

# CREDIT CONTROL AND DEBT COLLECTION POLICY

2014/2015

This policy has been formulated in terms of the provisions of section 96 (b) of the Local Government: Municipal Systems Act, 32 of 2000.

## Index

### **Chapter 1: General**

1. Definitions
2. Object
3. Principles and guidelines
4. Employer deductions
5. Councillor and municipal staff arrears
6. Credit control
7. Query, verify or dispute
8. Accounts
9. Irrecoverable debt

### **Chapter 2: Rates and Services**

10. Rates
11. Services
12. Other debt
13. Arrangements
14. Special Rating Areas

### **Chapter 3: Housing**

15. General principles
16. Collection process: Rental Schemes
17. Collection process: Home-ownership Schemes
18. Arrangements on arrear debt
19. Indigent Relief

### **Chapter 4: Indigent Relief for Residential Properties**

20. Tariff structure
21. Excess consumption
22. Arrears
23. Registration criteria

24. Indigent relief: Rates
25. Indigent relief: Water
26. Indigent relief: Electricity
27. Indigent relief: Solid waste
28. Debt management actions
29. Misrepresentation

### **Chapter 5: Property Management**

30. General principles
31. Debt management process
32. Indigent Relief

### **Chapter 6: Credits, Refunds and Transfers**

33. Credit
34. Requests for refunds or transfers
35. Deceased Estates, Insolvent Estates, Judicial Management and Curatorship
36. Refunds and transfers generally
37. Clearance Certificates
38. Nominees

### **Chapter 7: Miscellaneous**

39. Right of access to property
40. Compromising or compounding any action, claim or proceedings
41. Review of this Policy

### **Chapter 8: Other Collection Procedures**

42. Failure to pay debt by due date
43. Content of notice
44. Address for delivery of notifications
45. Procedures to be followed for debt

### **Schedule**

Minimum Payment Schedule

## CHAPTER 1: GENERAL

### 1. Definitions

- (1) In this policy, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the City of Cape Town: Credit Control and Debt Collection By-law, as amended, has the same meaning, and -

**“240L container”** or **“wheelie bin”** means a wheeled waste container with a capacity of 240L, provided by this City for the storage and disposal of waste in areas identified for containerisation, as more fully defined in the Tariff Policy as a “240L Container (Wheelie bin)”;

**“3<sup>rd</sup> party debt collection agencies”** means any person or juristic person that collects debt on behalf of the City;

**“activated”** means a backyard dweller in receipt of a tag giving the right to draw a limited quantity of water from the Municipal reticulation system;

**“Administration of Estates Act”** means the Administration of Estates Act, 66 of 1965:

**“advanced collection”** means any estimated amount that will be collected as a security for any debt, inclusive of any estimated tenant debt, that may accumulate against the property for a period up to 120 days from the date of issuing a section 118 certificate in terms of the Systems Act;

**“backyard dwellers”** means households on council rental stock property within a given area and registered as being backyard dwellers as determined by Council;

**“child-headed household”** means a household where all the occupants of a residential property are younger than 18 years old. A child-headed household is a household consisting only of children;

**“City”** means the **“Municipality”**;

**“conversion of balances of old dormant accounts”** means accounts carried forward from the previous municipalities which now form part of the City of Cape Town on which no further transactions, other than interest, if any, have been recorded;

**“credit meter”** means a meter where an account is issued subsequent to the consumption of a metered service;

**“dishonoured payment”** means a payment returned by the debtor’s bank as unpaid;

**“dispute”** means a dispute as referred to in section 102 (2) of the Systems Act as read with item 7 of this policy;

**“Finance Management Act”** means the Local Government: Municipal Finance Management Act, 56 of 2003;

**“Homac”** means City’s Homeless Agency Committee;

**“household income of a Housing and Property Management residential debtor”** means the total gross income of both the debtor and the debtor’s spouse or partner and (20) twenty percent of the gross income of any other person living in or on the premises;

**“income”** means the gross monthly household income of both the owner and spouse or partner from all sources including but not limited to salaries, wages, dividends, pensions, grants, rentals, board and lodging, interest received, and any investment income;

**“indigent relief”** means the applicable indigent relief as determined by Council from time to time;

**“Insolvency Act”** means the Insolvency Act, No. 24 of 1936;

**“Integrated Water Leaks Repair Strategy”** means the City of Cape Town: Integrated Water Leaks Repair Strategy;

**“meter”** means any device which measures any demand or quantity of either electricity energy or water passing through such meter as further defined in the Tariff Policy or any other by-law or policy of the City of Cape Town;

**“municipal valuation”** means the value of the property as determined in terms of the Property Rates Act;

**“non-residential debtors”** means any debtor who is not a residential debtor;

**“prepayment meter”** means any meter that can be programmed to allow the flow of a pre-purchased amount of energy in an electrical circuit or a pre-purchased amount of water supplied through a water meter;

**“prepayment electricity meter”** means a meter that can be programmed to allow the flow of a pre-purchased amount of energy in an electrical circuit;

**“prepayment water meter”** means any meter that can be programmed to allow the flow of a pre-purchased amount of water to be supplied through a water meter;

**“property”** means—

- (a) immovable property registered in the name of a person, and includes a unit as defined in section 1 of the Sectional Titles Act, 1986 (Act No. 95 of 1986); or
- (b) a right registered against immovable property in the name of a person;

**“Property Rates Act”** means the Local Government: Municipal Property Rates Act, 6 of 2004;

**“query”** and **“verify”** means any query which is not defined as a dispute;

**“rate”** or **“rates”** means a municipal rate as defined in section 1 of the Property Rates Act and includes any additional rates on property as envisaged in section 19 (1) (d) and section 22 of the Property Rates Act;

**“Rates Policy”** means the City of Cape Town: Rates Policy;

**“residential debtors”** means debtors as defined in this policy who utilise property for residential purposes and who may qualify for and who may receive free water or free electricity or a rates rebate, as determined by Council from time to time;

**“residential property”** means residential property as defined in the Rates Policy;

**“Revenue Credit Profile Certificate”** means a certificate issued by any Municipal Manager or City Manager showing the credit profile of a customer or debtor of that applicable municipality and confirming any debt owed to that applicable municipality;

**“special rating areas”** means special rating areas as define in the City of Cape Town: Special Rating Areas By-law;

**“Special Rating Areas By-Law”** means the City of Cape Town: Special Rating Areas By-law;

**“sundry”** means any sundry debt raised on a municipal account;

**“Supply Chain Management Policy”** means the City of Cape Town: Supply Chain Management Policy;

**“Tariff Policy”** means the City of Cape Town: Tariff Policy;

**“this policy”** includes the City of Cape Town: Credit Control and Debt Collection By-law and any amendment thereto;

**“verify”** see the definition of the word **“query”** ;and

**“water management device”** means a water management device as defined in the Tariff Policy or any other by-law or policy of the City of Cape Town.

## **2. Object**

- (1) The object of this policy is to-
  - (a) focus on all outstanding debt as raised on the debtor’s account;
  - (b) provide for a common credit control and debt collection policy;
  - (c) promote a culture of good payment habits amongst debtors and instil a sense of responsibility towards the payment of accounts and reducing municipal debt;
  - (d) subject to the principles provided for in this policy, use innovative, cost-effective, efficient and appropriate methods to collect as much of the debt in the shortest possible time without any interference in the process; and
  - (e) effectively and efficiently deal with defaulters in accordance with the terms and conditions of this policy.

## **3. Principles and guidelines**

- (1) This policy takes into account the following principles and guidelines:
  - (a) Human dignity must be upheld at all times;
  - (b) this policy must be implemented in accordance with equity, fairness and consistency;
  - (c) every reasonable effort should be made to ensure that details related to the debt and the account of the debtor are correct at all times;
  - (d) the City Manager may treat any debt, and arrangements to repay arrears holistically, but different repayment periods or methods may be determined for different types of service, debtors or areas within the general rule that the repayment period should take into consideration the financial capacity of the debtor;
  - (e) the implementation of this policy is based on sound business practices and any other applicable legislation, including but not limited to the Electronic Communications and Transactions Act No. 25 of 2002;
  - (f) new applications for services will be subject to prescribed credit information and outstanding amounts may be transferred to the new account. All information furnished on the application form may be verified by the City with any or all data information institutions, credit information bureaux and any financial institutions as may be deemed necessary by the City in determining the applicant’s credit worthiness. The City reserves its rights to share bad payment behaviour in a responsible manner with the aforesaid institutions, should it become necessary to do so, as determined from time to time;

- (g) where alternatives are available the City may provide reduced levels of service to manage the debt growth;
- (h) debtors may be referred to 3<sup>rd</sup> party debt collection agencies and may be placed on the National Credit Rating List;
- (i) if an account is not paid by the due date, at least 30 (thirty) days will be allowed to elapse before interest is charged. Interest will be raised, by the City Manager, on capital based on a full month and part of a month must be deemed to be a full month; or
  - (i) unless specifically provided for in other agreements; and
  - (ii) interest will be suspended on indigent debtors and properties that form part of the Integrated Water Leaks Repair Strategy, and where the residential property's municipal valuation is less than R300,000.00, or as determined by Council from time to time, until the leaks have been repaired, where relevant, install a water management device or a prepayment water meter and a prepayment electricity meter, at the property until the applicable debt is written off;
- (j) for purposes of an arrangement a debtor may be required to cooperate with any reasonable measures that might be required to reduce their level of use of consumable services to affordable levels;
- (k) the terms and conditions as contained in any prescribed form or document utilised in implementing this policy, forms part of this policy and are incorporated therein as specifically stated;
- (l) debtors who pay their accounts by means of a credit card or debit card, where the amount is above R5 000.00, per transaction, per account number, will be liable for the card cost on the amount exceeding R5 000.00, or any amount or card cost as determined by Council when determining tariffs, or as per the City's agreements with third party collection agents;
- (m) the suspension of any debt management action, when interrupted for whatever reason, shall, where practical, continue from the previous action taken;
- (n) service of documents and processes may be in accordance with section 115 of Systems Act;
- (o) all legal costs, including attorney-and-own-client costs incurred in the recovery of arrears, shall be levied against the debtor's account;
- (p) where a company, closed corporation, trust in terms of the Trust Property Control Act No. 57 of 1988, home owners association or a body corporate in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), is indebted to this City, the liability for such arrears may be extended to the directors, members or trustees thereof jointly and severally; and
  - (i) the directors, members or trustees thereof shall be considered to have provided this City with a guarantee that such debt shall be recoverable from themselves in their

personal capacity with each being jointly and severally liable for such debt, the one paying the other to be absolved;

- (q) where any subsidiary company of a holding company is indebted to this City, the liability for such arrears may be extended to the holding company; and
  - (i) where any holding company is indebted to this City, the liability for such arrears may be extended to any subsidiary company;
- (r) notwithstanding anything contained in this policy the City Manager may recover any debt incurred at a property as set out in section 118 (3) of the Systems Act, from the owner of that property; and
- (s) any reference to any rand value or measured quantity as reflected in this policy may be determined or amended by Council from time to time;
- (t) in the event of this Municipality expropriating immovable property:
  - (i) For owners who do not co-operate with the City, the proceeds of the sale of the property, if any, will be deposited into their Municipal account;
  - (ii) for property owners who are not clients of this City or do not have a Municipal account, the proceeds of the sale, if any, will be paid into a sundry account, until such amount is claimed by such owner;
  - (iii) no interest will be paid to such owners referred to in sub-item (1) (t) (i) and (ii) unless permitted in terms of any other legislation, policy or as determined by Council from time to time; and
  - (iv) all the proceeds will be further subject to all the conditions contained in this policy.

