

**PART ONE**

**FINAL BUDGET RELATED POLICIES**

**2021 2022**

## **TABLE OF CONTENT**

Final Budget Policy 2021 2022

Final Tariff Policy 2021 2022

Final Rates Policy 2021 2022

Final Indigent Policy 2021 2022

Final Credit Control & Debts collection Policy 2021 2022



# NEWCASTLE MUNICIPALITY

## BUDGET POLICY

# BUDGET POLICY

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<b>Contents</b>	<b>Page No</b>
1 PREAMBLE .....	3
2 POLICY OBJECTIVES .....	3
3 SCOPE OF POLICY .....	4
4 APPLICABLE LEGISLATION .....	4
5 ROLES AND RESPONSIBILITIES .....	5
6 BUDGET PRINCIPLES .....	10
7 BUDGET PROCESS .....	17
8 ADJUSTMENT BUDGET PROCESS .....	23
9 BUDGET TRANSFERS AND VIREMENTS .....	24
10 BUDGET IMPLEMENTATION .....	26
11 REPORTING .....	27
12 UNSPENT FUNDS AND ROLL-OVERS .....	28
13 IMPLEMENTATION OF THIS POLICY .....	29

# BUDGET POLICY

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## 1. PREAMBLE

- 1.1 In terms of the Municipal Finance Management Act, No. 56 of 2003, Chapter 4 on Municipal Budgets, Subsection (16), states that the council of a municipality must for each financial year approve an annual budget for the municipality before the commencement of that financial year. According to subsection (2) of the Act concerned, in order to comply with subsection (1), the Mayor of the municipality must table the annual budget at a council meeting at least 90 days before the start of the budget year.
- 1.2 In terms of chapter 4, Section 21 (1) the mayor must co-ordinate the processes for preparing the annual budget and budget-related policies.
- 1.3 This policy must be read, analyzed, explained, interpreted, implemented and understood against this legislative background. The budget plays a critical role in an attempt to realize diverse community needs. Central to this, the formulation of a municipality budget must take into account the government's macro-economic and fiscal policy fundamentals. In brief, the conceptualization and the operationalization of the budget must be located within the national government's policy framework.

## 2. OBJECTIVES OF THE POLICY

- 2.1 This policy sets out the budgeting principles and procedures which Newcastle Municipality will follow in preparing each annual budget, as well as the roles and responsibilities of various officials and Office Bearers in the compiling such budget. The policy seeks to give effect to the requirements of the Municipal Finance Management Act, Act 56 of 2003 read with Municipal Budget and Reporting Regulations of 2009 in terms of preparation, approval, implementation and management of the annual budgets.
- 2.2 This policy is intended to ensure:
  - 2.2.1 that there is efficient and effective preparation of reliable budget and forecasts and monitoring of actual results against plans and programmes.
  - 2.2.2 that the municipality keeps records of and is able to report on output delivery according to the performance measures contained in the Integrated

# BUDGET POLICY

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Development Plan (IDP) and Service Delivery Budget Implementation Plan (SDBIP) and strategic plan.

2.2.3 the Strategic Executive Directors and Treasury and Budget Office have implemented proper monitoring and control of budgets.

2.2.4 that the Mayor exercise proper general political guidance over the fiscal and financial affairs of the municipality

2.2.5 that the council plays an effective oversight role in fiscal and financial affairs of the municipality.

## 3. SCOPE OF THE POLICY

This policy shall apply to the Council, Executive Committee, Finance Portfolio Committee, Budget Steering Committee, Accounting Officer, Strategic Executive Directors and all officials who have a formal and administrative duty to prepare, manage and control the municipality's budget.

## 4. APPLICABLE LEGISLATION

4.1 Budget process and management is regulated in terms of the Municipal Finance Management Act, Act 56 of 2003 (MFMA):-

4.1.1 Chapter 4 of the MFMA deals with the municipal budgets.

4.1.2 Chapter 7 of the MFMA deals with the responsibilities of the Mayor in relation to budget processes and related matters as well as the fiscal and financial affairs of the municipality.

