

**KWAZULU-NATAL PROVINCE
KWAZULU-NATAL PROVINSIE
ISIFUNDAZWE SAKWAZULU-NATALI**

**Provincial Gazette • Provinsiale Koerant • Igazethi Yesifundazwe
GAZETTE EXTRAORDINARY—BUITENGEWONE KOERANT—IGAZETHI EYISIPESHELI**

*(Registered at the post office as a newspaper) • (As 'n nuusblad by die poskantoor geregistreer)
(Irejistiwee njengephephandaba eposihhovisi)*

Vol. 4

PIETERMARITZBURG,

22 NOVEMBER 2010
22 KULWEZI 2010

No. 521

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MUNICIPAL NOTICES

No. 128

22 November 2010

UMTSHEZI MUNICIPALITY

CUSTOMER CARE,

CREDIT CONTROL

AND

DEBT COLLECTION POLICY

ROADMAP TO CUSTOMER CARE, CREDIT CONTROL AND DEBT COLLECTION

BYLAW

Outline the rights and obligations of roleplayers and empowers the municipality to enforce the policy

CUSTOMER CARE, CREDIT CONTROL AND DEBT COLLECTION POLICY

Public document outlining the roles, responsibilities, objectives and implementation procedures

CUSTOMER CARE OBJECTIVES

CREDIT CONTROL OBJECTIVES

DEBT COLLECTION OBJECTIVES

To focus on the client's needs in a responsible and pro-active way. To create a positive and cooperative relationship between customers responsible for the payment of services received, and the municipality, and where applicable, any service provider. To facilitate financial assistance and basic services for the community's poor.

To implement procedures which will ensure the collection of debt, and prevent the escalation in arrear debt. To limit risk by employing effective management tools.

To provide procedures and mechanisms to collect all the monies due and payable to municipality arising out of the supply of services and annual levies, in order to ensure financial sustainability and delivery of municipal services in the interest of the community.

CUSTOMER CARE PROCEDURAL WORKBOOK

CREDIT CONTROL PROCEDURAL WORKBOOK

DEBT COLLECTION PROCEDURAL WORKBOOK

Guidelines for official use and practises for implementation of the policy.

P R E A M B L E

WHEREAS section 96 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) requires a municipality to adopt, maintain and implement a credit control-, debt collection and customer care policy;

AND WHEREAS section 97 of the Systems Act prescribes what such policy must provide for;

NOW THEREFORE the Municipal Council of the Municipality of Umtshezi adopts the policy as set out in this document.

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CUSTOMER CARE, CREDIT CONTROL AND DEBT COLLECTION POLICIES

DEFINITIONS

- 1. For the purpose of this policy, the wording or any expression used has the same meaning as contained in the Act, except where clearly indicated otherwise and means the following:**

“Act” The Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) as amended from time to time;

“Authorized Representative”
 the person or institution legally appointed by the Council to act or to fulfil a duty on its behalf;

“Chief Financial Officer”
 the person appointed by Council to administer its finances;

“Council” the municipal council of the Municipality of Umtshezi;

“customer” any occupier and/or owner of any property to which the municipality has agreed to supply services or already supplies services to, or failing such an occupier, then the owner of the property;

“defaulter” a person who owes money to municipality after the due date has expired;

“equipment” a building or other structure, pipe, pump, wire, cable, meter, engine or any accessories;

“interest” a charge levied with the same legal priority as service fees and calculated at a rate determined by council from time to time on arrear monies;

“municipality” includes a municipality referred to in section 155 (6) of the Constitution;

“municipal account”

an account rendered specifying charges for services provided by the municipality, or any authorised and contracted service provider, and/or assessment rates levies;

“Municipal Manager”

the person appointed as Municipal Manager in terms of section 82 of the Local Government: Structures Act, 1998, (Act 117 of 1998) and include any person acting in that position or to whom authority was delegated;

“municipal services”

those services provided by the municipality, such as, inter alia the supply of water and electricity, refuse removal, sewerage treatment, and for which services charges are levied;

“occupier” any person who occupies any property or part thereof, without taking cognisance of the title in which he or she occupies the property,

“owner” –

- (a) the person in whose name the property is legally vested;
- (b) in the case where the person in whose name the property is vested, is insolvent or deceased, or is disqualified in terms of any legal action, the person who is responsible for administration or control of the property as curator, trustee, executor, administrator, legal manager, liquidator, or any other legal representative;

- (c) in the case where the council are unable to establish the identity of such person, the person who are entitled to derive benefit from the property or any buildings thereon;
 - (d) in the case of a lease agreement in excess of 30 years was entered into, then the lessee;
 - (e) regarding:
 - (i) a portion of land allotted on a sectional title plan and which is registered in terms of the Sectional Title Act, 1986 (Act 95 van 1986), without limiting it to the developer or managing body to the communal property;
 - (ii) a portion as defined in the Sectional Title Act, the person in whose name that portion is registered in terms of a "sectional title, including the legally appointed representative of such person;
 - (f) any legal entity including but not limited to :
 - (i) a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), a trust *inter vivos*, trust *mortis causa*, a closed corporation registered in terms of the Close Corporation Act, 1984 (Act 69 of 1984), and any voluntary organisation;
 - (ii) any provincial or national government department or local authority;
 - (iii) any council or management body established in terms of any legal framework applicable to the Republic of South Africa; and
 - (iv) any embassy or other foreign entity.
- "property" any portion of land, of which the boundaries are determined, within the jurisdiction of the municipality;

PRINCIPLES

2. (1) In the execution of its customer care, credit control and debt collection policy the municipality will apply the following principles:
- (a) The administrative integrity of the municipality will be maintained at all costs meaning that democratically elected councillors are responsible for the adoption of the policy, while the Municipal Manager must execute the policy.
 - (b) All customers must complete an official application form, formally requesting the municipality to connect them to service supply lines.
 - (c) Changes to legislation, by-laws and policies may require existing customers to complete new application forms.
 - (d) A copy of the application form, conditions of services and extracts of the customer care, credit control and debt collection policy and by-law must be handed to every customer on request at such fees as may be prescribed.
 - (e) Billing is to be accurate, timeous and understandable.
 - (f) The customer is entitled to:
 - (i) reasonable access to pay points;
 - (ii) a variety of reliable payment methods; and
 - (iii) an efficient, effective and reasonable response to appeals, and should suffer no disadvantage during the processing of such an appeal.
 - (g) Enforcement of payment must be prompt, consistent and effective.
 - (h) Unauthorised consumption, illegal connection, the tampering with or theft of meters, service supply equipment and the reticulation network and any fraudulent activity in connection with the provision of municipal services will lead to disconnections, penalties, loss of rights and criminal prosecutions.
 - (i) Incentives and disincentives may be used in collection procedures.
 - (j) The collection process must be cost-effective.
 - (k) The executive mayor must report the customer care, credit control and debt collection performance results, regularly and efficiently to Council.

- (l) Application forms will be used to, *inter alia*, categorise customers according to credit risk and to determine relevant levels of services and deposits required.
- (m) Targets for performance in both customer service, credit control and debt collection will be set and pursued and remedies implemented for non-performance.
- (n) Where practically possible customer care, credit control and debt collection should be handled independently and the organisational structure will reflect the separate functions.

DUTIES AND FUNCTIONS

3. (1) **The following duties and functions are assigned to the under mentioned roleplayers relating to the management, control and implementation of customer care, credit collection and debt collection.**

Duties and Functions of Council

- (a) To approve a budget consistent with the needs of communities, ratepayers and residents.
- (b) To impose service charges, rates on property and other taxes, levies and duties to finance the budget.
- (c) To source and provide sufficient funds to give access to basic services for the poor.
- (d) To provide for a bad debt provision, in line with the payment record of the community, ratepayers and residents, as reflected in the financial statements of the municipality.
- (e) To set improvement targets for customer care, credit control and debt collection, in line with acceptable standards and the ability of the implementing authority.
- (f) To approve a reporting framework for customer care, credit control and debt collection.
- (g) To consider and approve a by-law to give effect to the policy.

- (h) To establish a supervisory authority to monitor the performance of the Municipal Manager regarding to customer care, credit control and debt collection.
- (i) To revise the budget should the targets for customer care, credit control and debt collection not be met.
- (j) To take disciplinary and/or legal action against councillors, officials and agents who do not execute the policy and by-law or act improperly in terms thereof.
- (k) To delegate the required authorities to monitor and execute the customer care, credit control and debt collection policy to the Executive Mayor, Municipal Manager and Service Providers respectively.
- (l) To provide sufficient capacity in the Finance Directorate to execute customer care, credit control and debt collection or alternatively appoint service providers, or debt collection agents.
- (m) To provide funds for the training of staff.

