



**CREDIT CONTROL AND DEBT COLLECTION POLICY
APPROVED BY COUNCIL ON THE 24 MAY 2017**

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PART 1 - DEFINITIONS

“Accounting officer” 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).

“Council’s Attorney” 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.

“Councillor” means a member of the municipal Council.

“Days” this will be calendar days unless specifically mentioned otherwise.

“The Mayor” the councillor elected as the mayor of the municipality in terms of Section 55 of Municipal Structures Act.

“Head of department” a senior official in charge of a specific service or vote of the Council.

“Manager” a senior manager as referred to in section 56 of the Municipal Systems Act.

“Month” one of the twelve months of the calendar year.

“Municipality” a municipal council referred to in section 157 (1) of the Constitution of the RSA.

“Municipal Finance Management Act” Municipal Finance Management Act No. 56 of 2003.

“Municipal Manager” the person appointed in terms of section 82 of the Municipal Structures Act.

“Municipal Structures Act” 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” / “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.

PART 2 - 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.

PART 3 - 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 Ubuhlebezwe 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 Mayor.

PART 4 - STATEMENT

Ubuhlebzwe 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.

PART 5 - AIM

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

PART 6 - 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 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.

PART 7 - MUNICIPAL PROPERTY RATES

The municipal property rates levied per annum is owing and payable on 28 February of each year, but for the convenience of ratepayers can be paid in equal monthly instalments over twelve (12) months commencing from 1 July and interest on such rates in terms of the Municipal Property Rates Act, will be levied on all property rates not paid at the due date or in regular monthly instalments.

A property rates account is opened for each property separately registered according to the information received from the Municipal Valuation Roll. The effective date of Ubulhlezwe Municipality's valuation roll is set to be the 1 July 2013

PART 8 – CONSUMER ACCOUNTS

A consumer account is opened only after a consumer agreement has been entered into.

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).

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 Refuse Collection services:

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 service is 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.

PART 9 – MONTHLY ACCOUNTS

9.1. Distribution of Accounts

All accounts must be sent out to consumers by approximately the 7th of the month. Due Date for Payments accounts are payable when levied and the final payment date will be as reflected on the account issued.

All payments received by the Budget and Treasury Office will be allocated on different accounts in a manner prescribed by the Chief Financial Officer. The consumer has no right to prescribe the sequence of allocation of payments made.

PART 10 – EXTENSION OF PAYMENTS

Extension of payment can be approved as follows:

1. 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.
2. The total amount in arrears for the previous months must be paid in full unless arrangements were made.
3. 50% of the current account must be paid.
4. The balance can be repaid no later than the end of the specific month.
5. 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.
 - The attention of the consumer must be drawn to all of the conditions mentioned above.

PART 11 - ALLOCATION OF PART-PAYMENTS AND APPROPRIATION OF DEPOSITS

If an accountholder pays only part of any municipal account due, the Chief Financial Officer shall allocate such payment as follows:

- Firstly, to any unpaid charges levied by the municipality in respect of unacceptable cheques, notices and legal expenses.
- secondly, to any unpaid interest raised on the account;
- fourthly, to any unpaid refuse collection charges;
- fifthly, to any unpaid property rates;

PART 12 – NON PAYMENT OF ACCOUNTS (ACCOUNTS IN ARREARS)

12.1 Amounts in Arrears

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

12.2 Amounts not paid on Due Date

All accounts not paid on the due date and for which arrangements for extensions have not been made; a letter of reminder will be sent to the customer for the account that is 30 days over due followed by another letter of demand for accounts that are 60 days overdue.

12.3 Final Notice and Legal Action

Should an active account remain outstanding for a period of ninety (90) 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.

12.4 Handing over of Accounts to Debt Collectors

After the fourteen (14) day period the account will be handed to the debt collectors for collection. They will have a period of thirty (30) days for collection of the amount due or a portion there-of.

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 thirty (30) days period another opportunity is afforded to the consumer to make full payment or arrangements to be entered into.

12.5 Handing Over of Accounts to Attorneys

When the thirty (30) day period has lapsed and no or insufficient response was received, the account should be withdrawn from the debt collectors and handed over to the attorneys for collection. **Only debt of more than R 2000.00 will be escalated to the legal action on the basis of cost vs. benefit.** 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.**

PART 13 – 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.

PART 14 - CREDIT CONTROL AND DEBT COLLECTION OF COUNCILOR ACCOUNTS

The Local Government Laws Amendment Act (No 51 of 2002) states that Municipal Councillors may not be in arrears to the municipality for rates and services for a period longer than 3 months. In addition, in terms of the Municipal Finance Management Act (No 56 of 2003), S124(b). *“The notes to the annual financial statements of a municipality must include particulars ofany arrears owed by individual councilors to the municipalityfor rates or services and which at any time during the relevant*

financial year were outstanding for more than 90 days, including the names of those councillors.....”