4.1.3 Chapter 8 of the MFMA deals with the responsibilities of the municipal officials in relation, among others, budgeting processes, revenue and expenditure management and reporting.

4.1.4 Chapter 9 of the MFMA deals with the municipal budget and treasury offices.

4.2 Municipal Budget and Reporting Regulations of 2009 which is aimed at securing sound and sustainable management of the budgeting and reporting practices of municipalities by establishing uniform norms and standards and other requirements for ensuring transparency, accountability and appropriate lines of responsibilities in the budgeting and reporting processes within the municipality.

## BUDGET POLICY

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- 4.3 The Medium Term Revenue and Expenditure Framework guidelines issued by National Treasury from time to time also provide guidance in the budgeting process and management.
- 4.4 The budget circulars and practice notes issued by National Treasury from time to time also provides guidance in the budgeting process and management.
- 4.5 Annual Division of Revenue Act in so far as those chapters dealing with equitable share allocation and all other conditional grants to the municipalities.
- 4.6 Furthermore chapter 5, section 25(1) of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000) states that a municipality shall undertake developmentally oriented planning. It must be a single, inclusive and strategic plan in the form of an Integrated Development Plan. This must form the policy framework and general basis on which the annual budgets must be based.

### 5. ROLES AND RESPONSIBILITIES

The primary responsibilities and accountabilities in relation to budgeting process and management rest with the Council, Executive Committee, Budget Steering Committee, Mayor, Accounting Officer, Strategic Executive Director for Financial Services, Strategic Executive Directors for other municipal departments, the Director for Budget and Financial Reporting as well as the officials in the Budget Office.

#### 5.1 Role of Council

- 5.1.1 As stipulated in chapter 4, section 16 (1) of the MFMA the council must for each financial year approve an annual budget for the municipality before the start of a financial year. Before approval of the annual budget the council is expected to interrogate the annual budget and also plays an oversight role in budget preparation, implementation, management and reporting.
- 5.1.2 To the extent as required by chapter 4, section 24 (1) & (2) of the MFMA, the council when approving the annual budget, shall ensure full compliance with all subsections under section 24.

## BUDGET POLICY

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5.1.3 When considering the draft annual budget, the council shall consider the impact, which the proposed increases in rates and service tariffs will have on the monthly municipal accounts of households in the municipal area.

### 5.2 Executive Committee

The Executive Committee is responsible for examining of the budget, providing guidance among others on the budgetary process and expenditure management and oversight role.

### 5.3 Role of Budget Steering Committee

5.3.1 The Mayor of the Municipality shall establish a Budget Steering Committee as required by Regulation 4 of the Municipal Budgeting and Reporting Regulations. The steering committee shall consist of the following g persons:

- (a) the councilor responsible for financial matters (chairperson of the Finance Portfolio Committee);
- (b) the Accounting Officer;
- (c) the Strategic Executive Director for Financial Services Department;
- (d) Strategic Executive Directors responsible for at least three largest departments in terms of budget allocation in the municipality;
- (e) Director for Budget Planning, Implementation, Supply Chain Management and Financial Reporting;
- (f) Manager responsible for the compilation of budget;
- (g) Director responsible for planning; and
- (h) Any technical experts in infrastructure.

5.3.2 The Municipality may opt to use the Management Committee (MANCO) as Budget Steering Committee as well as IDP Steering Committee.

5.3.3 The Budget Steering Committee as stipulated under chapter 2, clause 4(1) of the Municipal Budget and Reporting Regulations must provide technical assistance to the Mayor in discharging the responsibilities set out in sections 53 and 54 of the MFMA.