Duties and functions of Executive Mayor

- (n) To ensure that the budget, cash flow and targets for customer care, credit control and debt collection are met.
- (o) To monitor the performance of the Municipal Manager in implementing the policy and by-law.
- (p) To review and evaluate the policy and by-laws in order to improve the efficiency of customer care, credit control and debt collection procedures, mechanisms and processes.
- (q) To report to Council.

Duties and functions of the Municipal Manager

- (r) To implement a customer care management system.
- (s) To implement the customer care, credit control and debt collection policy and by-law.
- (t) To install and maintain an appropriate accounting system.
- (u) To bill customers.

- (v) To demand payment on due dates.
- (w) To raise penalties for defaults.
- (x) To appropriate payments received.
- (y) To collect outstanding debt.
- (z) To provide different payment methods.
- (aa) To determine customer care, credit control and debt collection measures.
- (bb) To determine relevant work procedures for, inter alia, public relations, reminders, final demands, arrangements, disconnections of services, summonses, judgements and write-off of debts.
- (cc) To instruct attorneys to proceed with the execution of judgements obtained.
- (dd) To set performance targets for staff.
- (ee) To appoint staff to execute the policy and by-law.
- (ff) To delegate certain functions to heads of departments.
- (gg) To determine control procedures.
- (hh) To monitor contracts with service providers in connection with credit control and debt collection
- (ii) To report to the Executive Mayor.

Duties and functions of communities, ratepayers and residents

- (jj) To fulfil certain responsibilities, as brought about by the privilege and or right to use and enjoy public facilities and municipal services.
- (kk) To pay service charges, rates on property and other taxes, levies and duties imposed by the municipality on or before the due date.
- (ll) To observe the mechanisms and processes of the municipality in exercising their rights.
- (mm) To allow municipal officials reasonable access to their property to execute municipal functions.
- (nn) To comply with the policy and by-law and other legislation related to customer care, credit control and debt collection.
- (oo) To refrain from tampering with municipal services and property.

Duties and functions of Councillors

- (pp) To hold regular ward meetings.
- (qq) To adhere to and convey the policy and by-law to customers, residents and ratepayers.
- (rr) To adhere to the Code of Conduct for Councillors.

PERFORMANCE EVALUATION

4. (1) The municipal Council will create a mechanism wherein the following targets can be assessed, evaluated and whereby remedial steps can be taken.

Income Collection Targets

- (2) The municipal Council will create income collection targets that will include:
- (a) The reduction in the monthly increase ~~in~~ of debt in line with the performance agreements for officials.

Customer Service Targets

- (3) The municipal Council will create targets that will include:
- (a) Response time to customer queries.
 - (b) Date of first account delivery to new customers.
 - (c) Reconnection time lapse.
 - (d) Meter reading cycle.

Administrative Performance

- (4) The municipal Council will create targets that will include:
- (a) Cost efficiency of debt collection.
 - (b) Query and appeal periods.
 - (c) Enforcement mechanism ratios.

Reporting

5. (1) The Chief Financial Officer shall report monthly to the Municipal Manager in a suitable format to enable him/her to report to the Executive Mayor as supervisory authority in terms of section 99 of the Act, read in conjunction with section 100(c)
- (2). The report contemplated in 5(1) will include :
- The total debt analysis as at month-end.
 - Brought forward balances at month-end.
 - Outstanding balance of indigent consumers.
 - Number of new indigent applications.
 - Cashflow improvement.
 - Cash received versus debits raised.
 - Attorneys brought forward balances.
 - Arrangements made.
 - Number of hand delivered final demands.
 - Number of posted final demands.
 - Electricity cuts versus reconnections.
 - Water restrictions versus reconnections.
 - Electricity and water revisits.
 - Summonses.
 - Judgements issued.
 - Performance in all areas against targets agreed to in Annexure "B" of this policy document.
- (3) If the actual cash receipts do not match the budgeted income the Chief Financial Officer must report this, with motivation, to the Municipal Manager who will, if he agrees and the trend continues, immediately move for a revision of the budget according to realistically realisable income levels.
- (4) The Executive Mayor as Supervisory Authority shall, at intervals of 3 months, report to Council as contemplated in section 99(c) of the Act.

CUSTOMER CARE SECTION

OBJECTIVES

- (f) (1) The objectives of the customer care section are to -
- (a) To focus on the client's needs in a responsible and pro-active way to create a positive and cooperative relationship between customers responsible for the payment of services received, and the municipality, and where applicable, any service provider.
 - (b) To facilitate financial assistance and basic services for the community's poor.

Communication and feedback

- (2) The municipality will, within its financial and administrative capacity, conduct an annual process of compiling and communicating its budget, which will include revised targets for customer care.
- (3) The Customer Care, Credit Control and Debt Collection Policy or relevant extracts thereof, will be available in Xhosa, English and Afrikaans at the municipal office, the official website and on special request.
- (4) Council will endeavour to distribute a regular newsletter, which will give prominence to customer care and related issues.
- (5) Ward councillors will be required to hold regular ward meetings, at which customer care and related issues will be given prominence.
- (6) The press will be encouraged to give prominence to customer care and related issues, and will be invited to Council or Committee meetings where these matters are discussed.

Handling of Complaints

- (7) Within its financial and administrative capacity the municipality will establish:-

- (a) a central complaints/feedback office;
- (b) a centralized complaints database to enhance co-ordination of complaints, their speedy resolution and effective communication with customers;
- (c) appropriate training for officials dealing with the public to enhance communications and service delivery; and
- (d) a communication mechanism to give feedback on service, debt and customer care and related issues.

Accounts and billing

- (8) Customers will receive an understandable and accurate bill from the municipality, which will consolidate all service charges for that property.
- (9) Accounts will be produced in accordance with the meter reading cycle and due dates will be linked to the statement date.
- (10) Accounts will be rendered monthly in cycles of approximately 30 days at the address last recorded with the municipality or its authorised agent.
- (11) It is the customer's responsibility to ensure that postal address and other contact details are correct.
- (12) It is the customer's responsibility to ensure timeous payment in the event of accounts not received.
- (13) Settlement or due dates will be as indicated on the statement.
- (14) Where an account is not settled in full, any lesser amount tendered and accepted shall not be deemed to be in full and final settlement of such an account.
- (15) Where any payment is made by a negotiable instrument and is later dishonoured by a bank, the municipality or its authorised agent:-
 - (a) may recover the bank charges related to the transaction against the account of the customer; and
 - (b) shall regard such an event as a default on a payment.
- (16) The municipality or its authorised agent must, if administratively possible, issue a duplicate account to a customer on request, at a cost as determined by Council.

Metering

- (17) Within practical and financial limits the municipality will endeavour to provide meters for every consumable service.
- (18) All meters will be read monthly, on the same date, if possible.
- (19) If it is not possible to read all meters monthly the consumption will be estimated.
- (20) Customers are entitled to request verification of meter readings and accuracy within reason, but may be held liable for the cost thereof.
- (21) Customers will be informed of meter replacements.
- (22) If a service is metered but it cannot be read due to constraints or circumstances out of the control of the municipality or its authorised agent, and the customer is charged for an estimated consumption, the account following the reading of the metered consumption must articulate the difference between the actual consumption and the average consumption, and the resulting credit or debit adjustments.

Payment facilities and methods

- (23) The municipality will operate and maintain suitable and accessible payment facilities.
- (23) The municipality will, at its discretion allocate payments between service debts and debtors may not specify that payments are for specific portions of the account.
- (24) With the consent of a customer the municipality may in terms of section 103 of the Systems Act, approach an employer to secure a debit or stop order arrangement.
- (25) The municipality may provide for special incentives as contemplated in section 103 of the Systems Act.
- (26) The customer will acknowledge, in the customer agreement, if he/she uses agents to transmit payments to the municipality he/she is responsible for late and non-payments.

Enquiries, appeals and service complaints

- (27) If a customer is convinced that his or her account is inaccurate, he or she can lodge a query with the municipality to investigate and adjust the account if found valid.
- (28) In the interim the debtor must pay an amount equal to the average of the last three month's consumption where such history of the account is available.
- (a) Where no such history is available, the debtor must pay an estimated amount as calculated by the municipality until the matter is resolved.
- (29) The relevant department will investigate the query lodged in terms of section 6(27) and inform the debtor within the period specified in the policy targets.
- (30) Failure to make interim payments will subject the customer to the normal credit control and debt collection procedures.
- (31) A customer may appeal to the Municipal Manager against the finding of the municipality or its authorised agent in terms of 6.(29).
- (32) An appeal in terms of section 6.(31) must be made and lodged with the municipality within 21 (twenty-one) days after the notification of such finding has been received and must:-
- (a) set out the reasons for the appeal; and
- (b) be accompanied by any security determined for the testing of a measuring device, if applicable.