## (2) Misrepresentation

- (a) Debtors found to have misrepresented themselves in order to benefit from any of the City's relief or any benefit will be deemed to have committed an offence and remedial measures will be taken in a manner as determined by the Council from time to time, and all relief or any benefits that have been received, will be reversed by the City Manager; and
  - (i) any person who has received any benefit or relief in terms of this policy and who has misrepresented themselves in order to qualify for such benefit or relief will be deemed to have committed an offence and remedial measures will

be taken in a manner as determined by the Council from time to time, and all benefits or relief received, will be reversed by the City Manager; and

- (ii) the City Manager shall report any misrepresentation in terms of this policy to the South African Police Services.
- (3) The City Manager may sign and lodge all necessary supporting documents, including but not limited to affidavits, powers of attorney, in respect of insolvency, liquidation and business rescue claims made by this Municipality.
- (4) The City Manager may determine that certain services shall be paid for in cash, or any other acceptable method of payment, prior to the rendering of the service.
- (5) Members of the community must ensure that they receive accurate and regular accounts and that the fees and charges are related to the service received.

#### **4. Employer deductions**

Whenever an agreement in terms of section 8, of the City of Cape Town: Credit Control and Debt Collection By-law, is concluded with an employer the City may pay a commission to the employer, the amount of which will be determined from time to time.

#### **5. Councillor and municipal staff arrears**

- (1) Staff arrears will be dealt with in terms of item 10 of Schedule 2 to the Systems Act, and in terms of any procedures, method or actions referred to in this policy. Notwithstanding any other procedure, method or action that may be taken in terms of this policy, the City Manager shall deduct any outstanding amount from such staff members' salary or remuneration after the 3 (three) month period referred to in item 10 of Schedule 2 to the Systems Act, has elapsed; or
  - (a) notwithstanding sub-item 5 (1) the City Manager shall deduct any outstanding amount from such staff members' salary or remuneration after a period of not less than 2 (two) months from the due date thereof.
- (2) In accordance with Schedule 1, item 12A of the Systems Act, a Councillor of the City may not be more than 3 (three) months in arrears for municipal service fees, surcharges on fees, rates or any other municipal taxes, levies and duties levied by the City. Notwithstanding any other procedure, method or action that may be taken in terms of this policy, the City Manager shall deduct any outstanding amount from such Councillor's remuneration after this 3 (three) month period has elapsed; or

- (a) notwithstanding sub-item 5 (2) the City Manager shall deduct any outstanding amount from such Councillor's remuneration after a period of not more than 2 (two) months from the due date thereof.
- (3) At the sole discretion of the City Manager and after complying with sub-items (1) and (2), deduct any amount owing to this Municipality by any Councillor or staff member from such Councillor's or staff member's remuneration or salary.
- (4) The City Manager shall deduct, by agreement, from any councillor's or staff member's remuneration or salary any amount pertaining to arrears accrued at a property where they are residing even if they are not the property owners.

## **6. Credit control**

- (1) All new applications for the provision of a service may be subject to the payment of a deposit based on the applicant's municipal payment record with a minimum deposit as per the Tariff Policy; or
  - (a) the City Manager may waive the requirements for a deposit where a prepayment water meter, prepayment electricity meter or water management device have been installed; or
  - (b) at any other time as determined by the City Manager.
- (2) Any adjustment to the basic deposit will be determined by the debtor's municipal payment record, as read with the Tariff Policy; and
  - (a) any deposit no longer required by the City Manager may be credited to the debtor's account.
- (3) The applicant may be required to undergo a full credit check in an endeavour to trace all debt inclusive of municipal debt owed by the applicant. This will require the provision of, inter alia, acceptable means of identification and if applicable, the binding lease agreement, title deed and other relevant supporting documentation as required by the City from time to time. The relevant application form as approved by the City from time to time forms an integral part of this policy insofar as the contents of such application form are not in conflict with any of the provisions of this policy.
- (4) Application for services for businesses, including but not limited to, trusts, companies, close corporations, partnerships, sole proprietors and government institutions should be approved subject to the provisions of sub-items (1) to (3) above. The application must include the submission of a resolution delegating authority to the applicant and furnishing, if applicable, the business entity's registration number or Trust Reference Number with the Master of the High Court. The

names, addresses and all relevant contact particulars of all the business's directors or members or trustees or proprietors or partners must be submitted with the resolution. The relevant application form as approved by the City from time to time forms an integral part of this policy insofar as the contents of such application form are not in conflict with any of the provisions of this policy.

- (5) The City shall not conduct any business activity with or provide any services to any persons who are in arrears with municipal accounts except as provided for in legislation or policy and as determined by the City from time to time, nor will any refunds of credits or any payments for services rendered be made to any debtor or any debtor's nominee or service provider who is in arrears with their Municipal account.
- (6) Contract guarantees
  - (a) Introduction  
In terms of the Supply Chain Management Policy, compiled in terms of section 111 of the Finance Management Act, financial guarantees may be required on behalf of contractors to secure certain performance and advance payment obligations of a contractor.
  - (b) The City Manager may accept a contract guarantee from a registered bank or insurance company having one of the following ratings from the credit rating agencies indicated:
    - (i) Banks: a short term rating of F1 (Fitch Ratings), A1 (Global Credit Rating Co.) or Prime-1 (Moody's).
    - (ii) Insurers: a claims paying ability rating of A- or above from Global Credit Rating, or A3 or above from Moody's.
  - (c) A 100% cash deposit may be accepted as a contract guarantee in lieu of a paper guarantee; and
    - (i) no interest will be payable while the deposit is held by the City.
  - (d) The City Manager may add or delete, temporarily or permanently, the name of a financial institution to or from the list of approved guarantee providers, notwithstanding the absence or presence of an acceptable credit rating, if he or she is satisfied or unsatisfied as to its credit worthiness in a particular instance.
  - (e) The list of financial institutions referred to in sub-item (d) above shall be posted on the City's website.
  - (f) The format of the guarantee, as referred to in this sub-item, shall be as approved by Council and forms part of this policy.
  - (g) A guarantee shall exclude a suretyship.
- (7) Service guarantees
  - (a) Introduction  
In terms of this policy deposits should be made by way of cash payments. Council however recognises that for large and very

large electricity users guarantees may be accepted in place of cash deposits.

- (b) The City Manager may accept a service guarantee as provided for in this sub-item.
  - (c) Item 6, (6) (b) to (g) read with the necessary changes as the context may require, apply to the conditions of service guarantees.
- (8) Rental guarantees
- (a) The City Manager may accept a guarantee for deposits in terms of a lease agreement as provided for in this sub-item.
  - (b) Sub-item (6), (b) to (g) read with the necessary changes as the context may require, apply to the conditions of rental guarantees.
- (9) Guarantees against potential damages
- (a) The City Manager may accept a guarantee against potential damages to the City for any reason.
  - (b) Sub-item (6), (b) to (g) read with the necessary changes as the context may require, apply to guarantees against potential damages.
- (10) The City Manager may reverse any benefit received should a debtor fall into arrears after receiving such benefit.
- (11) The City Manager has a right to conduct a full credit check on any person who is or who will become subject to this policy or any other policy of this Municipality.
- (12) All debtors, may, having paid the prescribed fee, obtain a Revenue Credit Profile Certificate from the City Manager, and the City Manager may –
- (a) call for an equivalent certificate as issued by any other municipality before entering into any business transaction with this municipality; or
  - (b) approach any other municipality to obtain a municipal credit profile of any potential debtor.

## **7. Query, verify or dispute**

- (1) Query or verify
  - (a) In this sub-item to query or verify an account refers to the instance when a debtor queries any specific amount or any

content contained in any account as rendered by the City to that person as per the process contained herein;

- (b) any query can be raised orally in person at any walk in centre, via the City's Call Centre or by way of correspondence;
- (c) when a debtor queries an account such debtor must furnish full personal particulars including any acceptable means of identification, all account numbers held with the City, direct contact telephone numbers, fax numbers, postal and e-mail addresses and any other relevant particulars required by the City;
- (d) a debtor may be represented by a duly appointed nominee or agent; and
  - (i) such nominee or agent shall, upon request, produce sufficient proof of such appointment;
- (e) all queries shall be acknowledged and dealt with as promptly and efficiently as possible by the City; and
  - (i) where required an outcome shall be conveyed to the debtor; and
  - (ii) where an account query has arisen, the amount queried shall not be subject to debt collection by the City until the query has been resolved and the outcome has been communicated to all parties, where relevant;
- (f) the City Manager may suspend any debt collection action, pending the outcome of any query;
- (g) notwithstanding any query on any account the account must still be paid, in terms of the provisions contained in this policy, once any queries have been resolved, where relevant; or
  - (i) subject to any other legislation, payment must be based on the normal average of past accounts rendered until the query is resolved by the City Manager; and
  - (ii) that portion of the account which is not subject to the query must still be paid; and
- (h) should a debtor not be satisfied with the outcome of the query, a debtor may lodge an appeal in terms of section 62, as read with section 95 (f), of the Systems Act;

- (i) the onus will be on the debtor to ensure that a written acknowledgement of receipt is received for any correspondence lodged with the City; and
- (j) the onus will be on the debtor to ensure that a suitable response to any query is received.

(2) Dispute

- (a) In this sub-item a "dispute" refers to the instance when a debtor disputes any specific amount claimed by the City from that person.
- (b) any person who has a dispute with this City has a right, in terms of section 34 of the Constitution, to have any dispute that can be resolved by application of law decided in a fair public hearing before a court or, where appropriate, another independent or impartial tribunal or forum;
- (c) where the dispute process has been implemented in terms of sub-item (2) (b), section 102 (2) of the Systems Act will be applicable;
- (d) the City Manager has a right to declare a dispute on any specific amount claimed by the City from any person as may be considered necessary; and
- (e) disputes lodged with the City prior to the implementation of this policy, in terms of any previous policy, shall continue to be dealt with in terms of that policy.

(3) General

- (a) The City Manager may require that any official attend any meeting in order to assist with the investigation relating to the facts surrounding any query, verification of any account or any dispute; and
  - (i) the City Manager has the right to call for any document, book, computer data or record which in his or her sole discretion is deemed necessary to assist in attempting to deal with any issue referred to in this policy.

|

## 8. Accounts

- (1) This City, in terms of section 102 (a) of the Systems Act, together with the City Manager, in terms of section 15 of the City of Cape Town: Credit Control and Debt Collection By-law, considers all separate accounts of a person liable for payment to this City, to be consolidated, regardless of the fact that separate accounts for such debtor may be rendered, and includes all pre-paid services for which no account is rendered.
- (2) All separate accounts of a debtor shall for the purpose of this policy be considered consolidated and shall, for the purpose of this policy, be treated holistically.
- (3) Subject to section 118 (1) of the Systems Act payment of any undisputed debt, in terms of section 7, of the City of Cape Town's Credit Control and Debt Collection By-law, will firstly be allocated to the debtor's account as follows-
  - (a) allocation to down payments; then
  - (b) allocation to cash security deposits; then
  - (c) allocation to penalty fees (e.g. Dishonoured payments); then
  - (d) payments received via third party receipting will always be allocated as per sub-item (e) below; then
  - (e) if there is a partial payment the allocation shall be as follows-
    - (i) payments are allocated from oldest debt to youngest debt until all debt is paid.
- (4) A debtor may make a payment at a municipal cashier, which has the facility to allocate the payment. The payment will then be allocated as specified and any overpayments will be allocated as per sub-item (3) where applicable.
- (5) Subject to section 118 (1) of the Systems Act the City Manager has the right to offset any credit, or any amount due to a debtor, against any debit pertaining to that same debtor; or
  - (a) to transfer any debt to another account of that same debtor.
- (6) The City Manager has the right to transfer any property debt owed by a tenant to that same registered owners account, in terms of section 118 (3) of the Systems Act.
- (7) The City Manager may apply any of the credit control and debt collection measures, contained in this policy, with the relevant changes that the context may require, for any debt.
- (8) The City Manager may raise any costs, charges and fees and collection commission as levied in terms of policy.