In order to ensure timeous, assured payment of councillor accounts, all councillors shall be subject to an automatic deduction instituted against their councillor allowance payments on a monthly basis.

PART 15 - CREDIT CONTROL AND DEBT COLLECTION OF EMPLOYEE ACCOUNTS

S10 states that “a staff member of a municipality may not be in arrears to the municipality for rates and service charges for a period longer than 3 months, and a municipality may deduct any outstanding amounts from the staff member’s salary after this period.”

Employees of the Municipality shall be subject to disciplinary hearings, as per the Municipal Systems Act (No 32 of 2 000), Schedule 2 S10, if they are found to be in arrears.

In order to ensure timeous, assured payment of employee accounts, all employees residing within the Ubuhlebzwe Municipality shall be subject to an automatic deduction instituted against their salaries.

PART 16 - INDIGENCY MANAGEMENT

In regard to the payments expected from registered indigents, and the credit control and debt collection actions contemplated in respect of such residents, this policy must be read in conjunction with the municipality’s approved policy on indigency management.

PART 17 UNCOLLECTABLE ARREARS

17.1 The effective implementation of the present policy also implies a realistic review of the municipality’s debtors book at the conclusion of each financial year. The municipal manager shall as soon as possible after 30 June each year present to the council a report indicating the amount of the arrears which it is believed is uncollectible, together with the reasons for this conclusion.

17.2 The council shall then approve the write off of such arrears, if it is satisfied with the reasons provided.

PART 18 - QUERIES BY ACCOUNTHOLDERS

In the event of an accountholder reasonably querying any item or items on the monthly municipal account, no action shall be taken against the accountholder as contemplated in part 3 provided the accountholder has paid by due date an amount equal to the monthly average monetary value of the three most recent un-queried accounts in respect of the service under query, as well as all un-queried balances on such account, and provided further such query is made in writing by the accountholder or is recorded in writing by the municipal manager on behalf of the accountholder on or before the due date for the payment of the relevant account.

PART 19 - DISHONOURED AND OTHER UNACCEPTABLE CHEQUES

If an accountholder tenders a cheque which is subsequently dishonoured by or is found to be unacceptable to the accountholder's bankers, the municipal manager shall – in addition to taking the steps contemplated in this policy against defaulting accountholders – charge such accountholder the penalty charge for unacceptable cheques, as determined by the council from time to time, and such charge shall rank equally with the costs and expenses incurred by the municipality for purposes of determining the sequence of allocations and appropriations contemplated in part 11.

PART 20 ROLE OF MUNICIPAL MANAGER

- 20.1 Section 100 of the Municipal Systems Act 2000 assigns the legal responsibility for implementing the credit control and debt collection policies and by-laws to the municipal manager.
- 20.2 In practice, however, the municipal manager will inevitably delegate some or many of the responsibilities specifically assigned to this office in the by-laws, as it will be administratively impossible for the municipal manager to perform the numerous other functions of this office as well

as attend to frequently recurring administrative responsibilities. However, such delegation does not absolve the municipal manager from final accountability in this regard, and the municipal manager will therefore have to ensure that a proper internal reporting structure is established and consistently implemented so that the day-to-day actions of and results from the credit control and debt collection programme are properly monitored and supervised.

- 20.3 It is also an integral feature of the present policy that the municipal manager shall report monthly to the executive mayor or the executive committee, as the case may be, and quarterly to the council on the actions taken in terms of the by-laws, and on the payment levels for the periods concerned. Such reports shall, as soon as practicably possible, provide the required information both in aggregate and by municipal ward.
- 20.4 In addition, such monthly report shall indicate any administrative shortcomings, the measures taken or recommended to address such shortcomings, and any actions by councillors which could reasonably be interpreted as constituting interference in the application of the by-laws.
- 20.5 Notwithstanding all the foregoing references to the accountability of the municipal manager in regard to these by-laws, it is incumbent on all the officials of the municipality, certainly all those who are at management level, as well as more junior officials who are directly or indirectly involved with the community and the municipality's general customer relations, to promote and support both this credit control and debt collection policy and the application of the attendant by-laws. The responsibilities of all officials include reporting to the municipal manager any evident breaches of these by-laws, whether by members of the community, other officials or councillors of the municipality.