Customer Categories

- (33) Customers will be categorised according to specific classifications based on *inter alia* the type of entity and applicable tariffs and risk levels.
- (34) Processes for credit control, debt collection and customer care may differ from category to category, as deemed appropriate from time to time by the Municipal Manager.

Priority Customer Management

- (35) Certain customers will be classified as priority customers based on criteria determined by the Municipal Manager.
- (36) A priority customer liaison officer may be appointed to take care of priority customers.

- (37) The envisaged priority customer liaison officer will be responsible for the ongoing management of the customers so classified and will perform tasks such as the review of monthly accounts to ensure accuracy, the monitoring of prompt settlement of accounts and response to queries.

Customer assistance programmes

Water leakages

- (38) If the leakage is on the customer's side of the meter, the customer will be responsible for the payment of all water supplied to the property.
- (39) Where suitable proof of repair costs are provided, the Municipality may, at its sole discretion, provide relieve to a maximum of 80% of the charge raised for the water lost due to the leak, for a period not exceeding three months.
- (40) The customer has the responsibility to control and monitor his/her water consumption.

Rate rebates

- (41) Categories of property or owners may qualify for exemptions, rebates and reductions of rates as determined in the municipality's property rates policy.

Arrangements for settlements

- (42) Customers with consumption arrears must agree to the conversion to a prepayment meter.
- (43) When a prepayment meter is installed due to defaults on payments, the cost of the meter and all arrears can be paid off:-
- (a) monthly over an agreed period; and
 - (a) at the discretion of the Municipal Manager, by adding the debt as a surcharge to the prepaid electricity cost, and be repaid with each purchase of electricity until the debt is liquidated.
- (44) The municipality reserves the right to raise the deposit requirement of debtors who seek arrangements.
- (45) Where an arrangement is made outside of the conditions of payment as set out in Annexure "A", such payments will be accepted, subject to the normal credit control and debt collection procedures.

Rates by instalments

- (46) Customers may elect to pay their property rates account monthly, at no interest cost on the condition that there are no rates outstanding in respect of a previous period and that the rates are paid in full prior to the next rates cycle.
- (47) Any arrangement for monthly rate instalments will be cancelled and all rates will become payable in full with immediate effect should any three instalments become overdue.

Indigent subsidy

- (48) Customers may apply for an indigent subsidy on the conditions as stipulated in the municipality's Indigent Policy.

Free basic services

- (49) Council may provide, free of charge to a customer, certain basic levels of services, as determined from time to time.

CREDIT CONTROL SECTION***OBJECTIVES***

7. (1) The objectives of the credit control section are to -
- (a) Implement procedures that will ensure the prevention of escalation in arrear debt.
 - (b) Limited risk by employing effective management tools.

Service application and agreements

- (2) All customers of services will be required to sign an agreement governing the supply and cost of municipal services.

- (a) Owners may allow tenants to sign separate agreements with the municipality, which the municipality may at its own discretion accept or reject.
 - (b) On default by a tenant, the owner will be the debtor of last resort.
- (3) Prior to signing these agreements, customers will be entitled to receive the policy document of the municipality on request at a cost determined by Council.
 - (4) On the signing of the agreement, customers will receive a copy of the agreement for their records.
 - (5) Customers are responsible for costs of collection, interest and penalties in the event of delayed and/or non payment.
 - (6) Existing customers of services will be required to sign new agreements as determined by the Municipal Manager from time to time.

Customer screening and securities

- (7) All applicants for municipal services will be checked for credit-worthiness including checking information from banks, credit bureaux, other local authorities, trade creditors and employers.
 - (a) On application consumers will be grouped into high, medium or low risk consumers.
 - (b) A consumers will be granted a low risk status if he/she/it has not defaulted on any payment to the municipality, medium risk for defaults on payments and high risk if any legal action and judgements were taken.
- (8) Based on the risks assessment deposits either in cash or any other security acceptable to the municipality will be charged for any new connection or any default on existing payment arrangement.
- (9) Deposits can be increased at the discretion of the municipality to a maximum of three months average consumption.
- (10) Deposits can vary according to the credit-worthiness or category of the applicant subject to paragraph 7.(7)-(12).
- (11) The municipality will not pay any interest on deposits.

- (12) On the termination of the agreement the amount of the deposit, less any outstanding amount due to the municipality, will be refunded to the consumer.

Right of access to premises

- (13) The owner and or occupier of property must allow an authorised representative of the municipality access at reasonable hours to the property in order to read, inspect, install or repair any meter or service connection for reticulation, or to disconnect, stop or restrict, or reconnect, the provision of any service.
- (14) The owner is responsible for the cost of relocating a meter if satisfactory access is not possible.
- (15) If a person fails to comply with 7.(13) the municipality or its authorised representative may:-
- (a) by written notice require such person to restore access at his/her own expense within a specified period; and
 - (b) as a matter of urgency, without prior notice restore access and recover the cost from such person.

Personal contact

- (16) Within the constraints of affordability Council will endeavour to notify customers of their arrears situation by telephonic contact or by delivering a final demand notices.
- (17) During the contact customers will be informed of their rights and obligations in terms of the customer care, credit control and debt collection policy including making arrangements and applying for indigent support.
- (18) Such contact is not a right and disconnection of services and other collection proceedings may continue in the absence of such contact.

Interruption of service

- (19) Customers who are in arrears with their municipal account and who have not made arrangements with the municipality will have their supply of electricity and water, and other municipal services, suspended or disconnected.

- (20) The disconnection of services may happen when the municipal account is 1(one) day overdue.
- (21) Council reserves the right to deny or restrict the sale of electricity or water to customers who are in arrears with their rates or other municipal charges.
- (22) Upon the liquidation of arrears, or the conclusion of acceptable arrangements, the service will be reconnected as soon as conveniently possible.
- (23) All costs related to notices, the restrictions or dis- and reconnections, will be determined by tariffs approved by the municipal Council, and will be payable by the customer.
- (24) The deposit of any defaulter will be adjusted and brought into line with the policy and tariff structure of the municipality.

Rates clearance

- (25) On the sale of any property in the municipal jurisdiction, the municipality will withhold the transfer until all rates, services and consumption charges are paid by withholding a rates clearance certificate as contemplated in section 118 of the Systems Act.

The Pre-payment System

- (26) The municipality may use its pre-payment system to recover arrears in respect of accrued municipal taxes and other municipal levies, tariffs and duties in respect of services such as water, refuse removal, sanitation and sewerage.
- (27) A customer with arrears, incurred after 30 June 1999 who applies for a pre-payment system, will be required to repay all arrears in full before a pre-payment electricity meter is installed or, if the amount outstanding is large and/or the customer's ability to pay is limited the arrears can be repaid by allocating 50% of all purchases before any electricity credit is given.

Incentives for prompt payment

- (28) To encourage prompt payment and/or to reward regular payers the municipality may consider incentives for the prompt payment of accounts or payment by debit or stop orders.
- (29) If introduced such an incentive scheme will be reflected in the operating budgets as an additional expenditure.

Interest

- (30) Interest will be raised as a charge on all accounts not paid by the due date in accordance with applicable legislation.

Theft and fraud

- (31) Any natural or juristic person found to:-
- (a) be illegally connected to municipal services;
 - (b) has tampered with meters, the reticulation network or any other supply equipment
 - (c) has committed any unauthorised act associated with the supply of municipal services, and
 - (d) be involved in theft of and fraudulent activity will be prosecuted and/or held liable for penalties as determined from time to time.
- (32) Council will immediately terminate the supply of services to a customer should such conduct as outlined in 7(31), be detected.
- (33) The total bill owing, including penalties, assessment of unauthorised consumption and discontinuation and reconnection fees, and increased deposits as determined by Council if applicable, will be due and payable before any reconnection can be sanctioned.
- (34) The municipality will maintain monitoring systems in order to identify customers who are undertaking illegal actions.
- (35) The municipality reserves the right to lay criminal charges and/or to take any other legal action against both vandals and thieves.
- (36) Any person failing to provide information or providing false information to the municipality may face immediate disconnection and/or legal action.

DEBT COLLECTION SECTION

OBJECTIVE

- (g) (1) The objectives of the debt collection section are to -
- (a) Provide procedures and mechanisms to collect all the monies due and payable to the municipality arising out of the supply of services and annual levies, in order to ensure financial sustainability and delivery of municipal services in the interest of the community.