- (9) Notwithstanding anything to the contrary contained in this policy the City Manager may deduct any amount owing to this Municipality by any Councillor or staff member from such Councillor's or staff member's remuneration or salary where there is a history of late payments.
- (10) The City Manager will require debtors or service providers to register with the City by providing the relevant documentation, as determined from time to time, confirming, amongst others, all contact details, proof of identification and postal and contact addresses.
- (11) Failure to produce any information as required in terms of sub-item (10) may result in the restriction, disconnection or discontinuation of any supply of services, or any other relevant action in terms of this policy.

## **9. Irrecoverable debt**

### *Criteria for irrecoverable debt*

- (1) Debt will only be considered as irrecoverable if it complies with one or more of the following criteria:
  - (a) all reasonable notifications and cost-effective legal avenues have been exhausted to recover a specific outstanding amount; or
  - (b) any amount equal to or less than R500.00, or as determined by Council from time to time, will be considered too small, after having followed basic checks, to warrant further endeavours to collect it; or
  - (c) the cost to recover the debt does not warrant further action; or
  - (d) the amount outstanding relating to insolvency;
    - (i) is the residue after payment of a dividend in the rand from an insolvent estate; or
    - (ii) there is a danger of a contribution;
    - (iii) no dividend will accrue to creditors; or
    - (iv) there are insufficient funds to cover any preference afforded by section 118 (3) of the Systems Act; or
  - (e) the amount outstanding relating to a deceased estate;
    - (i) has no liquid assets to cover the outstanding amount following the final distribution of the estate; or
    - (ii) where the estate has not been reported to the Master and there are no assets of value to attach; or
  - (f) it has been proven that the debt has prescribed; or
  - (g) the debtor is untraceable or cannot be identified so as to proceed with further action; or
    - (i) the debtor has emigrated leaving no assets of value to cost-effectively recover Councils claim; or
  - (h) it is not possible to prove the debt outstanding; or
    - (i) a court has ruled that the claim is not recoverable;
    - (ii) the claim is subject to any order of court;

- (iii) the claim is subject to an out of court settlement agreement; or
- (iv) the debt is subject to a settlement in terms of section 109 of the Systems Act; or
- (i) the outstanding amount is;
  - (i) due to an irreconcilable administrative error by the City;
  - (ii) as a result of an administration error; or
- (j) in the case of water consumers, that form part of the Integrated Water Leaks Repair Strategy, and where the residential property's municipal valuation is less than R300,000.00, or as determined by Council from time to time, have had their water leaks repaired, and have installed a water management device or a prepayment water meter, and where relevant, a prepayment electricity meter, at the property; and further –
  - (i) where the property was valued at R199,000.00 or less, during the 2006 General Valuation (“**GV**”) inclusive of any Supplementary Valuations (“**SV**”) thereto, compiled in terms of the Property Rates Act and where the valuation as per the 2009 GV or any SV relating to the 2009 GV exceeds the abovementioned qualifying value, such property would still qualify for the benefits in terms of this sub-item for the duration of the 2009 GV, or any subsequent valuation roll; and
  - (ii) interest may be charged at 0% until the said devices are installed and the arrears written off; or
- (k) arrears owed by previous administrations, amongst themselves, that now form part of the City; or
- (l) expenditure incurred, in respect of internal accounts raised in the name of the City, in any previous financial year; or
- (m) conversion of old dormant account balances of debtors, inherited from the previous municipalities which now form part of the City, and where reasonable steps have been taken to recover these debts; or
- (n) all debtors who are registered as indigent as provided for in item 23 will have their arrears written off in terms of item 22 and sub-item 23 (5); or
- (o) if an offer of full and final settlement is confirmed in writing by the City Manager in terms of section 14 (2) of the City of Cape Town: Credit Control and Debt Collection By-law; or
- (p) where Council-
  - (i) expropriates any property; or
  - (ii) purchases any property in terms of item 10 (1) (f); or
- (q) where a property has been forfeited to the State in terms of the Prevention of Organised Crime Act 121 of 1998; or
  - (i) where the occupiers of a property have been evicted from a Council, Provincial or State property due to criminal activities; or
- (r) through supporting the City's residential related debt management processes and in instances where a housing or

property management residential debtor has applied for and been granted an Indigent Grant in terms of the Housing or Property Management Indigent Policy, all debt related to that property for that debtor (excluding capital debt of home ownership), up to the date of granting of indigent status will be written back. Such write back will occur only once for any debtor, thereby allowing for a once-off rehabilitation, whereafter the debtor will immediately be subject to the Housing or Property Management Debt Management Policy should the account again fall into arrears; or

- (s) where an item 7 query or dispute or any dispute in terms of any previous policy, or a section 62 appeal determines what needs to be written off; or
- (t) where the Director: Housing Finance and Leases advises the Director: Revenue that a housing or property management debtor has been granted a Housing or Property Management Indigent Grant such debtor's rates, services and sundry debt related to that property for that debtor shall be written off once; or
- (u) where registered non-profit organisations (“**NPOs**”) or public benefit organisations (“**PBOs**”) would, except for there being arrears on their municipal accounts, qualify to receive a 100% rates rebate, in terms of the Rates Policy, will, with effect from the date of qualification, have all their arrears written off, thus ensuring that they meet all the criteria to receive the rates rebate; and
  - (i) this assistance will only be granted once to an organization subject to the condition that a prepayment electricity meter and a water management device or a prepayment water meter must be installed, where applicable;
  - (ii) should any tampering with or bypassing of the water and electricity meters be discovered, any arrears written-off, in terms of this sub-item, will become payable with immediate effect and any other action as per any legislation or policy that applies to such tampering and/or bypassing will be instituted;
  - (iii) should the City Manager become aware that the focus of the organization has changed, or its financial position has improved or its registration as a NPO or PBO has lapsed or terminated within three years after the arrears were written-off, such arrears will become payable with immediate effect; or

#### *Sporting bodies and community organisations*

- (v) where registered sporting bodies and community organisations would qualify to receive a 100% rates rebate, in terms of the Rates Policy, or in instances where such sporting bodies or community organisations occupy

- Council land and are not liable for the payment of rates, except for –
- (i) there being arrears on their accounts; will with effect from the date of qualification, have all their arrears written off, thus ensuring that they meet all the criteria to receive the rates rebate; provided that –
  - (ii) this assistance will only be granted once to an organisation subject to the condition that a prepayment electricity meter and a water management device or a prepayment water meter must be installed, where applicable;
  - (iii) should any tampering with or bypassing of the water and electricity meters be discovered, any arrears written-off, in terms of this sub-item, will become payable with immediate effect and any other action as per any legislation or policy that applies to such tampering and/or bypassing will be instituted;
  - (iv) should the City Manager become aware that the focus of the organisation has changed, or its financial position has improved or its registration as a sporting body or community organisation has lapsed or terminated within three years after the arrears were written-off, such arrears will become payable with immediate effect; or
  - (v) the body or organisation referred to in sub-item (x) must-
    - (aa) have a constitution which does not preclude any resident of Cape Town from being a member of the said body or organisation;
    - (bb) not be a profit making body or organisation;
    - (cc) when winding up its affairs leave all its assets to a similar body or organisation;
    - (dd) promote the values and purpose of the body or organisation as set out in the respective constitution; and
    - (ee) use its funds for the sole benefit of the body or organisation or the greater community of Cape Town; and
- (w) where Homac have accredited organisations then all the arrears, appearing on the accounts of these accredited organisations, will be written off once only; and
- (x) where any land including any improvements thereon has been donated, transferred, or sold either by the City or to the City by any person, organisation, association, trust, close corporation or company and such property is reclaimed, donated, transferred, forfeited or purchased by the City then all the arrears will be written off to facilitate transfer thereof; and

- (i) notwithstanding sub-item (w) nothing in this sub- item shall preclude the subsequent collection by the City of any amount so written-off.

*Special Conditions*

- (2) Notwithstanding sub-item (1) (j) any interest charges already raised on the properties identified therein may be written off.

*Authorisation*

- (3) In respect of other debt, schedules indicating the debtor account number, the debtor's name, the physical address in respect of which the debt was raised, address, erf number, if applicable, amount per account category as well as a reason to write-off the amount must be compiled.
- (4) Notwithstanding the above, the City or its authorised officials will be under no obligation to write-off any particular debt and will always retain sole discretion to do so.
- (5) Where a debt has been written off in terms of item 9, and where applicable, the City Manager shall have a right to offset any credit against any such debt written off, for the same debtor.
- (6) Subject to the City of Cape Town: System of Delegations the City Manager may write off any debt as determined in this item.

## CHAPTER 2: RATES AND SERVICES

### 10. Rates

- (1) The following provisions apply to rates and any levies:
- (a) interest shall be charged on all overdue accounts;
  - (b) if the account is not paid by the due date as displayed on the account the City Manager may issue any notice in terms of this policy showing the total amount owed to the City;
  - (c) if the account is not settled or there is no response from the debtor to make acceptable arrangements to repay the debt –
    - (i) the supply of any service to the property may be restricted, disconnected, or discontinued in terms of section 9 and 10 of the Credit Control and Debt Collection By-law and items 8 (7) and 11 of this policy; and
    - (ii) irrespective of the exercise of the powers by the City Manager in terms of section 9 and 10 of the Credit Control and Debt Collection By-law and sections 8 (7) and 11 of this policy summons may be issued and the legal process followed;
  - (d) in instances where the rates debt is in respect of municipal property sold by suspensive sale agreement, the collection thereof will be dealt with in terms of the relevant deed of sale, and if applicable, this policy, or any subsequent applicable written agreement between the City and the debtor;
  - (e) at any stage while the debt is outstanding, all reasonable steps shall be taken to ensure that the ultimate sanction of a sale-in-execution is avoided or taken only as a last resort. The City, however, has total commitment to a sale-in-execution should the debtor fail to make use of the alternatives provided for by the City from time to time. This is also applicable to all debt, and includes all debt which is a charge against a property, as referred to in this Chapter;
  - (f) as part of the recovery process the City Manager may bid, to a maximum of Rx (Rx could equal R10.00 or the total of the debt plus costs and include any reasonable amount for clearance purposes.), at a sale-in-execution and, if successful, sign all relevant documentation to acquire and take transfer of the property;
  - (g) the City Manager shall have the right to negotiate and to cancel the deed of sale, as referred to in sub-item (f) before transfer to the City, if such cancellation results in either the bond holder or the debtor, or both the said parties, paying in full for all debt in connection with that property as well as all costs related thereto; and
  - (h) the City Manager may proceed to sale-in-execution of any immovable property classified as a problem building in terms of the City of Cape Town: Problem Building By-law, 2010, for any

debt owing to the City, and may attach any condition to such property as determined in terms of the aforesaid By-law when proceeding as aforesaid.

