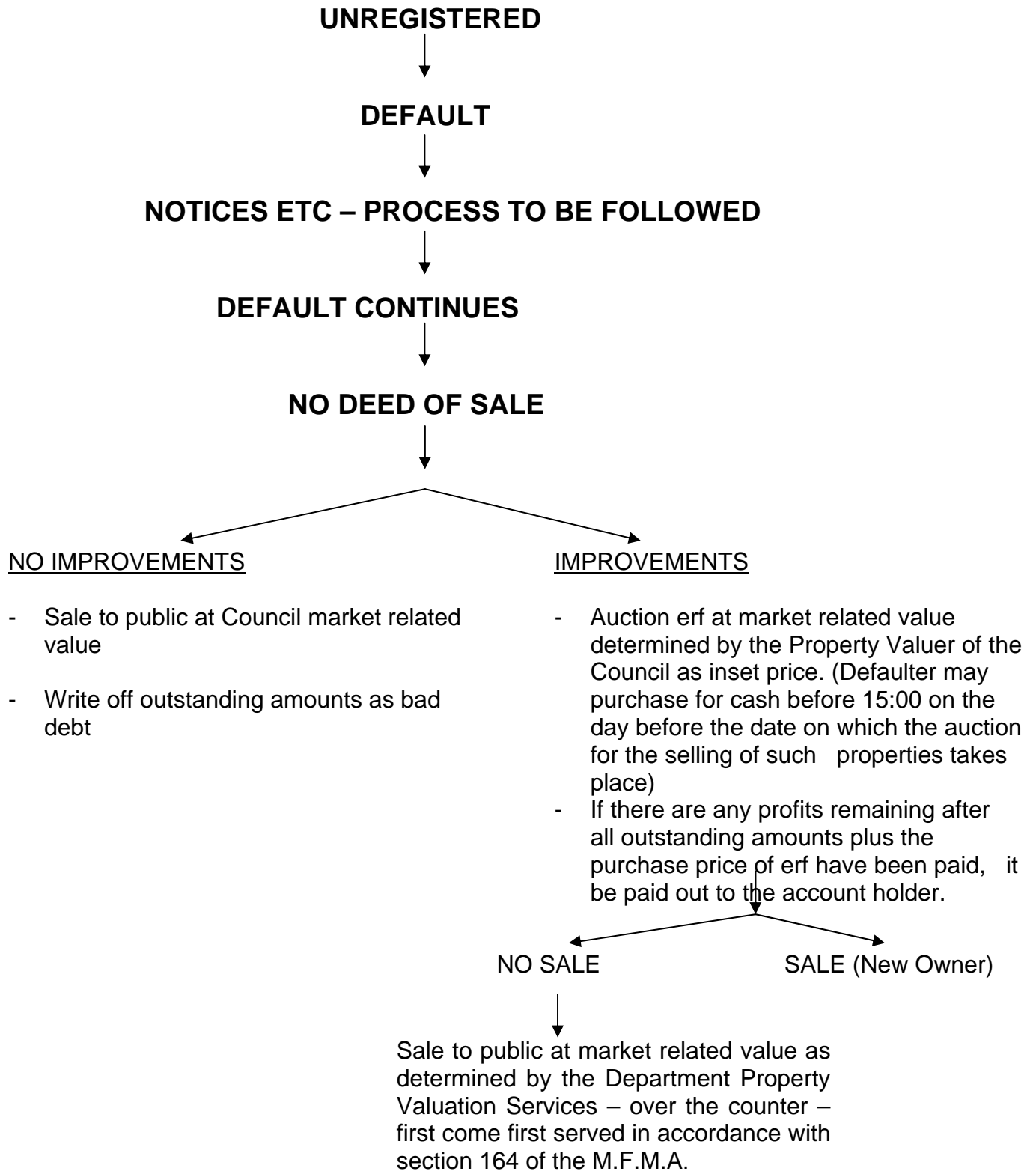
SALE OF UNREGISTERED ERVEN TO WHERE A DEED OF SALE EXIST



CANCELLED AND RECOVER AMOUNTS NAMELY:

- a) Outstanding service charges
- b) 10% pre-liquidated damages (raauwkoop)
- c) R100 administrative fee
- d) Interest on purchase price
- e) Any legal/attorney costs





CHAPTER F

LEGAL PRESCRIPTIONS AND REQUIREMENTS

Chapter 9 of the Local Government Municipal Systems Act 32 of 2000 (sections 95 to 104) requires, with regard to credit control and debt collection, the following:

Section 95

A municipality must:

- establish a sound customer management system, which creates positive and reciprocal relationships.
- establish mechanisms to receive feedback on the quality of services provided.
- take steps to inform consumers of services of the costs involved, the reason for service fees and how the income is utilised.
- provide for the measurement of service consumptions through accurate and verifiable metering systems.
- ensure regular and accurate accounts that indicate the basis for calculating of amounts due.
- provide accessible mechanisms for consumers to query or verify accounts, and metered consumptions.
- provide for appeal procedures to allow the prompt redress of inaccurate accounts and to give prompt replies and corrective action.
- provide for mechanisms to measure and control the response time on queries.
- provide accessible pay points and other mechanisms to settle accounts or make prepayments for services.

Section 96

To collect all money due and payable to the Council subject to all applicable legislation and to adopt a credit control and debt collection policy which is consistent with the Council's rates and tariffs policy and the requirements of Act 32 of 2000, chapter 9.

Section 97

The policy must provide for:

- credit control as well as debt collection procedures and mechanisms.
- provision for indigents consistent with the Rates and Tariff Policy and national policy on indigents.
- realistic targets consistent with GRAP and collection ratios.
- realistic estimate on real income in the budget as well as adequate and acceptable provision for bad debts.
- interest on arrears where appropriate.
- extensions of time for payment of accounts.
- termination of services or the restriction of the provision of services when payments are in arrears.
- measures to prevent unauthorised consumption of services, theft and damages and to address any procedures and guidelines as laid down by the Minister of Local Government in terms of section 104 of the Act.

Section 98

- The Council must adopt by-laws to give effect to the credit control and debt collection policy and to ensure its implementation and enforcement.
- This may differentiate between different categories of rate payers, users of services, debtors, taxes, services, service standards and other matters as long as *the differentiation does not amount to unfair discrimination*.

Section 99

The Executive Mayor as supervisory authority:

- must oversee and monitor the implementation and enforcement of the policy and all by-laws enacted in line with it, the performance of the Municipal Manager in implementing the policy and by-laws; and
- regularly evaluate and review the policy and by-laws to improve efficiency of the mechanisms, processes and procedures; and

- at such intervals as determined by the Council, give report at a meeting of the full Council.

Section 100

The Municipal Manager:

- must implement and enforce the policy and by-laws.
- establish in accordance with the Policy and by-laws procedures to collect money that is due and payable to the Council.
- at such intervals as determined by the Council report prescribed particulars to a meeting of the Executive Mayor.

Section 101

The occupier of premises in the municipality must give an authorised representative of the Council, or a service provider of the Council, access at all reasonable hours to the premises in order to read, inspect, install or repair any meters or service connection for reticulation, or to disconnect, stop or restrict the provision of any service.

Section 102

The Council may:

- consolidate any separate accounts of persons liable for payment to the Council.
- credit a payment by such person against any account of that person.
- implement any of the debt collection and credit control measures in relation to any arrears on any of the accounts of such a person.

With the understanding that the above cannot be applied where there is an unresolved dispute between the Council and a debtor concerning any specific amount claimed from that debtor.

Section 103

The Council may:

- with the consent of a person liable for payment of rates, taxes, fees for services, or rental enter into an agreement with that person's employer to deduct from the salary or wages of that person any outstanding amounts due to the Council, or such regular monthly amounts as may be agreed; and

- provide special incentives for employers to enter into such agreements and employees to consent to such agreements.

Section 104

This section deals with procedures and guidelines that the Minister of Local Government may lay down with regard to:

- particulars that must be contained in the Municipal Manager's report as per section 100.
- to identify services provided by the Council or other service providers where the usage of the service can reasonably be determined, measured or estimated,
- the determination, measuring or estimate of the use of such services.
- user agreements, deposits and bank guarantees for the provision of municipal services.
- the rendering of accounts to ratepayers and consumers and the particulars to be contained in such accounts.
- the action that may be taken by the Council and service providers to secure payment of accounts that are in arrear, including:
 - the termination of municipal services and restriction of the provision of services.
 - the seizure of property.
 - the attachment of rent payable on property.
 - the extension of liability to a director, a trustee or a member if the debtor is a company, a trust or a close corporation.
- appeals against the accuracy of accounts for municipal taxes or services.
- the manner in and time within which such appeals must be lodged and determined and the consequences of successful and unsuccessful appeals.
- extension for the payment of arrears and interest payable in respect of such arrears.
- service connections and disconnections and the resumption of discontinued services.
- the combating of unauthorised consumptions, connections and reconnections and theft of municipal services.