Legal Process/Use of attorneys/Use of credit bureaus

- (2) The municipality may, when all other credit control actions have been exhausted, commence legal process against debtors which process could involve summonses and judgements.
- (3) The municipality will exercise strict control over this process, and will require regular reports on progress from service providers.
- (4) The municipality will establish procedures and codes of conduct with these outside parties.
- (5) Garnishee orders, in the case of employed debtors, are preferred to sales in execution, but both are part of the municipality's system of debt collection.
- (6) All steps in credit control and debt collection procedures will be recorded for the municipality's records and for the information of the debtor.
- (7) Individual debtor account information is protected and not the subject of public information.
- (8) The municipality may release debtor information to credit bureaus.
- (9) The municipality may consider the cost effectiveness of the legal process, and will receive reports on relevant matters, including cost effectiveness.
- (10) The municipality may consider the use of agents as service providers and innovative debt collection methods and products.
- (11) Customers will be informed of the powers and duties of such agents or service providers and their responsibilities including their responsibility to observe agreed codes of conduct.

- (12) Any agreement concluded with an agent, service provider or product vendor shall include a clause whereby breaches of the code of conduct by the agent or vendor will constitute a breach of the contract.

Cost of collection

- (13) All costs associated with credit control and debt collection including interest, penalties, service discontinuation costs and legal costs are for the account of the debtor and should reflect at least the cost of the particular action.

Abandonment of Claims

- (14) The Municipal Manager must ensure that all avenues are utilised to collect the municipality's debt.
- (15) The valid termination of debt collection procedures as contemplated in section 109(2) of the Systems Act, may be considered under the following circumstances:-
- (a) the insolvency of the debtor, whose estate has insufficient funds;
 - (b) a balance being too small to recover, for economic reasons, considering the cost of recovery; and
 - (c) where the municipality deems that a customer or group of customers are unable to pay for services rendered.
- (16) The municipality must maintain audit trails in such instances, and document the reasons for the abandonment of the actions or claims in respect of the debt.

ANNEXURE "A"***Arrangements***

If a customer cannot pay his/her account with the municipality then the municipality may enter into an extended term of payment with the customer according to the applicable category of the customer. The customer must:

- i. Sign an acknowledgement of debt;
- ii. Sign a consent to judgement;
- iii. Provide a garnishee order/emolument order/stop order (if he or she is in employment);
- iv. Acknowledge that interest could be charged at the prescribed rate;
- v. Pay the current portion of the account;
- vi. Sign an acknowledgement that, if the arrangements being negotiated are later defaulted on, that no further arrangements will be possible and that disconnection of water and electricity will follow immediately, as will legal proceedings.
- vii. Acknowledge liability of all costs incurred.

CATEGORIES OF DEBTORS**DOMESTIC CUSTOMERS**

DEBT	PAYMENT OF ARREARS
R1,00 to R2 500,00	10% of outstanding debt plus the cost of the credit control actions. The balance over maximum 12 months
R2 501,00 to R5 000,00	10% of outstanding R2 500,00 5% over R2 500,00 plus the cost of the credit control actions. The balance of the outstanding amount over maximum 18 months
R5 000,00 and more	10% of the first R2 500,00 outstanding 5% of the second R 2 500,00 outstanding 2,5% above R5 000,00 outstanding plus the cost of the credit control actions. The balance of the outstanding amount over maximum 24 months

In all cases deposit to be increased to 3 times the average monthly consumption or a minimum as determined annually and published in the tariff list.

BUSINESS

	PAYMENT OF ARREARS
1 st default in any twelve month cycle:	25% of outstanding amount plus current account. Balance over maximum of 3 months Deposit adjusted to 3 months consumption.
2 nd default in any twelve month cycle:	Full outstanding plus current account. No arrangements. Deposit adjusted to 3 months consumption.
3 rd default in any twelve month cycle:	Deposit adjusted to 3 months consumption. Weekly cash payments based on consumption plus contribution to increased deposit.

GOVERNMENT DEPARTMENTS

SCHOOLS/HOSPITALS ETC.

	PAYMENT OF ARREARS
1 st default in any twelve month cycle:	3 weeks notice – no arrangements. Deposit adjusted to 3 months consumption.
2 nd default in any twelve month cycle:	2 weeks notice – no arrangements. Deposit adjusted to 3 months consumption.
3 rd default in any twelve month cycle:	48 hour notice. Deposit adjusted to 3 months consumption.

<u>SPORT CLUBS</u>	Cash payments in advance based on consumption
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OLD AGE & DISABILITY PENSIONERS

DEBT	PAYMENT OF ARREARS
R1,00 to R2 500,00	5% of outstanding debt plus the cost of the credit control actions. The balance over maximum 18 months
R2 501,00 to R5 000,00	5% of outstanding R2 500,00 3% over R2 500,00 plus the cost of the credit control actions. The balance of the outstanding amount over maximum 24 months
R5 000,00 and more	5% of the first R2 500,00 outstanding 3% above R2 500,00 outstanding plus the cost of the credit control actions. The balance of the outstanding amount over maximum 36 months

Arrangements for this category of debtor will be free of interest, should the payment arrangement be maintained regularly.

ADMINISTRATIONS

Where a person has been placed under administration the following procedures will be follows:

1. The debt as at the date of the administration court order will be placed on hold, and collected in terms of the court order by the administrator's dividend.
- ii. The administrator is to open a new account on behalf of the debtor, with a new deposit – No account is to be opened/operated in the debtor's name as the debtor is not entitled to accumulate debt (refer section 74S of the Magistrates Courts Act 32 of 1944).
- iii. Until such time as this new account is opened, the debtor is to be placed on limited services levels. The consumer will be compelled to install a prepaid electricity meter, should one not already be in place. The

Municipality will be entitled to recover the cost of the basic services by means of purchases made on the prepaid meter.

- iv. Should there be any default on the current account – the supply of services is to be limited or terminated, and the administrator handed over for the collection of this debt.

INDIGENT

All customers qualifying as indigent and having remaining arrear debt after any relief has been granted, will repay that debt as follows:

Over 36 months, in addition to monthly service charges, with immediate payment of the cost of the credit control action taken. Such arrangements for this category of debtor will be free of interest should the payments be regularly maintained.

ANNEXURE "B"

UMTSHEZI MUNICIPALITY**INCOME COLLECTION TARGETS**

(i) Payment level on current accounts

Increase level by 5% every 3 months to 98% payment level of all customers who can afford to pay;

(ii) Recovery of arrears (accumulated before 01/01/2003)

To collect all arrears over a maximum period of three years.

To achieve this goal the level of recovery should be:

Within	-	6 months	-	20%
		12 months	-	20%
		18 months	-	20%
		24 months	-	20%
		36 months	-	20%

(iii) Recovery of arrears (accumulated after 01/01/2003)

To collect all arrears over a maximum period of two years, save for those specific categories where the period is extended to three years.

To achieve this goal the level of recovery should be:

Within	-	6 months	-	40%
		12 months	-	30%
		18 months	-	20%
		24 months	-	10%

CUSTOMER SERVICE TARGETS

- (i) Response time to customer queries: - Initial response within 10 working days.
- (ii) Resolution of Queries: - 45 working days to resolve queries and appeals.
- (iii) Date of first account delivery of new customers: - By second billing cycle after date of application or occupation which even is the latest.

November 5, 2010

Credit Control Policy.doc

- (iv) Reconnection time: - within 24 hours after appropriate payment / arrangement.
- (v) Meter reading cycle: - 95% of meters being read on monthly basis on a similar date with a maximum of 3 consecutive months estimated.
- (vi) Equity application: - within 2nd billing cycle response for approval of disapproval, as well as provision of subsidy.

ADMINISTRATIVE PERFORMANCE TARGETS

- (i) Cost efficiency of debt collection :
 - Cost of collection not to exceed the capital debt amount;
 - All reasonable steps to be taken to limit cost to Council or the customer;
 - Cost of collection is to be recovered from the defaulting customers;
 - Total cost of collection to be recovered by means of applicable credit control tariffs.
- (ii) Enforcement mechanism ratio's :
 - 95% of total number of arrear customers being successfully notified / disconnected;

UMTSHEZI MUNICIPALITY

CUSTOMER CARE, CREDIT CONTROL AND DEBT COLLECTION BY-LAWS



PREAMBLE

Whereas one of the constitutional objectives of local government is to provide democratic and accountable government for local communities;

AND Whereas section 98 of the Local Government Municipal Systems Act, 2000 determines that a municipal council must adopt by-laws to give effect to the municipality's credit control and debt collection policy, its implementation and enforcement.

AND Whereas there is a need to guide the actions of political structures, political office bearers and municipal officials and service providers at local government level to ensure transparency, accountability and sound management of the revenue, expenditure, assets and liabilities of the municipality.

Be it therefore enacted by the municipal council of the municipality of Umtshezi as follows:

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CHAPTER 1: DEFINITIONS

Definitions

1. For the purpose of these by-laws any word or expressions to which a meaning has been assigned in the Act shall bear the same meaning in these by-laws and unless the context indicates otherwise.