## 11. Services

- (1) The following provisions apply to the payment for services;
- (a) accounts must be paid by the due date as shown on the account;
  - (b) interest will be charged on all overdue accounts;
  - (c) the debtor must be warned on the monthly account of a possible disconnection if payment is not received by the due date;
  - (d) if payment is not received or suitable payment arrangements are not made by the due date, a notice may be served in terms of section 115 of the Systems Act, warning of an imminent restriction, disconnection or discontinuation of a service after 14 (fourteen) days from the date as stated on the notice;
  - (e) if payment is not received or suitable payment arrangements are not made by the due date as shown on the notice, the supply or supplies may be restricted, disconnected or discontinued for any service in respect of any arrear debt;
  - (f) a notice shall be left at the property advising that the supply has been restricted, disconnected or discontinued and warn that all electric points should be considered live and that all water outlets should be closed.
    - (i) the notice must also advise that the supply will only be reconnected after the amounts specified on the notice, and any other debt including the reconnection fee, have been paid or an arrangement acceptable to the City has been made;
  - (g) the above notices must also warn of the consequences of illegal reconnection;
  - (h) all residential consumers whose water supply has been restricted will have access to a basic water supply of at least 6kl per month either by means of a restricted water flow to their property or where the water supply has been disconnected or discontinued as a result of, but not limited to, unauthorised or illegal reconnections and tampering, a water management device or a prepayment water meter may be installed, or a communal water supply point, within a radius of approximately 200 meters from their property, maybe provided; and
    - (i) the City Manager has the sole discretion to insist on a water management device or a prepayment water meter being installed to a property where the water supply is regularly restricted for non-payment; or
    - (ii) the City Manager considers the debtor to be a credit risk to the City; and

a water management device, a prepayment water meter or any service may be restricted, disconnected or discontinued for any arrears owed to this City;

- (i) subject to the provisions contained in sub-item (f), debtors may be required to pay all penalties and arrears in full before the supply is restored;
- (j) subject to the City's capacity at the time to restore such service which has been, restricted, disconnected or discontinued, such services will be restored within a reasonable period of time after the relevant conditions contained in this policy have been met;
- (k) the onus shall always be on the debtor to request reconnection and to prove that the full amount for which the service was restricted, disconnected or discontinued, as shown on the disconnection notice referred to in item 11 (1) (d) has been paid or that an arrangement was entered into in terms of sub-item (f);
- (l) despite the provisions of sub-items (a) to (k), should the amount outstanding for the supply of services remain unpaid, full recovery procedures, including appropriate legal actions may be undertaken in order to collect these monies;
- (m) in the event of an insolvency, and notwithstanding any provisions provided for in this policy, the City Manager, shall serve notice in terms of sub-item (1) (d) at the property and shall notify the trustee by giving 14 (fourteen) days' notice of the intention to restrict, disconnect or discontinue the services to the property; and
  - (i) notwithstanding sub-item (m) the period referred to therein may be waived at the request of the trustee.
- (n) Where a water management device has been installed the City Manager; may
  - (i) authorise that the adjustment of the water flow be limited to the affordability of the residential debtor based on the total household income; and in addition to this;
  - (ii) where the residential debtor who is registered as an indigent and who now has the ability to pay based on the total household income and requires that the supply be increased; and
    - (aa) where all the arrears were written off, as more fully set out in item 22, are reversed and are either paid or a suitable arrangement is made to settle the said arrears—  
may have the supply increased in accordance with sub-item (n) (i); and
- (o) No arrangement will be entered into for any arrears once the additional daily allowance has been granted; and
  - (i) if the additional daily allocation is not paid in full the water management device will be reset to enable the consumer only to have access to the free basic water supply;

- (p) Water and electricity meters must be read with regularity and accuracy so that the correct consumption information is recorded on the billing system; and
    - (i) consecutive estimations of metered consumption should be minimised to the extent that such is practically possible and with due cognisance of the right of the municipality to generate estimations as contained in the relevant by-laws and Tariff Policy or any other applicable legislation.
- (2) The following provisions apply in the event of illegal reconnection of, or tampering with, water or electricity supply:
  - (a) Where this has occurred the water or electricity supply may be effectively disconnected;
  - (b) the full amount of arrears plus any illegal consumption, and any applicable tariffs, may be required to be paid prior to reconnection. Should exceptional circumstances exist, adequate payment arrangements may be permitted at the sole discretion of the City Manager; and
  - (c) the illegal reconnection of, or tampering with, a service supply is considered a criminal offence which may result in legal action being taken.
- (3) The installation of a prepayment meter, with the written permission of the owner, is encouraged, however;
  - (a) the City Manager has the sole discretion to insist on a prepayment meter being installed on a property, at a cost to the debtor, where the electricity supply has been disconnected for non-payment; or
  - (b) the City Manager deems the debtor to be a credit risk to the City; and
  - (c) a prepayment meter may be disconnected or the right to purchase units for a prepayment meter may be withheld, or limited and a portion of any payment may, as determined by Council from time to time, be offset against arrears as a result of non-payment of any debt owed to this City.
- (4) A minimum of 20% to a maximum of 50% of the value of units purchased for electricity shall be allocated in the first instance to electricity arrears and thereafter to any other arrears, or as determined by Council from time to time. This action will be by prior arrangement with the debtor or by prior notification to such debtor and shall remain unchanged unless by default.
- (5) An authorised representative of, or service provider to the City, shall be given access to any premises in accordance with the provisions of section 101 of the Systems Act.

- (6) The City Manager shall have the right to restrict, disconnect or discontinue any service to a property, regardless of who has occupation, upon the written request from the registered owner and provided the service account is in arrears; and
  - (a) a notice may first be served in terms of section 115 of the Systems Act, giving 14 (fourteen) days' notice of the intention to restrict, disconnect or discontinue such service.
- (7) Where a service account, which is not in the name of the registered owner, has been restricted, disconnected or discontinued, the City Manager may insist that the service be transferred into the name of such property owner; and
  - (a) notwithstanding sub-item (7) the City Manager may at any other time insist that the service be transferred into the name of such property owner.
- (8) Notwithstanding anything to the contrary the provisions of this item shall apply to any debt and the supply of any service to the property may be restricted, disconnected or discontinued in terms of section 9 and 10 of the Credit Control and Debt Collection By-law and item 8 (7) of this policy.

## **12. Other debt**

- (1) All debt under this item will be subject to:
  - (a) Interest being charged on all overdue accounts;
  - (b) the supply of any service to the property may be restricted, disconnected or discontinued in terms of section 9 and 10 of the Credit Control and Debt Collection By-law and item 8 (7) and 11 of this policy; and
  - (c) in the recovery of sundry debt, the City reserves the right to utilise any legal action at its disposal as well as making use of any third party debt collectors.

### *Dishonoured payments: rates and general services*

- (2) Where a cheque, debit order, credit card or EFT payment is dishonoured and where the customer who received value from such payment, is an existing debtor of the City, the reversal; and
  - (a) any penalty fee, which may be raised by the City Manager as contained in the Tariff Policy, may be debited to an account of such payer and a letter of notification must be sent to the debtor. Such fee shall be considered to be a tariff charge and shall be

recovered from the debtor. The City reserves the right to refuse to accept or to cancel such further payment methods from such person, to place the matter on the relevant adverse credit rating lists, or take any steps as contained in this policy, which may include criminal charges, if applicable, against the offender; and

- (b) where a payment referred to in sub-item (2) was tendered and any debt management action, in terms of this policy, was suspended, and such payment was not honoured, such debt management action shall continue without further notice to such debtor.

*Dishonoured payments sundry services*

- (3) Where a cheque, debit order, credit card or EFT payment is dishonoured and where the payment is not from an existing debtor of the City, then a *sundry* debtor account will be opened and a debit raised; and
  - (a) any penalty fee, may be raised by the City Manager as contained in the Tariff Policy, and debited to the account and a letter of notification must be sent to the debtor. Once the account is submitted and the debtor fails to honour the debt by due date, a final demand will be generated and dispatched to the last known address of that debtor. If there is still no response, then the matter may be handed over for placement on the relevant adverse credit rating lists, or any steps as contained in this policy which may include criminal charges, if applicable, against the offender may be taken; and
  - (b) where a payment referred to in sub-item (3) was tendered, and any debt management action, in terms of this policy, was suspended, and such payment was not honoured, such debt management action shall continue without further notice to such debtor.
- (4) Where a cheque, debit order, credit card or EFT payment is dishonoured and where the customer who received value from such payment method, is an existing debtor of the City, the reversal; and
  - (a) any penalty fee, which may be raised by the City Manager as contained in the Tariff Policy, may be debited to an account of the drawer, or the person or entity who made the payment or the beneficiary and a letter of notification must be sent to the debtor. Such fee shall be recovered from the debtor. The City reserves the right to refuse to accept such further method of payment from such payer and or beneficiary and may take any steps as contained in this policy which may include criminal charges, if applicable, against the offender.

- (5) The City may attach the rental or any other payments due to debtors who are in arrears with their municipal accounts:
- (a) if any debt levied in respect of a property is unpaid by the owner of the property the City Manager may recover the amount in whole or in part from a tenant or occupier of the property, despite any contractual obligation to the contrary on the tenant or occupier.
  - (b) the City Manager may recover an amount only after a written notice may have been served on the tenant or occupier as provided for in section 115 of the Systems Act; and
  - (c) the amount the City Manager may recover from the tenant or occupier of a property in terms of sub-item (a) is limited to the amount of the rent or other money due and payable, but not yet paid, by the tenant or occupier to the owner of the property; and
  - (d) any amount the City Manager recovers from the tenant or occupier of the property must be set off by the tenant or occupier against any money owed by the tenant or occupier to the owner; and
  - (e) the tenant or occupier of a property must, on request by the City Manager, furnish the City Manager with a written statement specifying all payments to be made by the tenant or occupier to the owner of the property for rent or other money payable on the property during a period determined by the City Manager.
  - (f) the City Manager may recover the amount due for debt on a property in whole or in part from the agent of the registered owner, if this is more convenient for the City Manager; and
  - (g) the City Manager may recover the amount due for debt from the agent of the registered owner only after a written notice which may have been served on the agent as provided for in section 115 of the Systems Act; and
  - (h) the amount the City Manager may recover from the agent is limited to the amount of any rent or other money received by the agent on behalf of the registered owner, less any commission due to the agent; and
  - (i) the agent must, on request by the City Manager, furnish the City Manager with a written statement specifying all payments for rent on the property and any other money received by the agent on behalf of the owner during a period determined by the City Manager.

*Clearance certificates*

- (6) All debt, inclusive of any advanced collection shall be deemed to be due and payable, for the purpose of issuing any clearance certificate in terms of section 118, of the Systems Act and must be paid in full:
- (a) no interest shall be paid in respect of any payment made in terms of this sub-item unless permitted in terms of any other legislation or policy;
  - (b) all payments will be allocated to the registered seller's municipal accounts in terms of this policy;
  - (c) prior to any refund this payment will be dealt with as follows:
    - (i) the advanced collection shall be used to offset any debt that accumulated against the property as follows –
      - (aa) any tenant debt; and
      - (bb) any of the sellers debts:-
  - (d) any refund, in respect of any credit remaining after registration of transfer has been registered in the Deeds Office, shall be refunded to such seller subject to Chapter 6 of this policy;
  - (e) no certificate, in terms of section 118 of the Systems Act, will be issued where the registered owner (and, in this instance, the seller) has not complied with any relevant legislation, policy or agreement relating to the property in question;
  - (f) the City Manager may require the purchaser to apply for all services at the property as part of the application for a clearance certificate; or
    - (i) by virtue of registration of the property, the registered owner accepts liability for all services rendered by the City to the said property, except as provided for in other legislation or policy;
  - (g) with the exception of an attorney's trust cheque any cheque tendered in respect of a clearance certificate, in terms of section 118 of the Systems Act, must first be cleared by the bank before the certificate can be issued;
  - (h) all figures issued in terms of section 118 of the Systems Act will only be valid for the validity period attached to such figures and only payments made within the validity period will, for the purpose of issuing the certificate, be offset against these figures; and
  - (i) should any certificate be issued in respect of any payment made in sub-item (h) above and should such certificate lapse then any payment so made will be regarded as a payment on account and may be offset against any debt of such debtor.

*Property related debt*

- (7) In terms of section 118 (3) of the Systems Act an amount due for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property. In addition, this

amount shall be for the account of the registered owner regardless of who incurred such debt.

- (8) Any service to a debtor's property may be restricted, disconnected or discontinued in terms of section 9 and 10 of the Credit Control and Debt Collection By-law and item 8 (7) and 11 of this policy.
- (9) Any unauthorised consumption of services, theft and damages may be recovered in terms of this policy.

