

XHARIEP DISTRICT MUNICIPALITY

CREDIT CONTROL AND DEBT COLLECTION POLICY



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1. BACKGROUND

Xhariep District Municipality was established after the local government elections held on the 05th December 2000. The District is new and initially formed part of Motheo District Municipality. Therefore, as a new municipality, Xhariep District has to put in place operational systems and policies. One such important policy is Credit Control and Debt Collection.

The White Paper on Local Government states that municipalities should raise 90 % of own revenue. This means that it is absolutely imperative that municipalities recuperate money owed to them so that they can be financially sustainable. This however, is within the ambit of the law such as the Municipal Systems Act for the district municipalities.

It has become imperative that the District develops its policies befitting its own circumstances and conditions within the relevant legislation.

Financing of District Municipalities

Financing of District Municipalities is regulated in terms of the Regional Services Councils Act, Act No. 109 of 1985 and the Provincial District Councils Act.

Section 12 (1) of this Act stipulates that a Council shall levy and claim from-

- a) Every employer who employs or is deemed to employ employees within its region and each person carrying on or deemed to be carrying on enterprise within its region, a regional services levy;
- b) Every person carrying on or deemed to be carrying on an enterprise within its region, a regional establishment levy

Section 12 (11) of this Act stipulates that a levy, or interest payable, shall be deemed to be a debt due to the Council and may be recovered by the Council by way of judicial process in a competent court.

Credit Control and Debt Collection

The Municipal Council must ensure that all money that is due and payable to the Municipality is collected, subject to the Municipal Systems Act. For this purpose the debt collection policy consistent with its tariff policy and complying with the provisions of the Municipal Systems Act.

The Municipal Council must adopt by-laws to give effect to its credit control and debt collection policy, its implementation and enforcement. By-laws may differentiate between different categories of taxpayers, customers, debtor's taxes, services, service standards and other matters.

2. PURPOSE OF THE POLICY

The purpose of this policy is to ensure that credit control and debt collection form part of the financial system of Xhariep District Municipality and to ensure that prudent credit control and debt collection procedures are applied consistently.

3. DELEGATION OF POWERS

This policy is applied with due observance of the Municipality's policy with regard to delegation of powers. Such delegations refer to delegations between the Municipal Manager and other responsible officials as well as between the Council, the Executive Mayor and the Municipal Manager. The delegation of powers is subject to the Municipal Finance Management Act (MFMA).

4. RESPONSIBILITY FOR CREDIT CONTROL

4.1 *Supervisory Authority*

The Executive Mayor shall

4.1.1 Oversee and monitor:

- a) the implementation and enforcement of the Municipality's credit control and debt collection policy ; and
- b) the performance of the Municipal Manager in implementing the policy.

4.1.2 When necessary, evaluate, review or adapt the policy , in order to improve the efficiency of its credit control and debt collection mechanisms, processes and procedures, and

4.1.3 Report quarterly to Council.

4.2 *Implementing Authority*

4.2.1 The Municipal Manager shall

4.2.1.1 Implement and enforce the Municipality's credit control and debt collection policy in terms of the Municipal Systems Act (Act no 32 of 2000)

4.2.1.2 Establish effective administrative mechanisms, processes and procedures to collect money that is due and payable to the Municipality; and

4.2.1.3 Report the amount owed to the Municipality and actions to be taken to recover the debt.

4.3 *Unsatisfactory levels of Indebtedness*

LEVELS	MONTHS	NOTICE
1	30 DAYS	First notice
2	60 DAYS	Second notice, Final notice
3	90+	Unsatisfactory

4.3.1 The Municipal Manager shall take necessary steps and develop strategies to rectify the situation in consultation and the approval of the Executive Mayor.

5. CREDIT CONTROL PROCEDURES

All outstanding debts are payable within thirty (30) days.

5.1 *Action after failure to pay*

5.1.1 The municipality shall;

- a) Send the first notice to the consumer to pay or make arrangements to pay off the arrears within 14 days or issue a notice as per the contract specification.
- b) A second notice shall be sent to the defaulter when payment or arrangement has not been made within seven days after the due date of the first notice.
- c) A final demand stating the due date of seven days after the second notice when the consumer fails to respond to (a) and (b) above.

5.1.2 If the defaulter fails to respond by the demand date to either pay the arrears amount, lodge an appeal or make arrangements to pay, the municipality shall institute legal action to recover the money owed.

5.1 Dishonoured Payments

- 5.1.1 Where any payment made to the Municipality is later dishonoured by the bank, the Municipality shall levy such costs and administration fees against an account of the defaulting debtor.