“account”	means any account rendered for municipal services provided;
“Act”	means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as amended from time to time;
“applicable charges”	means the rates, charges, tariffs, flat rates, or subsidies determined by the municipal council during the budget process, including those costs or fees relating to or incurred during the credit control and debt collection processes;
“average consumption”	means the average consumption of a customer of a municipal service during a specific period, which consumption is calculated by dividing the total measured consumption of that municipal service by that customer over the preceding three months by three;
“actual consumption”	means the measured consumption of any customer;
“agreement”	means the contractual relationship between the municipality or its authorised agent and a customer, whether written or deemed;
“area of supply”	means any area within or partly within the area of jurisdiction of the municipality to which a municipal service or municipal services are provided;
“arrears”	means any amount due, owing and payable by a customer in respect of municipal services not paid on the due date;
“authorised agent”	means –

- (a) any person authorised by the municipal council to perform any act, function or duty in terms of, or exercise any power under these by-laws; and / or
- (b) any person to whom the municipal council has delegated the performance of certain rights, duties and obligations in respect of providing revenue services; and / or
- (c) any person appointed by the municipal council in terms of a written contract as a service provider to provide revenue services to customers on its behalf, to the extent authorised in such contract;

“commercial customer”

means any customer other than household and indigent customers, including without limitation, business, government and institutional customers;

“connection”

means the point at which a customer gains access to municipal services;

“customer”

means a person with whom the municipality or its authorised agent has concluded an agreement for the provision of municipal services;

“defaulter”

means a customer who is in arrears with rates and service charges;

“due date”

means the date on which the amount payable in respect of an account becomes due, owing and payable by the customer , which date shall be not less than 14 days after the date of the account;

“emergency situation”

means any situation that if allowed to continue poses a risk or potential risk to the financial viability or sustainability of the municipality or a specific municipal service;

“estimated consumption”

means the deemed consumption by a customer whose consumption is not measured during a specific period, which estimated consumption is rationally determined taking into account at least the consumption of municipal services for a specific level

- of service during a specific period in the area of supply of the municipality or its authorised agent;
- “final demand”** means any notification by the municipality or its authorized agent demanding payment of arrears, including but not limited to a hand delivered notice, e-mail, fax, telephone reminder or registered letter;
- “household customer”** means a customer that occupies a dwelling, structure or property primarily for residential purposes;
- “household”** means a family unit consisting of a maximum of eight persons (being a combination of four persons over the age of eighteen and four persons eighteen years or younger);
- “illegal connection”** means a connection to any system through which municipal services are provided that is not authorised or approved by the municipality or its authorised agent;
- “indigent customer”** means a household customer qualifying and registered with the municipality as an indigent in accordance with these by-laws;
- “municipality”** means –
- (a) the Umtshezi municipality or its successors-in-title; or
 - (b) the municipal manager of the Umtshezi council in respect of the performance of any ion or exercise of any right, duty, obligation or function in terms of these by-laws;
- “municipal council”** means the municipal council as referred to in section 157(1) of the Constitution, 1996 (Act No. 108 of 1996);
- “municipal manager”** means the person appointed by the municipal council as the municipal manager of the municipality in terms of section 82 of the Local Government municipal Structures Act, 1998 (Act No. 117 of 1998) and includes any person –
- (a) acting in such position; and
 - (b) to whom the municipal manager has delegated a power, function or duty in respect of such a delegated power, function or duty;

"municipal services"

means for purposes of these by-laws, services provided by the municipality or its authorised agent, including refuse removal, sanitation, electricity services and rates or any one of the above;

"occupier"

includes any person in actual occupation of the land or premises without regard to the title under which he occupies, and, in the case of premises sub-divided and let to lodgers or various tenants, shall include the person receiving the rent payable by the lodgers or tenants whether for his own account or as an agent for any person entitled thereto or interested therein;

"owner"

means -

- (a) the person in who from time to time is vested the legal title to premises;
- (b) in a case where the person in whom the legal title to premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in any case where the municipality or its authorised agent is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises or a building or buildings thereon;
- (d) in the case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereof;
- (e) in relation to -
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of the common property, or
 - (ii) a section as defined in the Sectional Titles Act, 1986 (Act No. 95 of 1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person; or
- (f) a person occupying land under a register held by a tribal authority;

- "person"** means any natural person, local government body or like authority, a company or close corporation incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;
- "public notice"** means publication in a medium that may include one or more of the following -
- (a) publication of a notice, in the official languages determined by the municipal council, –
 - (i) in the local newspaper or newspapers in the area of the municipality; or
 - (ii) in the newspaper or newspapers circulating in the area of the municipality determined by the municipal council as a newspaper of record; or
 - (iii) by means of radio broadcasts covering the area of the municipality; or
 - (b) displaying a notice at appropriate offices and pay-points of the municipality or its authorised agent; or
 - (c) communication with customers through public meetings and ward committee meetings;
 - (d) websites or internet;
- "subsidised service"** means a municipal service which is provided to a customer at an applicable rate which is less than the cost of actually providing the service including services provided to customers at no cost;
- "supply zone"** means an area, determined by the municipality or its authorised agent, within which all customers are provided with services from the same bulk supply connection;
- "unauthorised services"** means receipt, use or consumption of any municipal service which is not in terms of an agreement, or authorised or approved by the municipality or its authorised agent.

CHAPTER 2: PROVISION OF MUNICIPAL SERVICES TO CUSTOMERS OTHER THAN INDIGENT CUSTOMERS

Part 1: Application for Municipal Services

Application for services

2. (1) A customer wanting to qualify as an indigent customer must apply for services as set out in Chapter 4 below.
- (2) No person shall be entitled to access to municipal services unless application has been made to, and approved by, the municipality or its authorised agent on the form prescribed by council or a committee of the municipal council tasked with the responsibility.
- (3) Owners may allow tenants to sign separate agreements with the municipality, which the municipality may at its own discretion accept or reject.
- (4) Once an application has been approved by the municipality a service agreement must be concluded between the applicant and the municipality.
- (5) If, at the commencement of these by-laws or at any other time, municipal services are provided and received and no written agreement exist in respect of such services, it shall be deemed that -
 - (a) an agreement in terms of sub-section (3) exists; and
 - (b) the level of services provided to that customer are the level of services elected.
- (6) The municipality or its authorised agent must on application for the provision of municipal services inform the applicant of the then available levels of services and the then applicable tariffs and / or charges associated with each level of service.
- (7) The municipality or its authorised agent is only obliged to provide a specific level of service requested if the service is currently being provided and if the municipality or authorised agent has the resources and capacity to provide such level of service.
- (8) A customer may at any time apply to alter the level of services elected in terms of the agreement entered into, provided that such requested level of service is available and that any costs and expenditure associated with altering the level of services is paid by the customer.
- (9) An application for services submitted by a customer and approved by the municipality or its authorised agent shall constitute an agreement between the municipality or its authorised agent and the customer, and such agreement shall take effect on the date referred to or stipulated in such agreement.
- (10) In completing an application form for municipal services the municipality or its authorised agent will ensure that the document and the process of interaction with the owner, customer or any other person making such an application are understood by that owner, customer or other person and advise him or her of the option to register as an indigent customer.
- (11) In the case of illiterate or similarly disadvantaged persons, the municipality or its authorised agent must take reasonable steps to ensure that the

- person is aware of and understands the contents of the application form and shall assist him or her in completing such form.
- (12) municipal services rendered to a customer are subject to the provisions of these by-laws, any other applicable by-laws and the conditions contained in the agreement.
- (13) If the municipality or its authorised agent –
- (a) refuses an application for the provision of municipal services or a specific service or level of service;
 - (b) is unable to render such municipal services or a specific service or level of service on the date requested for such provision to commence; or
 - (c) is unable to render the municipal services or a specific service or level of service;

the municipality or its authorised agent must, within a reasonable time, inform the customer of such refusal and / or inability, the reasons therefore and, if applicable, when the municipality or its authorised agent will be able to provide such municipal services or a specific service or level of service.

Special agreements for municipal services

3. (1) The municipality or its authorised agent may enter into a special agreement for the provision of municipal services with an applicant –
- (a) within the area of supply, if the services applied for necessitates the imposition of conditions not contained in the prescribed form or these by-laws;
 - (b) receiving subsidised services; and
 - (c) if the premises to receive such services is situated outside the area of supply, provided that the municipality having jurisdiction over the premises has no objection to such special agreement.

Change in purpose for which municipal services are used

4. (1) Where the purpose for or extent to which any municipal service used is changed the onus and obligation is on the customer to advise the municipality or its authorised agent of such change and to enter into a new agreement with the municipality or its authorised agent.