### **13. Arrangements**

#### *Principles for residential debtors*

- (1) Current accounts must be paid in full on or before due date.
- (2) The debtor may be required to prove levels of income and must agree to a monthly payment towards arrears based on such debtor's ability to pay or based on such debtor's total liquidity if the City Manager so requires.
- (3) All negotiations with the debtor should strive to result in an agreement that is in the interests of both parties and is sustainable.
- (4) Interest will be charged on arrears.
- (5) Interest on –
  - (a) arrears in respect of all services may be suspended;
  - (b) rates may be calculated at 0%;whilst the debtor adheres to the conditions of the arrangement; and
  - (c) should a debtor default on an arrangement interest will be calculated from the original due date of the debt, taking any payments into consideration.
- (6) Notwithstanding anything contained in this item the City Manager shall be under no obligation to enter into an arrangement with a debtor.
- (7) All arrangements may be subject to periodic review in accordance with the terms and conditions contained in this policy; and
  - (a) no arrangement, in terms of the conditions contained in this policy, will be made for a period longer than 12 (twelve) months, whereafter, such arrangement shall cease and the debtor shall be required to enter into a new arrangement for the remainder of the debt; and

- (b) failure to enter into a new arrangement after the expiry of the 12 (twelve) months referred to in sub-item (7) (a) shall result in the debt becoming due and payable forthwith; and
    - (i) all the credit control and debt collection measures as contained in this policy may be enforced.
- (8) All services may be restricted, disconnected or discontinued and legal action may be taken against debtors who default on any arrangement and such debt may be referred to third party debt collectors, for recovery.

*Arrangement Criteria for residential debtors*

- (9) In cases where residential debtors wish to make arrangements to liquidate their arrears, the following payment criteria, inter alia, will apply:
  - (a) Current account; and
  - (b) an agreed payment towards arrears based on the principles contained in this policy and sub-items (2) and (3) with a minimum payment as per the “Minimum Payment Schedule” as adjusted by the City from time to time;
  - (c) this minimum payment must be paid in order for the arrangement to be considered; and
  - (d) the City Manager has the sole discretion to determine the amount to be paid in terms of sub-item (9) (c).
- (10) Each following month the debtor will be required to pay:
  - (a) Current account; and
  - (b) an instalment as determined in sub-item (9) (b) above.
- (11) Should the debtor default the following will apply:
  - (a) The debtor must pay the shortfall of the arrangement and thereafter continue with the terms and conditions of the arrangement; or
  - (b) enter into a new arrangement in terms of this policy.
- (12) In all cases failure to respond to notices will result in normal credit control procedures and all debt collection processes as provided for in this policy may be taken.

*Principles for non-residential debtors*

- (13) In cases where non-residential debtors wish to make arrangements to liquidate their arrears, the following criteria, amongst other things, will apply-
  - (a) debtors may be required to furnish the City with their latest audited financial statements and other supporting documentation relevant to their financial position in order to negotiate a settlement arrangement acceptable to the City;

- (b) all negotiations with debtors should strive to result in an agreement that is in the City's best interests and is sustainable;
- (c) interest will be charged on arrears at an interest rate that shall be determined by Council from time to time;
- (d) interest on-
  - (i) arrears in respect of all services may be suspended; and
  - (ii) rates may be calculated at 0%; and  
whilst the debtor adheres to the conditions of the arrangement;
- (e) all arrangements shall be subject to item 13 (7); and
- (f) the final decision to make these arrangements will rest with the City Manager.

*Arrangement criteria for non-residential debtors*

- (14) If the non-residential debtor wishes to make an arrangement, interest may be charged or suspended on any outstanding amount and such arrangement will be subject to approval of the official as delegated in terms of sub-item (13) (f); and
  - (a) all arrangements may be subject to periodic review in accordance with the terms and conditions contained in this policy; and
    - (i) no arrangement, in terms of the conditions contained in this policy, will be made for a period longer than 12 (twelve) months, whereafter, such arrangement shall cease and the debtor shall be required to enter into a new arrangement for the remainder of the debt; and
    - (b) failure to enter into a new arrangement after the expiry of the 12 (twelve) months referred to in sub-item (14) (a) shall result in the debt becoming due and payable forthwith; and
      - (i) all the credit control and debt collection measures as contained in this policy may be enforced.
- (15) Should the debtor default on any arrangement, all services may be restricted, disconnected or discontinued and, any agreement may be terminated and legal action may be taken and such debt may be referred to a third party for recovery. Interest will be calculated from the original due date of the debt taking any payments into consideration.

*Special conditions regarding arrangements*

- (16) Where any residential or non-residential debtor has entered into an arrangement with the City in respect of the arrears on a property, the

prescribed certificate as referred to in section 118, of the Systems Act, will not be issued until such time as the full outstanding amount is paid.

- (17) The conditions contained in the City's arrangement document, as amended from time to time, will form part of the arrangement criteria contained in this policy; and
- (a) the conditions contained in this policy shall form part of the conditions contained in any Municipality's arrangement document as amended from time to time; *and*
  - (b) *the City Manager may require that a consent to judgment form also be signed.*
- (18) Should the current account be higher than normal, due to, but not limited to, under-estimations and faulty meters, previous accounts rendered may be taken into consideration, when determining an amount to pay in order to enter into an arrangement.
- (19) Notwithstanding sub-item (9) (a) and (b) above, the City Manager may determine that the current account, interest, disconnection, reconnection charges including any cost of installing any prepayment meter and any costs of installing a water management device, be excluded from the initial payment, when entering into an arrangement; or
- (a) any charges or costs for any disconnection, reconnection including any cost of installing any prepayment meter and any costs of installing a water management device, which appear on any subsequent account following the arrangement concluded in sub-item (19) may be subject to a renegotiated arrangement.
- (20) All debtors entering into arrangements shall provide their banking details, and those who have the facility to sign a debit order with their financial institutions shall do so; *and*
- (a) it will be the sole responsibility of the debtor to ensure that the debit order does not exceed any maximum amount as stipulated by the debtor;
  - (b) where no maximum amount has been stipulated by the debtor the City Manager shall debit the debtor's bank account with the amounts owing on the account; and
  - (c) the debtor shall remain responsible for the payment of any shortfall arising from this transaction.
- (21) Where a tenant or occupier, who has the ability to pay, wishes to make an arrangement the following will apply:
- (a) Item 12 (5) must at all times be complied with;
  - (b) where the rental is insufficient or there is no rental paid by the tenant or the occupier an arrangement to recover the monthly

current account and the property debt must be entered into in terms of the conditions and requirements of this policy;

- (c) where any service is in the name of tenant or occupier an arrangement to recover the monthly current account and the property debt must be entered into in terms of the conditions and requirements of this policy; and
- (d) where the tenant or occupier is unable to meet the criteria set out in this policy the tenant or occupier will only receive the relevant free basic services as contained in the Tariff Policy.

22 The City Manager would normally only enter into arrangements with the registered owners, but may enter into an arrangement with a tenant or occupier, who can show that they have the ability to pay, upon receipt of an affidavit, by the occupier or a tenant of a residential property, which certifies that;

- (a) the registered owner of the property at which such tenant or occupier so resides in is;
  - (i) untraceable; or
  - (ii) not contactable; or
  - (iii) such registered owner's whereabouts are unknown; or
  - (iv) where there is no co-operation by the registered owner with the occupier, and –
- (b) that they have a right to so occupy such property and stating the time period that they have so occupied the property;
- (c) the last known address of the registered owner;
- (d) the rental due for such right to so occupy;
- (e) that such occupier or tenant undertakes to advise the registered owner at the first reasonable opportunity of the current situation and that the tenant or occupier further agrees to obtain the consent of the registered owner to condone the process as set out in this sub item failing which the arrangement may be null and void; and
- (f) where applicable provide comprehensive details of the non-co-operation of the registered owner;

enter into an arrangement with such a tenant or occupier in terms of this policy, to pay off arrears on an account which is a charge against the property:

*Steps to be taken by the City Manager*

- (g) authorise an arrangement be entered into with the occupier or tenant subject to;
  - (i) the possible installation of a prepayment electricity meter, a water management device including any prepayment water meter;

- (23) Notwithstanding the provisions of sub-items (21) and (22), the City Manager may refuse to reconnect or restore any service to a tenant unless written permission is obtained from the registered owner:
- (a) authorising the tenant to enter into an arrangement in terms of this policy; and
  - (b) authorising the reconnection or restoration of any service.
- (24) The City Manager may restrict, disconnect or discontinue any service to a property;
- (a) if the registered owner withdraws, in writing, any permission granted in terms of sub-item (23) where the tenant has defaulted on the arrangement made; and
  - (b) no new application for any service to the property will be authorised until all the arrears have been settled in full.
- (25) Where an arrangement has been concluded in order for an applicant to qualify for any exemptions, rebates or reductions in terms of paragraph 6.3 of the Rates Policy such arrangement shall be adhered to; and
- (a) should there be any default on the arrangement referred to in sub-item (23) then all the exemptions, rebates or deductions granted will be reversed with effect from the date on which the relevant application was granted.
- (26) The City Manager shall not enter into any arrangement or instalment plan where a property has been classified as a problem building in terms of the City of Cape Town: Problem Building By-law, 2010, for any debt owing to the City.

#### **14. Special rating areas**

- (1) Any additional rate, tariff or levy will be determined in accordance with Section 22 of the Property Rates Act, the Rates Policy, the City of Cape Town: Special Rating Areas By-law and the Special Rating Areas Policy.
- (2) Any additional rate, tariff or levy will be added to the monthly municipal account and must be paid by the due date to avoid interest being charged.
- (3) The additional rate, tariff or levy will be subject to the debt management procedures as described in this policy.
- (4) Interest will be charged on all overdue accounts.

## CHAPTER 3: HOUSING

### 15. General principles

- (1) Interest may be charged on all overdue accounts at an interest rate that shall be determined by Council from time to time.
- (2) Interest charges on arrears will be frozen subject to the rescheduled debt arrangement being honoured.
- (3) A debt rescheduling arrangement requires the payment of the current monthly charges plus a mutually agreed amount towards the arrears each month with a minimum 90% payment in the review period.
- (4) Any staff member or Councillor who is in arrear with housing account payments will be subject to a monthly salary deduction of at least 15% of their gross salary with a double deduction at the end of each November until the arrear is satisfied.
- (5) If a debt arrangement is not honoured, the debt collection process or legal action will resume from where it was suspended and not restart at the beginning of the debt management process.
- (6) A debtor who defaults on arrangements made may not be allowed to enter into an arrangement after defaulting for the third time. Such debtor will proceed in the debt management process if regular payment is not received.
- (7) Home visits may be undertaken by officials or representatives on behalf of the City following the issue of the letter of demand to the debtor. Where the registered owner/tenant/occupier and his/her spouse are not home at the time of the visit, a letter for registered owner/tenant/occupier to call at the housing office will be left at the dwelling. (After one recorded unsuccessful attempt by housing officials or representatives, house visits will be deemed to have been completed) The visiting official or representative will make every effort to encourage the defaulting debtor to pay their current account and enter into an arrangement for arrears. Where a purchaser is not in occupation of the property it is not incumbent on the City to perform home visits.
- (8) The City Manager may recover from the debtor the following costs in instances where such costs are incurred by or on behalf of the City,
  - (a) cost and administration fees where payments, made to the City by negotiable instruments, are dishonoured by banks when presented for payment;

- (b) legal and administration and all other costs/charges, including attorney and client costs, and tracing fees incurred in the recovery of debts; and
  - (c) any collection and related commission.
- (9) The following minimum payments added to legal costs are required from the debtor prior to stopping the legal process.

Following the service of a summons..... 1 X total monthly housing charge  
 Where judgement has been granted .....2 X total monthly housing charge  
 On day of eviction .....3 X total monthly housing charge

In each case the payment will be limited to the lesser of the outstanding balance or the amount calculated above.

The Housing Manager may use discretion where the tenant is found to be indigent in terms of the provisions of the Housing Indigent Grant.