5.5 Interest on Arrears

- a) Accounts in arrears shall accumulate interest rate of 2 % above the prime rate or as determined from time to time by the municipal council.
- b) As soon as an agreement to repay arrears has been concluded the amount in arrears shall be raised in the debt book and no further interest shall be levied. As long as the agreement is honoured no further interest shall be added. In case of defaulting, the suspended amount shall be reversed and interest shall again be levied from date of default.

5.7 Legal Fees

All legal costs, including attorney-and-own-client costs incurred in the recovery of amounts in arrears shall be levied against the arrears account of the debtor.

5.8 Full and Final Settlement of an Amount

- 5.8.1 Where the exact amount due and payable to the municipality has not been paid in full, any lesser amount tendered to and accepted by a municipal employee, except the Finance Manager and/or his/her fully authorised delegate, shall not be deemed to be in final settlement of such an amount.
- 5.8.2 The provision above shall prevail notwithstanding the fact that such lesser payment was tendered and/or accepted in full settlement.
- 5.9.2 The Finance Manager and/or his/her delegate shall consent to the acceptance of such a lesser amount in writing.

5.10 Arrangements to pay outstanding and due amount in consecutive instalments

5.10.1 A debtor shall enter into a written agreement with the municipality to repay any outstanding and due amount to the municipality under the following conditions:

- a) the outstanding balance, costs and any interest thereon shall be paid in regular and consecutive monthly instalments not exceeding 12 months;
- b) the current monthly amount is paid in full; and
- c) The written agreement has to be signed on behalf of the municipality by a duly authorised officer.

5.10.2 Should any dispute arise as to the amount owing by an owner in respect of levies the owner shall, notwithstanding such dispute, proceed to make regular minimum payments based on the calculation of the average levies for the preceding three months prior to the arising of the dispute and taking into account interest as well as the annual amendments of tariffs of the municipality.

5.11 Appeals

5.11.1 A consumer has the right to lodge an appeal if not satisfied with his or her account;

5.11.2 An appeal must be submitted in writing to the Municipal Manager prior to the final due date for payment of the contested amount, and must contain details of the specific item(s) on the account which are subject for appeal, with full reasons.

5.11.3 Whilst the appeal is still in process;

- a) The consumer shall, notwithstanding such an appeal, proceed to make regular minimum payments based on the calculations of the average charges for the preceding three months prior to arising of the dispute and taking into account interest as well as the annual amendments of tariffs of the municipality

5.11.4 Adjudication of appeals

- a) The Finance Manager shall investigate the appeal within 14 days of lodgement to establish the accuracy thereof;
- b) The debtor shall be informed in writing of the results of the investigations or in a meeting with the Finance Manager;
- c) The debtor shall be encouraged to meet with the Finance Manager or duly authorised authority to deal with the appeal.

6. EXTENSION FOR PAYMENT

6.1 Extension for payment shall be granted under the following conditions:

- a) The consumer is not already in default;
- b) The account has been paid for the previous three consecutive months
- c) The extension is not more than 12 (twelve) months
- d) Extension is not requested while there is another extension

6.2 The levy payer shall;

- a) Write a letter requesting extension to the municipality
- b) If granted, enter into an agreement with the municipality
- c) The levy payer should use XDM standard forms or templates in order for

the process to be uniform.

6.4 Continuous default

6.4.(a) If a debtor fails to comply with the terms of any agreement providing for an extension of time for payment, then the total of all amounts due including interest and cost, shall immediately become payable to the municipality and the municipality shall send notice to this effect without further notice to the debtor.

6.4. (b) If the levy payer fails to respond within five (5) working days to the notice in S6.4.(a) above, the municipality shall;

- i. hand over the name of such levy payer to the attorneys of the municipality for collection;
- ii. the levy payer shall be summoned to appear in court for non-payment of levies;

7. PERSONNEL AND FINANCIAL IMPLICATIONS

The Municipality shall

- a) Appoint or establish a credit control section or unit with personnel for the implementation of this policy; or
- b) Appoint an agent to act on its behalf

8. AGENTS, ATTORNEYS AND OTHER COLLECTION AGENTS

8.1 If the Municipality outsources the credit control function, it shall

- a) Name all the external agents acting on its behalf, together with their details and contact information. All agents shall be supplied with a copy of the credit control and debt collection procedures.

- b) Clear instructions to agents and other arrangements shall be explained for the consumers' benefit
 - c) Agents shall not negotiate terms, extend payment periods or accept cash on behalf of the municipality.
- 8.2 The costs to the municipality and to the debtor shall be detailed for each stage of the credit control measures and for all possible actions. The liability for the costs of legal action and other credit control actions shall as far as is legally possible be for the account of the debtor.

9. IMPLEMENTATION OF THIS POLICY

This policy shall be implemented once approved by council and all future Credit Control and Debt Collection procedures shall be implemented in accordance with this policy.