Part 2: Applicable Charges

Applicable charges for municipal services

5. (1) All applicable charges payable in respect of municipal services, including but not limited to the payment of connection charges, fixed charges or any additional charges or interest will be set by the municipal council in accordance with –
- (a) its rates and tariff policy;

- (b) its credit control and debt collection policy;
 - (c) any by-laws in respect thereof; and
 - (d) any regulations in terms of national or provincial legislation.
- (2) Applicable charges may differ between different categories of customers, users of services, types and levels of services, quantities of services, infrastructure requirements and geographic areas.
 - (3) services will be terminated due to non-payment on the terms and conditions as stipulated in the credit control and debt collection policy.
 - (4) Deferment for payment of service accounts can be granted to consumers in terms of council's delegated powers and conditions approved in its credit control and debt collection policy.
 - (5) The municipality may consolidate any separate accounts of persons who are liable for payment to the municipality and may credit all payments received from such a person to any service and order of preference as determined by council from time to time.

Availability charges for municipal services

6. (1) The municipal council may, in addition to the tariffs or charges prescribed for municipal services actually provided, levy a monthly fixed charge, annual fixed charge or once-off fixed charge where municipal services are available, whether or not such services are consumed or not.

Subsidised services

7. (1) The municipal council may, from time to time, and in accordance with national policy, but subject to principles of sustainability and affordability, by public notice, implement subsidies for a basic level of municipal service.
- (2) The municipal council may, in implementing subsidies, differentiate between types of household customers, types and levels of services, quantities of services, geographical areas and socio-economic areas.
- (3) Public notice in terms of sub-section (1) must contain at least the following details applicable to a specific subsidy -
 - (a) the household customers that will benefit from the subsidy;
 - (b) the type, level and quantity of municipal service that will be subsidised;
 - (c) the area within which the subsidy will apply;
 - (d) the rate (indicating the level of subsidy);
 - (e) the method of implementing the subsidy; and
 - (f) any special terms and conditions that will apply to the subsidy.
- (4) If a household/customer's consumption or use of a municipal service is –
 - (a) less than the subsidised service, the unused portion may not be accrued by the household/customer and will not entitle the household/customer to cash or a rebate in respect of the unused portion; and
 - (b) in excess of the subsidised service, the household/customer will be obliged to pay for such excess consumption at the applicable rate.
- (5) A subsidy implemented in terms of sub-section (1) may at any time, after reasonable notice, be withdrawn or altered in the sole discretion of the municipal council.

- (6) Commercial customers may not qualify for subsidised services.
- (7) Subsidised services shall be funded from the portion of revenue raised nationally that is allocated to the municipality and if such funding is insufficient the services may be funded from revenue raised through rates, fees and charges in respect of municipal services.

Authority to recover additional costs and fees

8. (1) The municipality or its authorised agent has the authority to, notwithstanding the provisions of any other sections contained in these by-laws, recover any additional costs incurred in respect of implementing these by-laws against the account of the customer, including but not limited to –
 - (a) the applicable charges relating to actions taken during the credit control and debt collection processes, including but not limited to the demanding of payment of arrears, the disconnection or restriction of services, blocking of prepayment meters, administering of arrangements made to pay arrears, issuing of summons or taking of judgements;
 - (b) all legal costs, including attorney and own client costs, incurred during the credit control and debt collection processes, where and when the matter is referred to an attorney by the municipality or its authorised agent.

Part 3: Payment

Payment of deposit

9. (1) The municipal council may, from time to time, determine different deposits for different categories of customers, users of services, debtors, services and service standards.
- (2) A customer must on application for the provision of municipal services and before the municipality or its authorised agent will provide such services, pay a deposit, if the municipal council has determined a deposit.
- (3) The municipality or its authorised agent may annually review a deposit paid in terms of sub-section (2) and in accordance with such review –
 - (a) require that an additional amount be deposited by the customer where the deposit is less than the most recent deposit determined by the municipal council.
- (4) If a customer is in arrears, the municipality or its authorised agent may require that the customer –
 - (a) pay a deposit if that customer was not previously required to pay a deposit; and
 - (b) pay an additional deposit where the deposit paid by that customer is less than the most recent deposit determined by the municipal council.
- (5) Subject to sub-section (7), the deposit shall not be regarded as being in payment or part payment of an account.
- (6) No interest shall be payable by the municipality or its authorised agent on any deposit held.

- (7) The deposit, if any, is refundable to the customer on termination of the agreement.
- (8) A deposit shall be forfeited to the municipality if it has not been claimed by the customer within 24 (twenty four) months of termination of the agreement.

Methods for determining amounts due and payable

- 10.(1) The municipality or its authorised agent must in respect of municipal services that can be metered, endeavour to, within available financial and human resources, meter all customer connections and / or read all metered customer connections, on a regular basis, subject to sub-section (2).
- (2) If a service is not measured, a municipality or its authorised agent may, notwithstanding sub-section (1), determine the amount due and payable by a customer, for municipal services supplied to him/her or it, by calculating the –
 - (a) the shared consumption; or if not possible,
 - (b) the estimated consumption.
- (3) If a service is metered, but it cannot be read due to financial and human resource constraints or circumstances out of the control of the municipality or its authorised agent, and the customer is charged for an average consumption the account following the reading of the metered consumption must articulate the difference between the actual consumption and the average consumption, and the resulting credit or debit adjustment.
- (4) Where in the opinion of the municipality or its authorised agent it is not reasonably possible or cost effective to meter all customer connections and / or read all metered customer connections within a determined area, the municipal council may, on the recommendation of the municipality or its authorised agent, determine a basic tariff (flat rate) to be paid by all the customers within that area, irrespective of actual consumption.
- (5) The municipality or its authorised agent must inform customers of the method for determining amounts due and payable in respect of municipal services provided that will apply in respect of their consumption or supply zones.

Payment for municipal services provided

- 11.(1) A customer shall be responsible for payment of all municipal services consumed by him/her or it from the commencement date of the agreement until his/her or its account has been settled in full and the municipality or its authorised agent must recover all applicable charges due to the municipality.
- (2) If a customer uses municipal services for a use other than that for which it is provided by the municipality or its authorised agent in terms of an agreement and as a consequence is charged at a charge lower than the applicable charge the municipality or its authorised agent may make an adjustment of the amount charged and recover the balance from the customer.
- (3) If amendments to the applicable charge become operative on a date between measurements for the purpose of rendering an account in respect of the applicable charges -

- (a) it shall be deemed that the same quantity of municipal services was provided in each period of twenty-four hours during the interval between the measurements; and
- (b) any fixed charge shall be calculated on a pro rata basis in accordance with the charge that applied immediately before such amendment and such amended applicable charge.

Full and final settlement of an account

- 12.(1) Where an account is not settled in full, any lesser amount tendered to and accepted shall not be deemed to be in final settlement of such an account.
- (2) Sub-section (1) shall prevail notwithstanding the fact that such lesser payment was tendered and/or accepted in full and final settlement, unless the municipal manager or the manager of the municipality's authorised agent made such acceptance in writing.

Dishonoured payments

13. (1) Where any payment made to the municipality or its authorised agent by negotiable instrument is later dishonoured by the bank, the municipality or its authorised agent –
- (a) may recover a penalty relating to dishonoured negotiable instruments against the account of the customer; and
 - (b) shall regard such an event as default on payment.

Incentive schemes

- 14.(1) The municipal council may institute incentive schemes to encourage prompt payment and to reward customers that pay accounts on a regular and timeous basis including consumers in arrears who have honoured their arrangements with the municipality.

Pay-points and approved agents

- 15 (1) A customer must pay his/her or its account at pay-points, specified by the municipality or its authorised agent from time to time, or at approved agents of the municipality or its authorised agent.
- (2) The municipality or its authorised agent must inform a customer of the location of specified pay-points and approved agents for payment of accounts.

Part 4: Accounts

Accounts

16. (1)Accounts will be rendered monthly to customers at the address last recorded with the municipality or its authorised agent.
- (2) The customer may receive more than one account for different municipal services if they are accounted for separately.

- (3) Failure to receive or accept an account does not relieve a customer of the obligation to pay any amount due and payable.
- (4) If a municipal account is not received before the due date the account holder is responsible to acquire an account at the municipality's customer care service counter.
- (5) The municipality or its authorised agent must, if administratively possible, issue a duplicate account to a customer on request.
- (6) Accounts must be paid not later than the last date for payment specified in such account, which date will be at least 21 (twenty-one) days after the date of the account.
- (7) Accounts will –
 - (a) reflect at least –
 - (i) the services rendered;
 - (ii) the consumption of metered services or average, shared or estimated consumption;
 - (iii) the period addressed in the account;
 - (iv) the applicable charges;
 - (v) any subsidies;
 - (vi) the amount due (excluding value added tax payable)
 - (vii) value added tax;
 - (viii) the adjustment, if any, to metered consumption which has been previously estimated;
 - (ix) the arrears, if any;
 - (x) the interest payable on arrears, if any;
 - (xi) the final date for payment;
 - (xii) the methods, places and approved agents where payment may be made; and
 - (b) state that –
 - (i) the account must be paid before due date;
 - (ii) if the account is not paid the municipality may institute any of the actions stipulated in its credit control and debt collection policy;
 - (iii) the account may be handed over to a debt collector for collection; and
 - (iv) customers can register as indigent.