- (10) If the debtor defaults on an arrangement which was made on the day of eviction, a re-issued warrant of eviction will be obtained and the subsequent eviction process can only be stopped if 12 x the total monthly housing charge plus legal costs are paid.
- (11) Should the debtor default on this second arrangement, no further arrangements will be entered into and the eviction will be enforced unless the debtor pays the amount owing in full.

**There will be no reinstatement after eviction.**

- (12) The Manager: Debtors and Debt Management may approve suspending the housing dunning procedure for a period not exceeding six months in instances where the contracted party is severely physically or mentally infirm. Such decision will be based on a comprehensive report submitted by the Housing Manager in charge of the area in which the debtor resides.
- (13) The City may utilise the services of any organisation in order to facilitate the recovery of housing debt.
- (14) Items 11, 12 and 13 found in Chapter 2 do not relate to housing under this chapter.

**16. Collection process: Rental Schemes**

- (1) Rental is payable in advance by the due date.

- (2) If payment is not received, a letter of demand is sent to the defaulting debtor requesting payment and offering the debtor an opportunity to make an arrangement within 30 (thirty) days, from the date of the letter.
- (3) If the debtor fails to respond to this letter of demand, within 30 (thirty) days, the debtor may, within the next 30 (thirty) days, receive a house visit (note sub-item 15 (7)).
- (4) Failure to respond after the house visit will result in legal proceedings.
- (5) The legal collection process will start with a letter demanding payment within a stipulated period.
- (6) If the debtor fails to respond within the allowed time, summons will be issued.
- (7) No response to the summons will result in the City making an application to court for default judgement and, ultimately, the commencement of eviction proceedings.

**17. Collection process: Home-ownership Schemes**

- (1) Instalments and other housing charges are payable by the due date.
- (2) If payment is not received, a letter of demand is sent to the defaulting debtor requesting payment and offering the debtor an opportunity to make an arrangement within 30 (thirty) days from the date of the letter.
- (3) If the debtor fails to respond to this letter of demand within 30 (thirty) days, the debtor may, within the next 30 (thirty) days, receive a house visit (note sub-item 15 (7)).
- (4) Failure to respond after the house visit will be followed by legal proceedings.
- (5) The legal collection process will start with a letter demanding payment within a stipulated period.
- (6) If the debtor fails to respond within the allowed time, summons will be issued. No response to the summons will result in the City making an application to court for, default judgment and ultimately, the commencement of eviction proceedings.
- (7) If the amount due on the day of eviction is not paid, repossession of the property will take place and immovable property may be sold or converted to a rental unit and let in accordance with the City's Housing Allocation Policy.

## **18 Arrangements on arrear debt**

- (1) Any arrangement agreement on arrear debt shall be as determined by the City from time to time.

## **19 Indigent relief**

- (1) Housing Indigent Relief (rental and home ownership schemes) shall be applied as follows:
  - (a) Where the household income of a housing debtor does not exceed R3,200.00 per month such debtor shall be deemed to be indigent;
  - (b) where a housing debtor has applied for and been granted a housing indigent grant , all debt related to that property for that debtor (excluding capital debt of home ownership debtors) up to the date of granting of indigent status will be written back. Such write back will occur only once for any debtor, thereby allowing for a once off rehabilitation;
  - (c) an indigent debtor will have any credit meter for water and electricity at the premises replaced with a water management device or any prepayment water meter and an electricity dispensing unit (EDU);
  - (d) failure by an indigent debtor to pay 90% of the amount due within a review period of 2 months will lead to the indigent grant being cancelled; whereafter the debtor will immediately be subject to the housing debt management policy;
  - (e) the indigent grant will be valid for a period of 12 months and all housing indigent grant applicants are required to re-apply after 12 months;
  - (f) should it be discovered that there were any purposeful omissions by the applicant with respect to the Indigent Grant application which result in the applicant not complying with the indigent grant requirements, the grant will be cancelled and reversed to the date of application;
  - (g) any debtor who fails to pay the indigent rental regularly and on time, causing the indigent grant to cancel, may not be allowed to re-apply for the grant after defaulting and re-applying 3 times. The Manager: Debtor and Debt Management has the discretion to consider each case on its merit; and

(h) the indigent rental will be calculated according to the following table:

<b>INCOME</b>	<b>PERCENTAGE OF INCOME PAYABLE</b>	<b>ARRANGEMENT AMOUNT</b>
R0 to R1,500	5 % with a minimum rental of R10	R10
R1,501 to R2,800	8%	R15
R2,801 to R3,200	10%	R25

## **CHAPTER 4: INDIGENT RELIEF FOR RESIDENTIAL PROPERTIES**

### **20. Tariff structure**

- (1) The Rates Policy and Tariff Policy are designed to enable those residential debtors who meet the criteria as defined therein to obtain free basic services and a rates rebate.
- (2) The free basic services and the rates rebate referred to in this Chapter will be as determined by Council from time to time, and
  - (a) such determination will override anything else to the contrary as contained in this Chapter.

### **21. Excess consumption**

Any consumer who uses in excess of any free allocation of services, will be charged for those services in accordance with the Tariff Policy and will be subject to this policy.

### **22. Arrears**

- (1) All residential debtors who qualify and are registered as indigent, will have their arrears written off once during ownership of that property, and thereafter will be subject to item 21, provided that;
  - (a) where applicable, a water management device and any prepayment meter have been installed at the property; and
  - (b) the arrears are not as a direct result of tampering or any illegal usage of services.
- (2) After the arrears have been written off in terms of sub-item (1), and irrespective of whether consumers receive a current account for any subsequent rates and services, consumers who again fall into arrears are still required to make an arrangement with the City Manager to pay off their arrears in accordance with the principles and conditions contained in this policy.
- (3) Sub-item (2) applies to all persons who have had their arrears written off in terms of sub-item (1) and who at any stage thereafter re-apply for indigent status.

### **23. Registration criteria**

- (1) In order to qualify for registration as an indigent, for a period not exceeding twelve months, an applicant, which could include any combination of applicants, must satisfy the following criteria:
  - (a) The property must be a residential property; and
  - (b) the applicant, or any combination of applicants, must be –
    - (i) the registered owner of the residential property; or

- (ii) an occupier of a child-headed household where the residential property is registered in the name of the deceased parent or deceased parents; or
  - (iii) a purchaser of a residential property from any of the spheres of government on a delayed transfer basis; or
  - (iv) the party to whom the residential property is awarded in the event of a divorce; or
  - (v) where a deceased estate has not been wound up;
    - (aa) in the case of a deceased estate, in whose name the residential property is registered, any heir to whom the registered property has been bequeathed; or
    - (bb) a surviving spouse, where the surviving spouse was married in community of property to the deceased, and where the residential property is registered in both spouses' names, and the surviving spouse is the sole heir; or
    - (cc) a surviving spouse, who was married in community of property to the deceased, together with any other heirs, if any, where the residential property is registered in the name of that deceased; or
    - (dd) in the case where a portion of a residential property is registered in the name of a deceased estate, the surviving registered owners together with the heirs to the deceased estate; or
  - (vi) in the event of the residential property being registered in the name of a trust,
    - (aa) the beneficiaries, for the meantime, of a testamentary trust established in terms of the Administration of Estates Act, 66 of 1965; or
    - (bb) the trustees together with any beneficiaries, for the meantime, of a trust established in terms of the Trust Property Control Act, 57 of 1988; or
  - (vii) a usufructuary or habitatio where such usufruct or habitatio right is registered against a residential property in the name of that usufructuary or habitatio; or
  - (viii) where there is more than one person residing at the residential property who meet any of the criteria set out in this sub-item then they must jointly make application in terms of this item;
  - (ix) all the members of a close corporation who meet all the relevant criteria;
  - (x) notwithstanding anything else contained in this policy a backyard dweller may have consumption subsidised from the indigent fund as more fully set out in sub-item 24 (2); and
- (c) the total household income of the residential property may not exceed the maximum income of the Senior Citizens and

- Disabled Persons Rates Rebate Scheme which receives a 100% rates rebate as per the Rates Policy; and
- (d) the applicant may not be the registered owner of more than one immovable property nationally and internationally; and
    - (i) sub-item 23 (1) (d) excludes any unproductive vacant land, as defined in the Rates Policy; and
  - (e) be a full-time occupant of the residential property or where the registered owner is unable to occupy the property due to no fault of such registered owner, the spouse or minor children may satisfy the occupancy requirement; and
  - (f) where applicable, must have a prepayment electricity meter, a water management device or a prepayment water meter installed in terms of any applicable by-law or policy, as read with any approved tariff; and
  - (g) notwithstanding the aforesaid, registered owners of residential properties which have a municipal valuation as referred to in paragraph 5.1 of the Rates Policy, or less, or as determined by Council from time to time, will be deemed to meet the criteria in sub-item (a) to (e) above and will be regarded as being registered, unless proven differently; and
    - (i) interest may be charged at 0% until the devices as referred to in sub-item 22 are installed and the arrears are written off.
- (2) The City Manager may call upon an applicant, an indigent or a debtor at any time to produce documents in support of their claim for indigency or indigent status; and
- (a) may at any time approach any person in order to verify any claim made by an applicant or indigent.
- (3) Council may determine any criteria as mentioned in sub-items (1) and (2) from time to time.
- (4) In exceptional circumstances and at the sole discretion of the City Manager, the City Manager may approve the indigent benefit even though the applicant does not meet all the registration criteria as set out in sub-items (1).
- (5) Notwithstanding sub-item (1) (g) any interest charges already raised on the properties identified therein may be written off.

#### **24. Indigent relief: rates**

- (1) No rates will be levied on any residential property where the municipal valuation does not exceed the municipal valuation as referred to in paragraph 5.1 of the Rates Policy.

- (2) All residential properties, that have a municipal valuation of R300,000.00 or less, including those properties referred to in item 20 and activated backyard dwellers, will receive an indigent grant of not more than R77.23, or as determined by Council from time to time, towards the payment of their rates and services account, excluding electricity; and
- (a) indigents who meet the criteria as described in item 23 and whose residential properties have a municipal valuation of more than R300,000.00 will also receive an indigent grant as per sub-item (2) above, towards the payment of their rates and services account in connection with that property but this excludes electricity services.
- (3) The indigent grant referred to in sub-item (2), may not be converted to cash, set-off against any other account or be refunded in terms of this policy, except as provided for in sub-item (2) (a).
- (4) All applicants who qualify in terms of item 23:
- (a) Will receive the same rates rebate benefits as approved by Council for senior citizen and disabled persons, at the equivalent gross monthly household income level as set out in the Rates Policy; or
- (b) who do not receive any rates rebate in terms of paragraph 5.7 of the Rates Policy, and with the exception of item 23 (1) (c) and (f), will only receive a rates rebate, from the date that the benefit has been approved until the end of that current financial year, of:
- (i) 75% if their income is greater than R3,501.00 and not more than R4,000.00; or
- (ii) a 50% rebate if their income is between R4,001.00 and R4,500.00; or
- (iii) a 25% rebate if their income is between R4,501.00 and R5,000.00 ; and
- (c) all indigents referred to in sub-item (4) (b) must make and abide by an arrangement to repay any arrears in accordance with the principles and conditions contained in this policy, no other indigent benefits or rates rebates, as provided for in paragraph 5.7 of the Rates Policy, will accrue to such property owner, except as approved by Council from time to time.
- (5) All percentages and amounts mentioned in sub-items (1) to (4) shall be as determined by Council from time to time.
- (6) All debtors, who qualify and are registered as indigent, who require a municipal valuation certificate of their property, for purposes of applying for a social grant, will receive such certificate at no cost.

**25. Indigent relief: water**

- (1) Residential consumers may receive their first 6kl, or as determined by Council from time to time, of consumption on a zero-based tariff.
- (2) The City Manager shall grant authority that a water management device or a prepayment water meter may be installed in properties qualifying for indigent relief so as to reduce consumption to affordable levels.
- (3) A residential debtor who doubts the validity of the consumption stated on any account may apply for the meter to be tested at his or her cost as per the Tariff Policy relating to indigence.