### 5.4 Role of Mayor

5.4.1 As provided in Section 21(1) of the MFMA, the Mayor is responsible for:



## BUDGET POLICY

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- 5.4.1.1 Coordinating the process for preparing the annual budget and for reviewing the Integrated Development Plan ("IDP") and budget related-policies;
- 5.4.1.2 At least 10 months before the start of the budget year, table in the municipal council a time schedule outlining key deadlines, as contemplated in section 21(1) (b) of the MFMA.
- 5.4.2 In so far as provided in Section 21(2) of the MFMA, for purposes of preparing the budget, the Mayor shall comply with all subsections of the above section.
- 5.4.3 Pursuant to Section 52 of the MFMA the mayor must:
  - 5.4.3.1 provide general political guidance over the fiscal and financial affairs of the municipality, and present the budget to the community of Newcastle and consider of their input.
  - 5.4.3.2 In providing such general political guidance monitor and to the extent provided in the MFMA, oversee the exercise of responsibilities assigned in terms of the MFMA to the accounting officer and the Strategic Executive Director: Budget and Treasury Office, but may not interfere in the exercise of those responsibilities;
  - 5.4.3.3 take all reasonable steps to ensure that the municipality performs its constitutional and statutory functions within the limits of the municipality's approved budget;
  - 5.4.3.4 within 30 days of the end of each quarter, submit a report to the council on the implementation of the budget and the financial state of affairs of the municipality; and
  - 5.4.3.5 comply with all other subsections of under this section of the MFMA.
- 5.4.4 In so far as provided in Section 53 of the MFMA, for purposes of the budget process and related matters, the Mayor shall comply with all subsections of the above section as per the MFMA.
- 5.4.5 As required by Section 58 of the MFMA, the Mayor shall exercise his/her powers and functions assigned by the MFMA in consultation with the executive committee.

# BUDGET POLICY

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## **5.5 Role of Accounting Officer**

5.5.1 The Accounting Officer shall be responsible for the following functions in terms of Section 68 of the MFMA:

5.5.1.1 Assisting the Mayor in performing the budgetary functions assigned to the Mayor in terms of chapter 4 and 7 of the MFMA; and

5.5.1.2 Providing the Mayor with the administrative support, resources and information necessary for the performance of those functions.

5.5.2 The Accounting officer shall ensure that all heads of departments provide the inputs required by the Strategic Executive Director: Budget and Treasury Office for the purpose of preparing the budget, and to that end, each Strategic Executive Director shall prepare and submit to the Strategic Executive Director: Budget and Treasury Office by 28 February of each year a draft budget for his or her department; provided that nothing contained in this section shall derogate from the responsibility of the Strategic Executive Director for Financial Services of preparing the municipal budget as provided for in subsection 5.6.1 below.

5.5.3 The accounting officer shall comply with all requirements of the Sections 69, 70, 71, 72, 73, 74, 75 and 76 of the MFMA and ensuring that the operations of the municipal council are achieved within the approved budget and financial targets; and allocation of funds within the departments.

## **5.6 Role of Strategic Executive Director: Budget and Treasury Office**

5.6.1 Without derogating in any way from the legal responsibilities of the Mayor and Accounting Officer, the Strategic Executive Director: Budget and Treasury Office shall be responsible for preparing the draft budget of the municipality as a line function responsibility.

5.6.2 The Accounting Officer shall delegate in terms of Section 79 of the MFMA to the Strategic Executive Director: Budget and Treasury Office all such powers as may be necessary him or her to perform the above mentioned function.

5.6.3 The Strategic Executive Director: Budget and Treasury Office shall ensure that the annual and adjustments budgets comply with the requirements of the National

## BUDGET POLICY

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Treasury, reflect the budget priorities determined by the mayor, are aligned with the IDP, and comply with all budget-related policies, and shall make recommendations to the mayor on the revision of the IDP and the budget-related policies where these are indicated.