- the development and implementation of an indigent policy.
- the tampering with or theft of meters, service supply equipment and reticulation network and any other fraudulent activity in connection with the provision of municipal services.
- any other matter that may facilitate:
 - effective and efficient systems of credit control and debt collection by municipalities; or
 - the application of chapter 9 of the Systems Act, Act 32 of 2000.

In the issuing of guidelines or making of regulations the Minister is obliged to take account of the capacity of municipalities to comply with such matters and to differentiate between different kinds of municipalities according to their different capacities.

Section 118(1) of the Municipal Systems Act, Act 32 of 2000, prevents a Registrar of Deeds to register the transfer of any fixed property or interest in fixed property should there not be a valid clearance certificate issued by the municipality under whose jurisdiction such property is situated. A clearance certificate certifies that all amounts 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.

Section 118(3) of the Municipal Systems Act, Act 32 of 2000, stipulates that an amount due for municipal service fees, surcharges 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.

Section 89 of the Insolvency Act, 1936, Act 24 of 1936, rules the prescription of debt unless confirmed by acceptable acknowledgement of debt. Property rates are a form of tax and therefore not subjected to prescription.

The Municipal Finance Management Act refers to the credit control and debt collection policy as one of the “*budget-related policies*” which must be revised annually with the tabling of the budget by the Executive Mayor before end March.

Section 64(2)(a) of the Municipal Finance Management Act, is in line with Section 95 of the Municipal Systems Act which makes provision for the execution of credit control measures by the Municipal Manager as accounting officer and acknowledges by sub-section 64(2)(e)(i) the accounting principle of “*matching*” by ruling that revenue be recognised when it is earned and not when it is received.

Section 64(2)(g) of the Municipal Finance Management Act prescribes that Council should charge interest on arrears, except where the Council has granted exemptions in accordance with its budget-related policies or within a prescribed framework.

The Budget Regulatory Prescriptions by the South African National Treasury regulates that provision shall be made in the operating budget for an operating reserve or contribution to a Reserve for Bad Debts equal to the projected default in payment for assessment rates and service levies in the year under review. The Council averaged annual prompt income on levies of 98% over recent years, which means that any future budget should contain a contribution to a bad debt reserve of 2% of budgeted income from assessment rates and service levies. The Audit Regulations by the Auditor-General in terms of the Audit Act requires a bad debt reserve equal to all outstanding debt in excess of 120 days.

CHAPTER G

DELEGATED AUTHORITY

The Council's present approved delegation of authority to officials of the Steve Tshwete Local Municipality makes provision for the following delegated authority with regard to credit control and debt collection.

Authority of the Executive Manager Finance

- No. H4 - To instruct lawyers to recover all charges due to the Council, in terms of the stipulations of the applicable by-laws – Municipal Systems Act section 102(1)(c)
- No. H6 - To annually before the end of April prepare a report of all identified cases of irrecoverable debt in excess of R2000 per case be submitted to the Municipal Manager to recommend to Council for such debt to be written off against Councils bad debts reserve – credit control and debt collection policy.
- No. H7 - To exercise the powers in terms of section 6(1)(b) of the standard electricity by-laws.
- No. H13 - To inform developers that no clearance certificates will be issued for an erf until the outstanding amount on that erf has been paid in full – resolution S23/01/98.
- No. H14 - To arrange with defaulters for a formal acknowledgement of debt and the necessary arrangements for extension of payment according to the following criteria:
 - Consumers more than 6 months in arrears to pay off arrears in equal instalments over a maximum period of 15 months.
 - 1. Consumers more than 3 months but less than 6 months in arrears to pay off arrears in equal instalments over a maximum period of six months.
 - 2. Consumers in arrears for less than 3 months in arrears to pay arrears with one month extension with the following understanding:
 - the consumer's monthly current account must be kept up to date.