**26. Indigent relief: electricity**

- (1) Residential debtors will receive indigent benefits as set out in the Tariff Policy; and
  - (a) prepayment meters will not receive the free basic supply of electricity for months in which no energy is purchased unless this is specifically claimed each month at a vending outlet; and
  - (b) credit meters will be credited with as much of the free basic supply of electricity as is used during the metering period.
- (2) The City Manager shall grant authority that a prepayment meter may be installed in those properties where the registered owners qualify and are registered for indigent relief so that the debtor cannot consume electricity beyond such debtor's means. All prepayment meters are installed at the rate as indicated in the Tariff Policy.

**27 Indigent relief: solid waste**

- (1) All residential debtors whose, properties are below a municipal valuation, as determined by Council from time to time, may receive a free or rebated waste collection service; and
  - (a) all residential property owners, who are registered as indigent, and who qualify in terms of item 23 (1), will receive a waste collection service rebate of 100% for the first 240L container.
- (2) All informal residential debtors will receive a free basic waste collection service as set out in the Tariff Policy.

**28. Debt management actions**

- (1) Subject to sub-item (3) and (4) no restriction, disconnection or discontinuation of any service or legal action will be instituted against any debtor, who has registered for and been accepted as an indigent for a period of twelve months, or while they still qualify as indigent, and meet all the criteria, in item 23 (1), during this twelve month period.
- (2) An application for registration as indigent is only valid for a period of twelve months from the date of approval.
- (3) It is a requirement of this policy that should the personal circumstances of a debtor improve to such an extent that such debtor no longer qualifies as an indigent, then such person must notify the City Manager immediately of this change in order for such persons name to be removed from the indigent register.
- (4) If it is found that a debtor no longer qualifies as an indigent, and such debtor has not informed the City Manager, then this debtor will be de-registered as an indigent, and all suspended steps, as referred to in sub item (1) above, will be lifted, from the time the debtor's circumstances were found to have improved, and interest will be payable on any outstanding amounts.

## **29. Misrepresentation**

- (1) Debtors found to have misrepresented themselves in order to benefit from the City's indigent relief will be deemed to have committed an offence and remedial measures will be taken in a manner as determined by the Council from time to time, and the City Manager will—
  - (a) reverse all benefits and relief received; and
  - (b) raise any fee, as determined by Council from time to time, as set out in the Tariff Policy.
- (2) Any person who has received any benefit or relief in terms of this policy and who has misrepresented themselves in order to qualify for such benefit or relief will be deemed to have committed an offence and remedial measures will be taken in a manner as determined by the Council from time to time, and the City Manager will—
  - (a) reverse all benefits and relief received; and
  - (b) raise any fee, as determined by Council from time to time, as set out in the Tariff Policy.
- (3) The City Manager shall report any misrepresentation in terms of this policy to the South African Police Services.

## CHAPTER 5: PROPERTY MANAGEMENT

### 30. General principles

- (1) Interest may be charged on all overdue accounts at an interest rate equal to the prime rate which will be adjusted quarterly to the prevailing rate on the last date of the quarter.
- (2) Interest charges on arrears will be frozen, subject to the rescheduled debt arrangement being honoured.
- (3) A debt rescheduling arrangement requires the payment of the current monthly charges plus a mutually agreed amount towards the arrears each month, plus where applicable, legal and other fees incurred to date.
- (4) Any staff member or Councillor who is in arrear with housing account payments will be subject to a monthly salary deduction of at least 15% of their gross salary with a double deduction at the end of any month in which a bonus is received until the arrear is satisfied.
- (5) If a debt arrangement is not honoured, the debt collection process or legal action will resume from the debt stage at which it was suspended.
- (6) A debtor who defaults on arrangements made may not be allowed to enter into an arrangement after defaulting for the third time. Such debtor will proceed in the debt management process if regular payment is not received.
- (7) The City Manager may recover from the debtor, all costs in instances where such costs are incurred by or on behalf of the City, including;
  - (a) cost and administration fees where presented payments are dishonoured, e.g. R/D cheques;
  - (b) legal and administration costs, including attorney and client costs, and tracing fees incurred in the recovery of debts; and
  - (c) any collection commission/charges.
- (8) All charges are payable in advance on/before the due date.
- (9) No response to initial contact may (where applicable) lead to a disconnection of the water and/or electricity or any other supply for that property.

### **31. Debt Management process**

- (1) The Property Management: Debt Management process begins when a lessee falls into arrears in respect of the current/arrears charge due.
- (2) If payment is not received, a first contact letter requesting payment and offering the debtor an opportunity to make an arrangement within 30 (thirty) days, from the date of the letter, is sent to the defaulting debtor.
- (3) Failure by the debtor to respond to the first contact letter within the 30 (thirty) day period will automatically result in the institution of legal and related proceedings with a letter demanding payment within a stipulated period.
- (4) If the debtor fails to respond within the allowed time, summons will be issued.
- (5) Failure to respond to the summons within a 30 (thirty) day period by concluding an acceptable debt rescheduling arrangement (refer 30 (3) above) will result in the City making an application to court for default judgement and, ultimately, the commencement of eviction proceedings.
- (6) Where the debtor does not respond before the date of court appearance, lease cancellation and eviction proceedings will commence.
- (7) Should the debtor make an arrangement on the day of eviction and not adhere to the agreement, the debtor will have to pay the lesser of the full outstanding debt and 12 X monthly lease instalment for the lease, in order to stop the City proceeding with the subsequent eviction.

### **32 Indigent relief**

- (1) Indigent Relief for Property Management debtors shall be applied as follows:
  - (a) Where the household income of a Property Management debtor does not exceed R3,200 per month such debtor shall be deemed to be indigent;
  - (b) where a Property Management debtor has applied for and been granted an indigent grant, all debt related to that property for that debtor up to the date of granting of indigent status will be written back. Such write back will occur only once for any debtor, thereby allowing for a once off rehabilitation;
  - (c) an indigent debtor will have any credit meter for water and electricity at the premises replaced with a water management device or any prepayment water meter and an electricity dispensing unit (EDU);
  - (d) failure by an indigent debtor to pay the amount due within a review period of 2 months will lead to the indigent grant being

- cancelled; whereafter the debtor will immediately be subject to the property management debt management policy;
- (e) the indigent grant will be valid for a period of 12 months and all property management indigent grant applicants are required to re-apply after 12 months;
  - (f) should it be discovered that there were any purposeful omissions by the applicant with respect to the indigent grant application which result in the applicant not complying with the indigent grant requirements, the grant will be cancelled and reversed to the date of application;
  - (g) any debtor who fails to pay the indigent rental regularly and on time, causing the indigent grant to cancel, may not be allowed to re-apply for the grant after defaulting and re-applying 3 times. The Manager: Debtor and Debt Management has the discretion to consider each case on its merit; and
  - (h) the indigent rental will be calculated according to the following table:

<b>INCOME</b>	<b>PERCENTAGE OF INCOME PAYABLE</b>	<b>ARRANGEMENT AMOUNT</b>
R0 to R1,500	5 % with a minimum rental of R10	R10
R1,501 to R2,800	8%	R15
R2,801 to R3,200	10%	R25

## CHAPTER 6: CREDITS, REFUNDS AND TRANSFERS

### 33 Credit

- (1) The City Manager shall have the right to claim any credits due to this City or any of its predecessors-in-law.
- (2) No interest shall be paid in respect of any credit on any account unless permitted in terms of any other legislation, policy or as determined by Council from time to time.

### 34 Requests for refunds or transfers

- (1) All requests for refunds or transfers must be in writing.
- (2) A "Request for Refund Form" must be completed, or dictated to an official who will record it in writing and have it read, and if necessary, corrected, and
  - (a) all the applicable supporting documentation must be supplied;  
and
  - (b) the form must be signed by the person requesting the refund.
- (3) The form must then immediately be lodged with the relevant authorised official.
- (4) Consideration for a refund or transfer will only be given where credits appear on the account.
- (5) Refunds will only be made:
  - (a) To an account holder, or
  - (b) notwithstanding anything else to the contrary contained in this policy, to the conveyancer, of the relevant property, after registration of transfer in the Deeds Office.
- (6) Notwithstanding sub-items (4), (5) and (7) any payment made on an account by a third party will only be considered for a refund or transferred, by the City Manager, to such third party, after the latter submits proof of the payment and such refund or transfer will be subject to any law and policy of the City.

#### *By the claimant*

- (a) The claimant will be required to produce the original proof of the payment which includes but does not limit same to any of the following:
  - (i) original receipt;
  - (ii) proof of payment method;

- (iii) original cheque as processed by the bank, if applicable;
- (iv) affidavit in support of the refund or transfer; and
- (v) proof of the account intended to be paid, if applicable.

*By the City*

- (b) Before making any refund or transfer the City Manager may –
  - (i) try to establish the whereabouts of the accountholder and thereafter;
  - (ii) write to such accountholder, at the last known or established address, giving such accountholder 14 (fourteen) days to show cause why such refund or transfer should not be proceeded with; and
  - (iii) no refund or transfer shall take place until any objection to the refund or transfer by the accountholder, as referred to in sub-item (ii), has been resolved to the satisfaction of the City; and
  - (iv) the City Manager shall notify both the claimant and the account holder, of any final decision to either:
    - (aa) Proceed with the refund or transfer; or
    - (bb) to reject the request for the refund or transfer.

*By the Accountholder*

- (c) Any accountholder objecting to such refund or transfer must comply with the following:
    - (i) Submit such objection in writing showing cause as to why the refund or transfer should not take place; and
    - (ii) may be required to submit such objection in the form of an affidavit.
- (7) Except for refunds in terms of section 55, of the Property Rates Act, where there are two or more account holders all of the accountholders must complete and sign the “Request for Refund or Transfer Form” as per sub-item (2).

**35 Deceased estates, insolvent estates, judicial management and curatorship**

*Deceased estates*

- (1) Refunds and requests for transfers will only be considered upon receipt of the duly completed form referred to in item 34, signed by a duly appointed executor or executrix, and such application shall be subject to relevant conditions contained in item 34; and

- (a) refunds will only be made payable to the deceased estate's bank account.
- (2) Notwithstanding sub-item (1) if an estate is wound up in terms of section 18 (3) of the Administration of Estates Act, then such refund or transfer can be made as per the directions as given by the Master by applying the same or similar principle; and
  - (a) the Masters direction as referred to in sub-item (2) must be attached to the request for the refund or transfer.

*Insolvent estates including any entity in the process of liquidation*

- (3) Refunds and requests for transfers will only be considered upon receipt of the duly completed form referred to in item 34, signed by a duly appointed trustee or liquidator, and such application shall be subject to relevant conditions contained in item 34; and
  - (a) refunds will only be made payable to the bank account of either the insolvent or an entity in liquidation; or
  - (b) to an unrehabilitated insolvent; or
  - (c) notwithstanding anything else to the contrary contained herein to any nominee, subject to the conditions contained in this policy.
- (4) Despite anything to the contrary contained in this policy the right to offset any debt against any credit is subject to the Insolvency Act.

*Judicial management*

- (5) Refunds and requests for transfers will only be considered upon receipt of the duly completed form referred to in item 34, signed by a duly appointed judicial manager, and such application shall be subject to relevant conditions contained in item 34; and
  - (a) refunds will only be made payable to the bank account of a company which has been placed under judicial management.
- (6) Despite anything to the contrary contained in this policy the right to offset any debt against any credit is subject to the Insolvency Act.

*Curatorship*

- (7) Refunds and requests for transfers will only be considered upon receipt of the duly completed form referred to in item 34, signed by a duly appointed curator, and such application shall be subject to relevant conditions contained in item 34; and
  - (a) refunds will only be made payable to the bank account of a person under curatorship.