- 5.6.4 The Strategic Executive Director: Budget and Treasury Office shall, with the approval of the mayor and the municipal manager, and considering the municipality's current financial performance determine the recommended aggregate growth factor(s) using the National Treasury Guidelines.
- 5.6.5 The Strategic Executive Director: Budget and Treasury Office is responsible for:
- 5.6.5.1 Budget process management.
  - 5.6.5.2 Advice to the Accounting Officer, Mayor, Executive Committee, Finance Portfolio Committee and Strategic Executive Directors for all departments on budget process and expenditure management matters.
  - 5.6.5.3 Provide guidance and support to the Director: Budget and Financial Reporting as well as the officials in the division dealing with the budget process.
  - 5.6.5.4 Overall management of the provision of monthly financial performance reports to the Strategic Executive Directors by 5th working day of the following month.
  - 5.6.5.5 Overall management and coordinating budget estimates.
  - 5.6.5.6 Ensuring overall integrity of information in the financial system;
  - 5.6.5.7 Explanation of reasons for significant trends and changes in budget amounts.

### **5.7 Role of Strategic Executive Directors**

- 5.7.1 The Strategic Executive Directors are responsible for:
- 5.7.1.1 The provision of their budget requirements within the timelines as set out by the Accounting Officer and the Strategic Executive Director: Budget and Treasury Office.
  - 5.7.1.2 Monthly review of expenditure against budget.
  - 5.7.1.3 Submission of variance explanations to the Strategic Executive Director: Budget and Treasury Office Services within five working days of receipt of monthly financial performance reports and expenditure, which is greater or

## BUDGET POLICY

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less than five percent from budget for Goods and Services and related costs;

5.7.1.4 Advising the Strategic Executive Director: Budget and Treasury Office of significant accruals two working days before month end;

### **5.8 Role of Director: Budget and Financial Reporting**

5.8.1 The Director: Budget and Financial Reporting as well as the officials in the division dealing with the budget process are responsible for the initiation, collation, analysis of information for budget process and preparing monthly financial performance reports to the Strategic Executive Director: Budget and Treasury Office for further review.

## **6. BUDGET PRINCIPLES**

The council shall adopt three-year budget statements for the ensuing financial year's budgets. The budget statement shall be the focal point of the budget, and shall be linked to the IDP. The budget and IDP review process are to run concurrently.

### **6.1 Contents of Budget**

6.1.1 The budget must comply with the provisions of Section 17(1) of the MFMA, and in particular:

6.1.1.1 The budget must be in the format prescribed by the regulations;

6.1.1.2 The budget must reflect the realistically expected revenues by major source for the budget year concerned;

6.1.1.3 The expenses reflected in the budget must be divided into the votes of the various departments of the municipality;

6.1.1.4 The budget must also contain:

6.1.1.4.1 the foregoing information for the two years immediately succeeding the financial year to which the budget relates;

6.1.1.4.2 the actual revenues and expenses for the previous financial year, and

6.1.1.4.3 the estimated revenues and expenses for the current year.

## BUDGET POLICY

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6.1.2 The budget must be accompanied by all of the documents referred to in Section 17(3) of the MFMA.

11.3. For the purposes of Section 17(3)(k) of the MFMA, the salary, allowances and benefits of each person referred to therein must be stated individually.

### 6.2 Funding of Expenditure

6.2.1 The annual budget and adjustments budget shall, as required by Section 17(2) of the MFMA consist of:

6.2.1.1 the capital component, and

6.2.1.2 the operating component.

6.2.2 In accordance with the provisions of Section 18(1) of the MFMA, an annual budget may be funded only from:-

6.2.2.1 Realistically anticipated revenues to be collected;

6.2.2.2 Cash-backed accumulated funds from previous years' surpluses not committed for other purposes; and

6.2.2.3 Borrowed funds, but only for capital projects.

6.2.3 Realistically anticipated revenues to be received from national or provincial government, national or public entities, other municipalities, municipal entities, donors or any other source may be included in an annual budget only if there is acceptable documentation that guarantees the funds, as provided by Regulation 10 (2) of the Regulations.

6.2.4 An impending operating **deficit** shall be made good in an adjustments budget, but if an operating deficit arises at the end of a financial year, notwithstanding the precautionary measures adopted by the council, such deficit shall immediately be made good in the annual or adjustments budget for the ensuing financial year, and shall not be offset against any unappropriated surplus carried forward from preceding financial years.