Consolidated debt

17. (1) If one account is rendered for more than one municipal service provided, the amount due and payable by a customer constitutes a consolidated debt, and any payment made by a customer of an amount less than the total amount due, will be allocated at the discretion of the municipality between service debts.
- (2) If an account is rendered for only one municipal service provided any payment made by a customer of an amount less than the total amount due, will be allocated at the discretion of the municipality.
- (3) A customer may not elect how an account is to be settled if it is not settled in full or if there are arrears.

Part 5: Queries, Complaints and Appeals

Queries or complaints in respect of account

18. (1) A customer may lodge a query or complaint in respect of an accuracy of an amount due and payable in respect of a specific municipal service as reflected on the account rendered.
- (2) A query or complaint must be lodged with the municipality or its authorised agent before the due date for payment of the account.
- (3) A query or complaint must be accompanied by the payment of the average of the last three months accounts where history of the account is available or an estimated amount provided by the municipality before payment due date until the matter is resolved.
- (4) The municipality or its authorised agent will register the query or complaint and provide the customer with a reference number.
- (5) The municipality or its authorised agent –
- (a) shall investigate or cause the query or complaint to be investigated; and
 - (b) must inform the customer, in writing, of its finding within one month after the query or complaint was registered.
- (6) Failure to make such agreed interim payment or payments will make the customer liable for any of the municipality's credit control and debt collection actions.

Appeals against finding of municipality or its authorised agent in respect of queries or complaints

19. (1) A customer may appeal in writing against a finding made by the municipality or its authorised agent in terms of section 19 (5)(b).
- (2) An appeal and request in terms of sub-section (1) must be made in writing and lodged with the municipality within 21 (twenty-one) days after the customer became aware of the finding referred to in section 19 (5)(b) and must –
- (a) set out the reasons for the appeal; and
 - (b) be accompanied by any security determined for the testing of a measuring device, if applicable.

Part 6: Arrears

Interest

20. (1) Interest will be levied on all arrear accounts at the rate determined by the municipal council from time to time.

Accounts in arrears

21. (1) Where an account rendered to a customer remains outstanding after the due date the municipality or its authorised agent may –

- (a) institute any of the actions prescribed in its credit control and debt collection policy for the recovery of the arrears; and
 - (b) hand the customer' account over to a debt collector or an attorney for collection.
- (2) A customer will be liable for any administration fees, costs incurred in taking action for the recovery of arrears and any penalties, including the payment of a higher deposit, as may be determined by the municipal council from time to time.
- (3) The owner of a property must be notified when his/her tenant falls in arrears.

Part 7: Agreement for the Payment of Arrears in Instalments

Agreements

22. (1) A consumer who wishes to enter into an agreement with the municipality must sign the following documents: –
- (a) an acknowledgement of debt;
 - (b) a consent to judgement; and/or
 - (c) an emolument attachment order.
- (2) The customer shall agree to pay all the cost, fees and penalties associated with the credit control and debt collection actions already taken.
- (3) Customers with electricity arrears must agree to the conversion to a prepayment meter if and when implementable, the cost of which, and the arrears total, will be paid off either by:
- a) Adding it to the arrears account and repaying it over the agreed period; or
 - b) Adding it as a surcharge to the prepaid electricity cost, and repaying it with each purchase of electricity until the debt is liquidated.
- (4) The municipality or its authorised agent must require a customer to pay at least its current account on entering into an agreement for the payment of arrears in instalments.
- (5) The municipality reserves the right to raise the security deposit requirement of debtors who seek arrangements.

Copy of agreement to customer

23. (1) A copy of the agreement shall be made available to the customer.

Failure to honour agreements

24. (1) If a customer fails to comply with an agreement for the payment of arrears in instalments, the total of all outstanding amounts, including the arrears, any interest thereon, administration fees, costs incurred in taking relevant action, and penalties, including payment of a higher deposit, will immediately become due and payable, without further notice or correspondence and the municipality or its authorised agent may –
- (a) disconnect the electricity services provided to the customer;

- (b) institute legal action for the recovery of the arrears.

Re-connection of services

- 25.** (1) An agreement for payment of the arrear amount in instalments, entered into after the electricity services was discontinued will not result in the services being restored until –
- (a) the arrears, any interest thereon, administration fees, costs incurred in taking relevant action and any penalties, including payment of a higher deposit, are paid in full; or
- (2) In addition to any payments referred to in sub-section (1) the customer shall pay the standard re-connection fee as determined by the municipality from time to time, prior to the re-connection of municipal services by the municipality or its authorised agent.

CHAPTER 3 : ASSESSMENT RATES

Amount due for assessment rates

26. (1) The provisions of Chapter 3 apply in respect of the recovery of assessment rates.
- (2) All assessment rates due by owners are payable by a fixed date as determined by the municipality in its rates policy.
- (3) Joint owners of property shall be jointly and severally liable for payment of assessment rates.
- (4) Assessment rates will be levied in equal monthly instalments. When levied in equal monthly instalments the amount payable will be included in the municipal account.
- (5) A property owner remains liable for the payment of assessment rates included in municipal accounts, notwithstanding the fact that –
- (a) the property is not occupied by the owner thereof; and /or
 - (b) the municipal account is registered in the name of a person other than the owner of the property.

CHAPTER 4: PROVISION OF MUNICIPAL SERVICES TO INDIGENT CUSTOMERS

Qualification for registration as indigent customer

27. (1) All households where the combined gross income of all the members of the household over the age of 18 years old is less than the amount to be determined by the Council, qualify for registration as indigent customers.

Application for registration

28. (1) A household wishing to qualify as an indigent customer must complete the application form approved by the municipal council or a committee of council tasked with the responsibility.
- (2) Any application in terms of sub-section (1) must be –
- (a) accompanied by -
 - (i) documentary proof of income, such as a letter from the customers employer, a salary advice, a pension card, unemployment fund card; or
 - (ii) an affidavit declaring unemployment or income;
 - (iii) the customer's latest municipal account in his/her possession;
 - (iv) a copy of the last available prepaid electricity meter paypoint token and meter number;
 - (v) a certified copy of the customer's identity document; and
 - (vi) the names and identity numbers of all occupants over the age of 18 years who are resident at the property.
- (3) A customer applying for registration as an indigent customer shall be required to declare that all information provided in the application form and

other documentation and information provided in connection with the application is true and correct.

- (4) The municipality or its authorised agent shall counter-sign the application form and certify that the consequences and conditions of such an application for the customer were explained to the customer and that the customer indicated that the content of the declaration was understood.

Approval of application

29. (1) The municipality or its authorised agent may send authorised representatives to premises or households applying for registration as indigent customers to conduct an on-site audit of information provided prior to approval of an application.
- (2) An application shall be approved for a period of 12 (twelve) months only. Subsidies will be forfeited if the applicant fails to submit proof of income or to re-apply for the subsidy.

Conditions

30. (1) The municipality or its authorised agent may on approval of an application or any time thereafter –
 - (a) install a pre-payment electricity meter for the indigent customer where electricity is provided by the municipality or its authorised agent when implemented; and

Application every 12 (twelve) months

31. (1) An indigent customer must re-apply for registration every 12 (twelve) months as an indigent customer, failing which the assistance will cease automatically.
- (2) The provisions of sections 33 and 34 shall apply to any application in terms of sub-section (1).
- (3) The municipality or its authorised agent gives no guarantee of renewal.

Subsidised services for indigent customers

32. (1) The municipal council may annually, as part of its budgetary process, determine the municipal services and levels thereof that will be subsidised in respect of indigent customers in accordance with national policy, but subject to principles of sustainability and affordability.
- (2) The municipal council will in the determination of municipal services that will be subsidised for indigent customers give preference to subsidising at least the following services -
 - (a) refuse removal services to a maximum of one removal per household per week.

- (b) The amount exempted for residential properties by the municipal council in terms of the property rates policy.
- (3) The municipality must on a determination in terms of sub-section (1) give public notice of such determination.
- (4) Public notice in terms of sub-section (3) must contain at least the following
 -
 - (a) the level or quantity of municipal service that will be subsidised;
 - (b) the level of subsidy;
 - (c) the method of calculating the subsidy; and
 - (d) any special terms and conditions that will apply to the subsidy, not provided for in these by-laws.
- (5) Any other municipal services rendered by the municipality or municipal services consumed in excess of the levels or quantities determined in sub-section (1) shall be charged for and the indigent customer shall be liable for the payment of such charges levied on the excess consumption.
- (6) The provisions of Chapter 3 shall *mutatis mutandis* apply to the amounts due and payable in terms of sub-section (5).