PART 21 - ROLE OF COUNCILLORS

- 21.1 Section 99 of the Systems Act 2000 places the important legal responsibility on the executive mayor or executive committee, as the case may be, of monitoring and supervising the application of the present policy and the attendant by-laws, and of reporting to the council on the extent and success of credit control actions.
- 21.2 The present policy further recommends that the municipality's ward committees be actively involved in implementing the credit control and debt collection programme, and should therefore receive monthly reports on the status of the municipal manager's credit control actions. The ward committees must also actively promote the present policy, and ensure at the same time that the municipality's customer relations are of a standard acceptable to the community.
- 21.3 In order to maintain the credibility of the municipality in the implementation of the present policy and the attendant by-laws, it is essential that councillors should lead by example. Councillors, by adopting this policy, therefore pledge, not only their unqualified support for the policy, but their commitment to ensuring that their own accounts will at no stage fall into arrears.

PART 22 - CLEARANCE CERTIFICATES

Before any property can be transferred from one owner to another, all arrears are payable, where after the Chief Financial Officer issues a certificate to that effect. No transfer can take place without such a certificate.

PART 23 - LEGAL PRESCRIPTIONS AND REQUIREMENTS

LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT NO. 32 OF 2000

SECTION 95: CUSTOMER CARE AND MANAGEMENT

A municipality must, in relation to the levying of rates and other taxes, and the charging of fees for municipal services, within its financial and administrative capacity, do the following:

- establish a sound customer management system which aims to create a positive and reciprocal relationship between persons liable for these payments and the municipality itself or (where applicable) a service provider;
- establish mechanisms for users of services and ratepayers to give feedback to the municipality or other service provider with regard to the quality of the services and the performance of the service provider;
- take reasonable steps to ensure that users of services are informed of the costs involved in service provision, the reasons for the payment of service fees, and the manner in which moneys raised from the service are utilised;
- where the consumption of services is measured, take reasonable steps to ensure that the consumption by individual consumers of services is measured through accurate and verifiable metering services;
- ensure that persons liable for payments receive regular and accurate accounts which indicate the basis for calculating the amounts due;
- provide accessible mechanisms for those persons to query or verify accounts and metered consumption, as well as appeal procedures which allow such persons to receive prompt redress for inaccurate accounts;
- provide accessible mechanisms for dealing with complaints from such persons, together with prompt replies and corrective action by the municipality;
- provide mechanisms to monitor the response time and efficiency in complying with the aforementioned requirements; and
- provide accessible pay points and other mechanisms for settling accounts or for making prepayments for services.

SECTION 96: DEBT COLLECTION RESPONSIBILITY OF MUNICIPALITIES

A municipality must collect all moneys that are due and payable to it, subject to the requirements of the present Act and any other applicable legislation. For this purpose, the municipality must adopt, maintain and implement a credit control and debt collection policy which is consistent with its rates and tariff policies and which complies with the provisions of the present Act.

SECTION 97: CONTENTS OF POLICY

The municipality's credit control and debt collection policy must provide for all of the following:

- credit control procedures and mechanisms;
- debt collection procedures and mechanisms;
- provision for indigent debtors in a manner consistent with its rates and tariff policies and any national policy on indigents;
- realistic targets consistent with generally recognised accounting practices and collection ratios, and the estimates of income set in the budget less an acceptable provision for bad debts;
- interest on arrears (where appropriate) at 10% per annum;
- extensions of time for payment of accounts;
- termination of services or the restriction of the provision of services when payments are in arrears;
- matters relating to unauthorised consumption of services, theft and damages; and
- any other matters that may be prescribed by regulation in terms of the present Act.

The municipality, within its discretionary powers, may differentiate in its credit control and debt collection policy between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other

matters, and, if so, must ensure that such differentiation does not amount to unfair discrimination.

SECTION 98: BY-LAWS TO GIVE EFFECT TO POLICY

The council of the municipality must adopt by-laws to give effect to the municipality's credit control and debt collection policy, its implementation and enforcement.

Such by-laws may differentiate between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters, and, if so, must ensure that such differentiation does not amount to unfair discrimination.

SECTION 99: SUPERVISORY AUTHORITY

A municipality's executive mayor or executive committee, as the case may be, or – if the municipality does not have an executive committee or executive mayor – the council of the municipality itself, or a committee appointed by the council as the supervisory authority, must do all of the following:

- oversee and monitor the implementation and enforcement of the municipality's credit control and debt collection policies and any by-laws enacted in terms of the foregoing requirements, and the performance of the municipal manager in implementing the policies and by-laws;
- where necessary, evaluate or review the policies and by-laws, and the implementation of such policies and by-laws, in order to improve the efficiency of its credit control and debt collection mechanisms, processes and procedures; and
- at such intervals as may be determined by the council, report to a meeting of the council, except when the council itself performs the duties of the supervisory authority.