# BUDGET POLICY

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## 6.3 Capital Budget

Capital budget refers to the allocation made to specific infrastructure projects and purchase of equipment and other forms of assets having a life span of more than one year and cost value of as determined in the Asset Management Policy of the municipality.

### 6.3.1 *Basis of Calculation*

6.3.1.1 Except in so far as capital projects represent a contractual commitment to the Newcastle Municipality extending over more than one financial year, the annual capital budget shall be prepared from a **zero base**.

6.3.1.2 The capital budget component of the annual or adjustments budget shall only be approved by the council if it has been properly balanced, that is, if the sources of finance which are realistically envisaged to fund the budget equal the proposed capital expenses.

6.3.1.3 The impact of the capital budget on the current and future operating budgets in terms of finance charges to be incurred on external loans, depreciation of fixed assets, maintenance of fixed assets and any other operating expenditure to be incurred resulting directly from the capital expenditure, should be carefully analyzed when the annual capital budget is being compiled.

6.3.1.4 In addition, the council shall consider the likely impact of such operational expenses – net of any revenue expected to be generated by such item – on future property rates and service charges.

### 6.3.2 *Financing of Capital Budget*

6.3.2.1 The Strategic Executive Director: Budget and Treasury Office shall make recommendations on the financing of the draft capital budget for the ensuing and future financial years, indicating the impact of viable alternative financing scenarios on future expenses, and specifically commenting on the relative financial merits of internal and external financing options.



## BUDGET POLICY

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6.3.2.2 The provisions of Regulation 11 of the Municipal Budgeting and Reporting Regulations of 2009 shall be complied with in relation to the funding of capital expenditure.

6.3.2.3 Any **surplus** from previous financial years not appropriated, even if fully cash-backed, shall not be used to balance any annual or adjustments budget, but shall be appropriated, as far as it is not required to finance the payment of operating creditors or for other operational purposes, to the Municipality's asset financing reserve.

6.3.2.4 Before approving the capital budget component of the annual or adjustments budget, the council shall consider the impact of the capital component on the present and future operating budgets of the municipality in relation to the items referred to in 6.3 below.

6.3.2.5 Each department head shall, prior to providing for any expenditure in respect of any capital item in the budget of his or her department's budget, and in any event no later than 31 January prepare and submit to the Strategic Executive Director: Budget and Treasury Office a business plan relating to such capital item, which business plan shall contain the following information regarding such item:

- A full description;
- Its purpose;
- The expected beneficiaries ;
- Alternative means of providing the same benefits;
- An acquisition, construction and implementation plan ( as applicable);
- The expected useful life;
- The principal cost;
- The sources of funding;
- A schedule of financing costs;
- A maintenance plan;
- A schedule of maintenance costs;
- A depreciation schedule; and
- Insurance costs.

# BUDGET POLICY

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## 6.4 Operational Budget

Operational budget refers to the funds that would be raised in the delivery of basic service, grants and subsidies and any other municipal services rendered. These funds are in turn used to cover the expenses incurred in the day to day running of the municipality

The operating component shall duly reflect the impact of the capital component on:

- depreciation charges;
- repairs and maintenance expenses;
- interest payable on external borrowings; and
- other operating expenses.

### 6.4.1 *Basis of Calculation*

6.4.1.1 The incremental approach is used in preparing the annual operating budget in respect of employee costs, councillors remuneration, bulk purchases. All other expenditure shall be estimated using the zero based method of budgeting.

6.4.1.2 The annual operating budget shall be based on realistically anticipated revenue, which should be least cover the anticipated operating expenditure in order to result in a balanced budget.

6.4.1.3 An income based approach shall be used where the realistically anticipated income would be determined first and the level of operating expenditure would be based on the determined income, thus resulting in a balanced budget.