Funding of subsidised services

33. (1) The subsidised services referred to in section 33(2) shall be funded from the portion of revenue raised nationally that is allocated to the municipality and if such funding is insufficient the services may be funded from revenue raised through rates, fees and charges in respect of municipal services.

Existing arrears of indigent customers on approval of application

34. (1) Arrears accumulated in respect of the municipal accounts of customers prior to registration as indigent customers will be either:
- (a) Written off;
 - (b) Applied as a surcharge to prepaid electricity coupons; or
 - (c) Be attempted to be recovered through legal proceedings and/or extended term arrangements.

Audits

35. (1) The municipality must undertake regular random audits carried out by the municipality or its authorised agent to –
- (a) verify the information provided by indigent customers;
 - (b) record any changes in the circumstances of indigent customers; and
 - (c) make recommendations on the de-registration of the indigent customer.

De-registration

36. (1) Any customer who provides or provided false information in the application form and / or any other documentation and information in connection with the application –

- (a) shall automatically, without notice, be de-registered as an indigent customer from the date on which the municipality or its authorised agent became aware that such information is false.
- (2) An indigent customer must immediately request de-registration by the municipality or its authorised agent if his/her circumstances has changed to the extent that he/she no longer meet the qualifications set out in section 29.
- (3) An indigent customer shall automatically be de-registered if an application in accordance with section 32 is not made or if such application is not approved.
- (4) An indigent customer shall automatically be de-registered if an audit or verification concludes that the financial circumstances of the indigent customer has changed to the extent that he/she no longer meet the qualifications set out in section 29.
- (5) An indigent customer may at any time request de-registration.
- (6) An indigent customer will be held liable for all subsidies received in a fraudulent manner.

CHAPTER 5: UNAUTHORISED SERVICES

Unauthorised services

- 37.** (1) No person may gain access to municipal services unless it is in terms of an agreement entered into with the municipality or its authorised agent for the rendering of those services.
- (2) The municipality or its authorised agent may, irrespective of any other action it may take against such person in terms of these by-laws by written notice order a person who is using unauthorised services to -
- (a) apply for such services in terms of Chapter 2 Part 1;
 - (b) undertake such work as may be necessary to ensure that the customer installation through which access was gained complies with the provisions of these or any other relevant by-laws.

Interference with infrastructure for the provision of municipal services

- 38.** (1) Unless provided for in a special agreement no person other than the municipality or its authorised agent –
- (a) shall manage, operate or maintain infrastructure through which municipal services are provided; and
 - (b) effect a connection to infrastructure through which municipal services are provided.

Obstruction of access to infrastructure for the provision of municipal services

- 39.** (1) No person shall prevent or restrict physical access to infrastructure through which municipal services are provided.

- (2) If a person contravenes sub-section (1), the municipality or its authorised agent may -
- (a) by written notice require such person to restore access at his/her own expense within a specified period; or
 - (b) if it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such person.

Illegal re-connection

40. (1) A person who unlawfully and intentionally or negligently reconnects to services or unlawfully and intentionally or negligently interferes with infrastructure through which municipal services are provided, after such customers access to municipal services have been limited or disconnected shall immediately be disconnected.
- (2) A person who re-connects to municipal services in the circumstances referred to in sub-section (1) shall be liable for the cost associated with any consumption, notwithstanding any other actions that may be taken against such a person.

Immediate disconnection

41. (1) The provision of municipal services may immediately be disconnected if any person -
- (a) unlawfully and intentionally or negligently interferes with infrastructure through which the municipality or its authorised agent provides municipal services;
 - (b) fails to provide information or provides false information reasonably requested by the municipality or its authorised agent.

CHAPTER 6: OFFENCES

Offences

42. Any person who –
- (a) fails to give access required by the municipality or its authorised agent terms of these by-laws;
 - (b) assists any person in providing false or fraudulent information or assists in wilfully concealing information;
 - (c) uses, tampers or interferes with municipal equipment, service supply equipment and reticulation network or consumption of services rendered;
 - (d) fails or refuses to give the municipality or its authorised agent such information as may reasonably be required for the purpose of exercising the powers or functions under these by-laws or gives such the municipality or its authorised agent false or misleading information, knowing it to be false or misleading;
 - (e) contravenes or fails to comply with a provision of these by-laws;

- (f) fails to comply with the terms of a notice served upon him/her in terms of these by-laws;

shall be guilty of an offence and liable upon conviction to imprisonment or community service or a fine as agreed between the Chief Justice and the municipality from time to time.

CHAPTER 7: DOCUMENTATION

Signing of notices and documents

43. (1) An authorized notice or document issued by the municipality in terms of these by-laws and signed by a staff member of the municipality or its authorised agent shall be deemed to be duly issued and must on its mere production be accepted by a court as evidence of that fact.

Notices and documents

44. (1) an authorized notice or document issued by the municipality or its authorised agent in terms of these by-laws shall be deemed to be duly authorised if an authorised agent signs it.
- (2) Any notice or other document that is served on an owner, customer or any other person in terms of these by-laws is regarded as having been served -
- (a) if it has been delivered to that person personally;
 - (b) when it has been left at that person's village, place of residence, or business or employment in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential address or business address in the Republic and an acknowledgement of posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided in sub-sections (a) – (c); or
- (3) In the case where compliance with a notice is required within a specified number of working days, such period shall be deemed to commence on the date of delivery or sending of such notice.

Authentication of documents

45. (1) Every order, notice or other document requiring authentication by the municipality shall be sufficiently authenticated, if signed by the municipal manager or by a duly authorised officer of the municipality or the authorised agent of the municipality; such authority being conferred by resolution of the municipality, written agreement or by a by-law.

Prima facie evidence

46. (1) In legal proceedings by or on behalf of the municipality or its authorised agent, a certificate reflecting the amount due and payable to the municipality or its authorised agent, under the hand of the municipal manager, or suitably qualified municipal staff member authorised by the municipal manager or the manager of the municipality's authorised agent, shall upon mere production thereof be accepted by any court of law as prima facie evidence of the indebtedness.

CHAPTER 8: GENERAL PROVISIONS**Power of entry and inspection**

47. (1) The municipality or its authorised agent may enter and inspect any premises for any purpose connected with the implementation or enforcement of these by-laws, at all reasonable times, after having given reasonable written notice to the occupier of the premises of the intention to do so.

Exemption

48. (1) The municipality may, in writing, exempt an owner, customer, any other person or category of owners, customers, ratepayers, users of services from complying with a provision of these by-laws, subject to any conditions it may impose, if it is of the opinion that the application or operation of that provision would be unreasonable, provided that the municipality or its authorised agent shall not grant exemption from any section of these by-laws that may result in -
- (a) the wastage or excessive consumption of municipal services;
 - (b) significant negative effects on public health, safety or the environment;
 - (c) the non-payment for services;
 - (d) the Act, or any regulations made in terms thereof, is not complied with.
- (2) The municipality at any time after giving written notice of at least thirty days, withdraws any exemption given in terms of sub-section (1).

Availability of by-laws

49. (1) A copy of these by-laws shall be included in the municipalities municipal Code as required in terms of legislation.
- (2) The municipality or its authorised agent shall take reasonable steps to inform customers of the contents of the credit control and debt collection by-laws.
- (3) A copy of these by-laws shall be available for inspection at the municipal offices or at the offices of its authorised agent at all reasonable times.

- (4) A copy of the by-laws may be obtained against the payment of an amount as determined by the municipality or its authorised agent from time to time.

Conflict of law

50. (1) When interpreting a provision of these by-laws, any reasonable interpretation which is consistent with the purpose of the Act as set out in Chapter 9 on Credit Control and Debt Collection, must be preferred over any alternative interpretation which is inconsistent with that purpose.
- (2) If there is any conflict between these by-laws and any other by-laws of the council, these by-laws will prevail.

Repeal of existing municipal credit control by-laws

51. (1) The provisions of any by-laws relating to the control of credit by the municipality are hereby repealed insofar as they relate to matters provided for in these by-laws; provided that such provisions shall be deemed not to have been repealed in respect of any such by-law which has not been repealed and which is not repugnant to these by-laws on the basis as determined by the relevant by-laws.

Short title and commencement

52. (1) These by-laws are called the Credit Control and Debt Collection By-laws of the Umtshezi Municipality.
- (2) The municipality may, by notice in the *Provincial Gazette*, determine that provisions of these by-laws, listed in the notice, does not apply in certain areas within its area of jurisdiction listed in the notice from a date specified in the notice.
- (3) Until any notice contemplated in sub-section (2) is issued, these by-laws are binding.