### **36 Refunds and transfers generally**

- (1) Subject to sub-item (2) refunds shall take the form of electronic bank transfers only unless catered for elsewhere in law or any of the applicable policies of the Municipality.
- (2) Subject to sub-item (3) the City Manager shall have the right to offset any credit against any debt of the same debtor.
  - (a) Notwithstanding sub-item (2) the amount referred to in item 24 (2) shall not be offset except as provided for in item 24 (3).
- (3) The right to offset any debt against any credit is subject to the Insolvency Act, or any court order prohibiting such set-off.
- (4) In the case of a refund or transfer to a partnership no set-off against any debt of the individual partner may take place; but
  - (a) any credit due to a partner may be offset against the debt of a partnership.

### **37 Clearance certificates**

- (1) Any refund provided as a result item 12 (6) shall be refunded in terms of that sub-item as read with this Chapter.
- (2) Any payment for a clearance certificate, which results in a credit on the sellers account, shall be refunded to such seller, after registration, and after finalisation, to the satisfaction of the City Manager, of the respective account.
- (3) Where a sale does not result in registration taking place no refund shall be made, unless there is a credit on the account, and such refund shall be limited to the total of the amount in credit which shall not exceed the credit placed to the account in order to obtain the clearance certificate.
- (4) The sheriff of the court who sold the property shall be the seller when a property has been sold in execution.
- (5) A duly completed 'Request for Refund Form' may accompany any application for a clearance certificate.

### **38 Nominees**

- (1) Subject to sub-item (2) and (3) and notwithstanding anything else contained in this policy refunds may be made to a nominees banking account.

- (2) The City Manager has the right, subject to any applicable legislation, to offset any of the nominees debt against any credit to be refunded to such nominees banking account.
- (3) Notwithstanding sub-item (1) no refund will be made to a nominee where the account holder is a juristic person.

## CHAPTER 7: MISCELLANEOUS

### **39 Right of access to property**

- (1) The registered owner or occupier of any premises in this City must give an official of this City or any representative of a service provider, who is authorised by the City Manager, access at all reasonable hours to the premises in order to inspect the premises, read, inspect, install or repair any meter or service connection for reticulation, or to disconnect, stop or restrict or discontinue the provision of any service.
- (2) Where access has been denied to a property or where it is found that officials are unable to gain reasonable access the City Manager may, having given fourteen days due notice, insist on the installation of a water management device and any prepayment meter may be installed at the property, at the owners cost.
- (3) Where access has been denied to a property or where it is found that officials are unable to gain reasonable access the City Manager may, having given fourteen days, due notice, disconnect, stop or restrict or discontinue the provision of any service, at the cost of the owner'

### **40 Compromising or compounding any action, claim or proceedings**

- (1) In terms of section 109 of the Systems Act the City Manager may compromise or compound any action, claim and proceedings where applicable.
- (2) Sub-item (1) is not applicable to rates except as provided for in section 26 (3) of the Property Rates Act.

### **41 Review of this Policy**

- (1) This policy shall be reviewed annually as part of the budget process or whenever required.

## **CHAPTER 8: OTHER COLLECTION PROCEDURES**

### **42 Failure to pay debt by due date**

- (1) Should any debtor fail to pay any debt, referred to in section 118 (3) of the Systems Act, by due date the City Manager may, serve a notice in terms of section 115 of the Systems Act, –

- (a) on the debtor, and
- (b) on the property,

calling upon such debtor to pay such debt within 30 (thirty) days of such notice.

### **43 Content of notice**

- (1) The notices referred to in item 42 shall state that should any debt not be settled within 30 (thirty) days of such notice, application will be made to court for an order for the sale of the debtor's property for the outstanding debt plus any additional debt incurred in the application of this Chapter.

### **44 Address for delivery of notifications**

- (1) Any debtor may notify the City Manager of an address within the Republic to which any notice referred to in sub-item 42 (1) (a) may be sent; and
- (a) any address given in terms of sub-item (1) may be amended by a debtor by notifying the City Manager in writing of the change thereof; and
    - (i) such amended address shall take effect when a written acknowledgement of such address is dispatched by the City Manager to the debtor.
  - (b) the onus shall be on the debtor to ensure that such debtor receives a written acknowledgement of such amended address;
  - (c) the amended address shall be deemed for all purposes to be the address where all notices in terms of this Chapter may be served to the exclusion of any address previously notified;
  - (d) shall state either the property account number or numbers of each applicable account; and
    - (i) the full description of the property;
    - (ii) the physical address of the property; and
    - (iii) the full name of the registered owner.

**45 Procedures to be followed for debt**

- (1) Should any debt referred to in item 42, remain unpaid after the final date for the payment thereof, such debt may be recovered in the manner set forth in this Chapter.
- (2) The City Manager shall cause a further notice to be served, in terms of section 115 of the Systems Act, advising that an application shall be made to Court, after the lapsing of 14 (fourteen) days from dispatch of this notice, for an Order for the sale of the debtor's property for the outstanding debt plus any additional debt incurred in the application of this Chapter.
- (3) If after giving notification in terms of items 42 and sub-item 45 (2) hereof, and such debt remains outstanding, a court of competent jurisdiction, upon the application by this Municipality, showing
  - (a) the amount of debt not paid; and
  - (b) the notices provided for in items 42 and 45 (2) has been given,shall be requested to summarily order any such property against which the debt is owing to be sold by way of public auction, subject to the conditions contained in sub-items (4), (5) and (6) hereof, which order the court shall have the right to grant.
- (4) The order shall give the power for the proceeds of the public auction to be paid into court and direct that payment be made to the City, from these proceeds; of
  - (a) all debt outstanding; and
  - (b) all costs incurred by this City in respect of the application made in terms of this Chapter;in preference to any bondholder in terms of section 118 (3) of the Systems Act.
- (5) Upon the court order as set out in sub-items (3) and (4) hereof the City shall have the right to have the property or any part thereof, as the case may be, sold in accordance with the court's order without the necessity of issuing a writ or other process of court for that purpose, except as provided for in sub-item (6), provided that in all other respects any such sale shall be deemed to be a sale of immovable property in execution of the judgment of such court, save that it shall not be necessary to notify or consult the debtor, against which the amount is owing, with regards to the sale or the conditions of the sale.
- (6) Prior to applying for a date of sale of any property in terms of this Chapter, or the court order, the City Manager shall –

- (a) post a notice on the official notice board of this Municipality for a period of a least 30 (thirty) days;
  - (b) publish such notice in at least three newspapers circulating in the area in which the property is situated; and
  - (c) serve a notice to this effect on the debtor.
- (7) The notice referred to in sub-item 45 (6) (a) may be in the form of a schedule and shall contain at least the following information:
  - (a) The name of the owner;
  - (b) the full physical address of the property;
  - (c) the amount outstanding;
  - (d) that the debtor has a right to settle the debt before the expiration of the notice;
  - (e) that the property may be sold in terms of the court order granted in terms of this Chapter should the debt remain outstanding after the expiry of the said notice; and
  - (f) any other information which the City Manager deems necessary.
- (8) The notice referred to in sub-item 45 (6) (b) shall contain at least the following information:
  - (a) The name of the registered owner;
  - (b) the full physical address of the property;
  - (c) the amount outstanding;
  - (d) that the debtor has a right to settle the debt before the expiration of the notice;
  - (e) advising that application shall be made to the sheriff of the court for a sale date after the expiry of the notice; and
  - (f) any other information which the City Manager deems necessary.
- (9) If before the sale of any such property in terms of any court order there is produced to the sheriff or any other person charged with the sale thereof a certificate from the City Manager that all the amounts due have been fully paid, the said property shall be withdrawn from the sale.
- (10) Notwithstanding that all the said amounts may have been paid before the said sale this City shall not be liable to any person whatsoever for any loss or damage suffered by such person by reason of the sale of any such property in respect of which no such certificates have been produced to the said sheriff or person in charge.
- (11) If any property is sold pursuant to a court order referred to in this Chapter notwithstanding the fact that all amounts due have in fact been paid; and
  - (a) if the City Manager, within three months of the sale, is satisfied that the said amounts had been paid at the date of the sale, the

City Manager shall, if transfer of the property to the purchaser has not yet been registered, declare the sale null and void;

- (b) the declaration referred to in sub-item (11) (a) hereof shall be by way of written notice signed by the City Manager and a copy thereof shall be served on the registered owner, in terms of section 115 of the Systems Act, and on the purchaser, at the address supplied in the conditions of purchase, and shall be transmitted forthwith to the Registrar of Deeds.
  - (c) upon signature of the said declaration the sale shall be null and void and in that event the purchase price shall be refunded to the purchaser;
  - (d) the registered owner shall be liable for all the expenses of the sale and all expenses incurred pursuant to the sale save any expenses incurred after production, if any, of the certificate referred to in sub-item (9) hereof, to the sheriff or any other person charged with the sale; and
  - (e) if no such certificate has been signed by the City Manager in accordance with sub-item (9) hereof the sale shall be of full force and effect.
- (12) Nothing contained in this Chapter prevents this City from taking any other proceedings for the recovery of debt as set out in this policy, any relevant legislation, or any other competent procedure in any court of competent jurisdiction.

ooOOoo

## Minimum Payment Schedule

Income	Payment	Income	Payment	Income	Payment	Income	Payment
0	10.00	3300.00	33.00	5700.00	57.00	8100.00	81.00
1000.00	10.00	3400.00	34.00	5800.00	58.00	8200.00	82.00
1100.00	11.00	3500.00	35.00	5900.00	59.00	8300.00	83.00
1200.00	12.00	3600.00	36.00	6000.00	60.00	8400.00	84.00
1300.00	13.00	3700.00	37.00	6100.00	61.00	8500.00	85.00
1400.00	14.00	3800.00	38.00	6200.00	62.00	8600.00	86.00
1500.00	15.00	3900.00	39.00	6300.00	63.00	8700.00	87.00
1600.00	16.00	4000.00	40.00	6400.00	64.00	8800.00	88.00
1700.00	17.00	4100.00	41.00	6500.00	65.00	8900.00	89.00
1800.00	18.00	4200.00	42.00	6600.00	66.00	9000.00	90.00
1900.00	19.00	4300.00	43.00	6700.00	67.00	9100.00	91.00
2000.00	20.00	4400.00	44.00	6800.00	68.00	9200.00	92.00
2100.00	21.00	4500.00	45.00	6900.00	69.00	9300.00	93.00
2200.00	22.00	4600.00	46.00	7000.00	70.00	9400.00	94.00
2300.00	23.00	4700.00	47.00	7100.00	71.00	9500.00	95.00
2400.00	24.00	4800.00	48.00	7200.00	72.00	9600.00	96.00
2500.00	25.00	4900.00	49.00	7300.00	73.00	9700.00	97.00
2600.00	26.00	5000.00	50.00	7400.00	74.00	9800.00	98.00
2700.00	27.00	5100.00	51.00	7500.00	75.00	9900.00	99.00
2800.00	28.00	5200.00	52.00	7600.00	76.00	10000.00	100.00
2900.00	29.00	5300.00	53.00	7700.00	77.00	Thereafter the minimum payment will continue to be based on 1% of income.	
3000.00	30.00	5400.00	54.00	7800.00	78.00		
3100.00	31.00	5500.00	55.00	7900.00	79.00		
3200.00	32.00	5600.00	56.00	8000.00	80.00		

### NOTES TO THE PAYMENT TABLE:

1. Debtors must never feel that they have lost control of their account.
2. The most financially viable arrangement must be negotiated at all times.
3. The minimum payment required as per the above table is equal to 1% of monthly income earned and levels of income are rounded down in all cases. For example an income of R3 265,78 would be rounded down to R3 200,00 and R2 645,78 would be rounded down to R2 600,00.

-ooOOoo-