SECTION 100: IMPLEMENTING AUTHORITY

The municipal manager, or – where applicable – the service provider must:

- implement and enforce the municipality's credit control and debt collection policies and by-laws enacted in terms of the foregoing requirements;
- in accordance with the credit control and debt policies and any by-laws, establish effective administrative mechanisms, processes and procedures to collect moneys due and payable to the municipality; and
- at such intervals as may be determined by the council, report the prescribed particulars to a meeting of the supervisory authority referred to previously.

SECTION 101: MUNICIPALITY'S RIGHT OF ACCESS TO PREMISES

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

SECTION 102: ACCOUNTS

Except where there is a dispute between the municipality and the person from whom the municipality has claimed any specific amount, a municipality may:

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

SECTION 103: AGREEMENTS WITH EMPLOYEES

A municipality may, within its discretionary powers, but with the consent of any person liable to the municipality for the payment of rates or other taxes or fees for municipal services, enter into an agreement with such person's employer to deduct from the salary or wages of such person any outstanding amounts due by such person to the municipality or such regular monthly amounts as may be agreed to.

The municipality may further, within its discretionary powers, provide special incentives for employers to enter into such agreements and for employees to consent to such agreements.

SECTION 118: RESTRAINT ON TRANSFER OF PROPERTY

The registrar of deeds or any other registration officer of immovable property may not register the transfer of any property other than on the production to such registration officer of a prescribed certificate issued by the municipality in which such property is situated, and which certificate certifies that all amounts due in connexion with such 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.

A municipality may recover, as far as is practicable, all amounts due to it for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties, in preference to any mortgage bonds registered against any property which is to be transferred.

CODE OF CONDUCT FOR MUNICIPAL STAFF MEMBERS

Paragraph 10 of this Code of Conduct stipulates that if any staff member of a municipality is in arrears to the municipality for rates and service charges for a

period longer than 3 months, the municipality may deduct any outstanding amounts from such staff member's salary after this period.

CODE OF CONDUCT FOR COUNCILLORS

Section 6A of this code requires councillors to pay all rates, tariffs, rents and other moneys due to the municipality promptly and diligently.

The municipal manager is further required to notify the speaker of the council and the MEC for Local Government, in writing, whenever a councillor has been in arrears with any of these payments for a period exceeding 30 days.

LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT NO.
56 OF 2003

SECTION 64: REVENUE MANAGEMENT

The accounting officer of the municipality is responsible for the management of the municipality's revenues, and must, for this purpose, take all reasonable steps to ensure:

- that the municipality has effective revenue collection systems consistent with Section 95 of the Municipal Systems Act 2000 and the municipality's credit control and debt collection policies;
- that revenues due to the municipality are calculated on a monthly basis;
- that accounts for municipal taxes and charges for municipal services are prepared on a monthly basis, or less often as may be prescribed where monthly accounts are uneconomical;
- that all moneys received are promptly deposited in accordance with the requirements of the present Act, into the municipality's primary and other bank accounts;

- that the municipality has and maintains a management, accounting and information system which recognises revenues when they are due, accounts for debtors, and accounts for receipts of revenues;
- that the municipality has and maintains a system of internal control in respect of debtors and revenues, as may be prescribed;
- that the municipality charges interest on arrears, accept where the council has granted exemptions in accordance with its budget related policies and within a prescribed framework; and
- that all revenues received by the municipality, including revenues received by any collecting agent on its behalf, is reconciled at least on a weekly basis.

The accounting officer must immediately inform the national treasury of any payments due by an organ of state to the municipality in respect of municipal taxes or for municipal services, if such payments are regularly in arrears for periods of more than 30 days.

NOTE: SECTION 164: FORBIDDEN ACTIVITIES

Section 164(1)(c) lists as a forbidden activity the making by a municipality of loans to councillors or officials of a municipality, directors or officials of any municipal entity, and members of the public. It has been assumed for purposes of compiling the credit control and debt collection policy that allowing any party to pay off arrears of rates and municipal service charges is not tantamount to the making of a loan in terms of Section 164.)

LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES ACT NO. 6 OF 2004

SECTION 28: RECOVERY OF RATES IN ARREARS FROM TENANTS AND OCCUPIERS

If the rates owed by a property owner are unpaid by due date, the municipality may recover such rates, either in whole or in part, from any tenant or occupier of the property concerned.

However, the tenant or occupier of the property must first be given written notice of the municipality's intentions, and the amount which the municipality may recover is limited to the amount of rent and other moneys due and unpaid by the tenant or occupier to the property owner concerned.

SECTION 29: RECOVERY OF RATES FROM AGENTS

If it is more convenient for the municipality to do so, it may recover the rates due on a property, either in whole or in part, from the agent of the property owner concerned.

However, the agent must first be given written notice of the municipality's intention, and the amount the municipality may recover is limited to the amount of any rent and other moneys received by the agent on behalf of such property owner, less any commission due to the agent.

This policy shall take effect from 01 July 2018