### 6.4.2 *Financing*

Services charges shall be based on the tariff growth rate as agreed upon plus a growth rate of the town. The operating budget shall be financed from the following sources:

- (a) Service Charges
  - (i) Property Rates;
  - (ii) Electricity sales;
  - (iii) Water sales;
  - (iv) Sewerage; and



## BUDGET POLICY

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(v) Refuse

(b) Grants and Subsidies

Grants and subsidies shall be based on all the gazetted grants and subsidies plus all other subsidies received by the municipality.

(c) Interest on investments

The budget for interest and investment shall be in accordance with the Cash Management and Investment policy of the municipality.

(d) Interest on outstanding debtors

The budget for interest and investment shall be in accordance with the Credit Control and Debt Collection policy of the municipality.

(e) Fines

Fines shall be estimated based on the fines and summons issued in the previous financial year and any law enforcement measures implemented by the municipality.

(f) Licences

Licences shall be estimated based on estimated based on licences and rates granted by the municipality.

(g) Sundry revenue

Sundry revenue shall refer to any other revenue which does not fall in the ambits of any revenue source above. It shall be estimated based on the trends of the current of previous financial year.

(d) Repairs and Maintenance

The budget of repairs and maintenance shall be based on the increment as determined by Financial Services in conjunction with the needs of the department in terms of repairing their assets. This percentage shall be equal to at least 8% of the total operating budget.

(e) Capital Expenses

Capital expenses refer to interest and redemption that has to be repaid on an external loan taken up by the Council. The budget for capital expenses will be determined by the repayments that the municipality is liable for based on the agreement entered into with the financial institution.

# BUDGET POLICY

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(f) Contributions to Capital

A global amount that will be spent on the acquisition of small capital items is determined. The needs of departments in terms of small items will be prioritised to enable the allocation of funds for such items.

(g) Contributions to Funds

Refers to the contribution made to provisions (e.g. leave reserve fund) on annual basis and is determined based on the actual expenditure in the previous year and any other factor that could have an effect.

## 6.5 Provisions

### 6.5.1 *Accrued leave*

The Municipality shall establish and maintain a provision for accrued leave entitlements equal to 100% of the accrued leave entitlement of officials as at 30 June of each financial year, and shall budget appropriately for contributions to such provision in each annual and adjustments budget, as well as for staff benefits, including post-retirement benefits.

### 6.5.2 *Provision for bad debts*

The Municipality shall establish and maintain a provision for bad debts in accordance with its rates and tariffs policies, and shall budget appropriately for contributions to such provision in each annual and adjustments budget with due regard to the implementation and compliance with the Credit Control and Debt Collection Policy.

### 6.5.2 *Obsolete and deteriorated stock*

The municipality shall establish and maintain a provision for the obsolescence and deterioration of stock in accordance with its stores management policy, and shall budget appropriately for contributions to such provision in each annual and adjustments budget.

### 6.5.3 *Depreciation & Interest*

## BUDGET POLICY

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All expenses, including depreciation expenses, shall be **cash-funded**. The cash received in respect of depreciation expenses on fixed assets financed from external borrowings shall be transferred to the investments created to redeem such borrowings.

**Finance charges** payable by the Municipality shall be apportioned between departments or votes on the basis of the proportion at the last balance sheet date of the carrying value of the fixed assets belonging to such department or vote to the aggregate carrying value of all fixed assets in the municipality.

The allocation of **interest earned** on the Municipality's investments shall be budgeted for in terms of the banking and investment policy.

The Municipality shall adequately provide in each annual and adjustments budget for the maintenance of its **fixed assets** in accordance with its fixed asset management policy. At least 8% of the operating budget component of each annual and adjustments budget shall be set aside for such maintenance.

The budget for **salaries, allowances and salaries-related benefits** shall be separately prepared, and shall not exceed 35% of the aggregate operating budget component of the annual or adjustments budget. For purposes of applying this principle, the remuneration of political office bearers and other councillors shall be excluded from this limit.