- the consumer's service deposits be revised and should it be necessary to be increases such increased amount be paid off concurrently with the arrear payments.
 - that for consumers who have not made arrangements prior to the termination of services suppliers not be allowed to make arrangements for periods exceeding seven (7) days.
 - that no arrangements for extension be made with consumers of whom cheques or electronic transfers were dishonoured by his bank
 - that where arrangements are dishonoured services immediately be terminated and legal steps be instituted.
 - that no further extensions on existing arrangements be allowed.
 - that pre-paid electricity sales be allowed for consumers with only the current month outstanding if an amount equal to the electricity purchase be paid off on his basic account.
3. No extension of payment shall be granted for the payment of a deposit.
 4. Should a new consumer occupy a property after office hours the electricity supply may be connected until 10:00 on the following day where after the electricity supply will be terminated if the deposit has not been paid. The consumer will then have to be informed by the 24 hour emergency service, that should he not have paid his deposit and the normal connection fee by 10:00 the following working day he would be held liable for a further reconnection fee.
 5. The total amount in arrears must be paid in full.
 6. In exceptional cases, where an account has not yet been handed over or being considered to be handed over for collection, to authorize a senior official to consider the circumstances and on merit to grant the selling of R10 to R20 electricity, but only when:
 - the previous month's account has been paid.

- 50% of the current months' account has been paid.
 - such arrangement only to be authorized for a maximum of three (3) times per year and then for only once per month.
 - the authorise official submit to the Executive Manager Finance monthly a list of consumers that received such grant.
7. The balance of the account shall have to be settled no later than the end of the specific month.
 8. Should extension be granted on ground of:
 - a) death of a family member within the household – a death certificate must be obtained.
 - b) unemployment of the breadwinner- proof must be obtained that he/she is registered with the department of labour.
 - c) salaries being received at a different time than the payment date – proof must be obtained from the applicant's employer. The employer must be contacted to determine whether there can be arranged for direct salary deductions.
 9. A maximum of three (3) extensions per year is allowed.
 10. Should electricity supply be terminated more than twice during a twelve 12 month periods, no further extensions must be allowed.
 11. After the second time the supply of either electricity or water has been terminated because of non payment, the consumer deposit must be adjusted and is payable before the services are restored.
 12. Should the outstanding account of any consumer not be served within 7 seven days from the termination of electricity the water supply should also be limited to a flow of not more than 200 litre per day.

13. To include the above in conjunction with the chief public relations in an information bulletin for consumers and to be made available at all paypoints.
14. To authorise one or more senior officials to conclude arrangements for the off-payment if arrear debts over a period not exceeding 12 months in terms of the section G of the Council's credit control and debt collection policy
 - to disconnect the supply of electricity and water to bulk consumer (kVa-account) only when the following have been complied with.
 - to notify the firm/headmaster/chief of office by telephone and the details of the contact person be recorded subjected to the levying of the prescribed fee
 - If no response is received in one day a hand delivered notice or fax be forwarded to the firm/headmaster/chief of office subjected to the levying of the prescribed fee.
 - if no response be received within 3 working days thereafter the services promptly be terminated by giving instruction to the Senior Manager Electrical Engineering / Senior Manager Civil Engineering Services.

(proposed new delegation based on existing arrangements)

ANNEXURE A:

- *
1. Up to date and correct account each month.
 2. Not paid on due date:
Cut electricity/water and refuse prepaid electricity. After 7 days restrict water supply.
 3. Make arrangements for extensions – when not paid according to arrangement – obtain garnishee orders on salaries.

Credit Control Process: Attorney's actions: After final notice and debt collectors process

*
**60 days
account unpaid**
(60 days)
Refer Section 26(2)
and (3) of Municipal
Property Rates Act,
Act 6 of 2004

21 days
Final Notice
(14 days + response)

30 days
at Debt
Collectors

**14 days
Simultaneous Actions**
Give notice for evacuation of Council's rent properties
Recover debts from payable rent by the tenants of the defaulters.
Hand to councillors for 14 days period of interaction.

Hand over for legal process of 60-90 days with attorneys
Summons – Judgement – Warrant of Execution – Attach property
The servicing of processes must be total transparent and will have to be clarified with the sheriff.

- **30 days** –

The sheriff's report to Finances and Auditing Portfolio Committee for recommendation to Mayoral Committee.

30 days
Portfolio Committee
recommendation to Mayoral
Committee for approval of sale
in execution.

Sale in Execution
(as per Magistrate Courts Act of 1944)

This process will have to be clarified with the sheriff in order to allow for:

1. Clear and transparent advertisements including the Council's notice boards.
2. Fliers issued in community.
3. Full public awareness.
4. Auction at a prominent point (preferably in community hall).
5. Opportunity for local community to obtain properties.
6. Assist with removal of defaulters from sold properties.
7. Alternative very basic accommodation for ejected defaulters ??