### 7 BUDGET PROCESS

#### 7.1 Medium Term Expenditure Revenue Framework

The Medium Term Expenditure Revenue Framework (MTERF) details 3 year rolling expenditure and revenue plan for Newcastle Municipality. The MTERF budget process is designed to match the overall resource envelop, estimated through "top-down" macroeconomic and fiscal policy process with the bottom up estimation of the current and medium term cost of existing departmental plans and expenditure programmes

The budget process allows the Council to:-

- (a) Strengthen and evaluate the alignment between medium and long-term plans and funding proposals;
- (b) Revise its policy priorities, macroeconomic framework and revenue envelop;

## BUDGET POLICY

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- (c) Evaluate departmental plans and allocate available resources in line with the policy priorities;
- (d) Obtain the required authority from Council to spend (service delivery);
- (e) Align parameter settings with budget outcomes and resource allocations

### **7.2 Integrated Development Plan Formulation**

The Integrated Development Plan (IDP) process is a process through which the municipality prepare strategic development plans for a five-year period. An IDP is one of the key instruments for local government to cope with its new developmental role and seeks to arrive at decisions on issues such as municipal budgets, land management, promotion of local economic development and institutional transformation in a consultative, systematic and strategic manner.

In order to ensure certain minimum quality standards of the IDP Review process and proper coordination between and within spheres of government, the municipality need to prepare an IDP review process plan and formulate a budget to implement the IDP. The IDP and Budget Process Plan has to include the following:

- (a) A programme specifying the timeframes for the different planning steps;
- (b) Appropriate mechanisms, processes and procedures for consultation and participation of local communities, organs of state, traditional authorities and other role players in the IDP review and budget formulation processes; and
- (c) Cost estimates for the review process.

The preparation of the IDP process plan is in essence the formulation of the IDP and Budget processes, set out in writing and requires the adoption by Council.

### **7.3 Legal planning context**

The preparation of the IDP and Budget processes are regulated by the Municipal Systems Act, No 32 of 2000 and the Municipal Finance Management Act, No 56 of 2003. This is to ensure certain minimum quality standards of the integrated development planning and budget process and proper coordination between and within the spheres of government. As the IDP is a legislative requirement it has a legal status and it supersedes all other plans that guide development at local level.

## BUDGET POLICY

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The Municipal Systems Act, No 32 of 2000 (as amended) and the Municipal Finance Management Act, No 56 of 2003 confer the responsibility on the Mayor to provide political guidance over the budget process and the priorities that must guide the preparation of the annual budgets. In terms of section 53 of the Municipal Finance Management Act the Mayor must also coordinate the annual revision of the integrated development plan in terms of section 34 of the Municipal Systems Act and the preparation of the annual budget, and determine how the integrated development plan is to be taken into account or revised for the purpose of the budget. The Municipal Systems Act further requires the following regarding the IDP process:

Chapter 5 and Section 25 (1) of the Municipal Systems Act (2000) indicate that the Council must, within a prescribed period after the start of its elected term, adopt a single, all inclusive and strategic plan for the development of the municipality which:-

- (a) Links integrates and coordinates plans and takes into account proposals for the development of the municipality;
- (b) Aligns the resources and capacity of the municipality with the implementation of the plan;
- (c) Complies with the provisions of this Chapter; and
- (d) Is compatible with national and provincial development plans and planning requirements binding on the municipality in terms of legislation.

### **7.4 Alignment between IDP, Budget and PMS**

In terms of the Municipal Systems Act, municipalities are required to prepare an organisational performance management system that must be linked to the IDP. Tremendous progress has been made with the process of aligning the IDP, Budget and Performance Management System (PMS). Every endeavor is made to link and integrate these three processes to an even greater extent through the Process Plan. It should however, be noted that the PMS on its own requires an in-depth process comparable to that of the IDP. Such PMS is tightly linked and guided by the IDP and Budget processes. The PMS process will address the following issues:

- (a) Alignment of the PMS, Budget and IDP processes;
- (b) Implementation of an individual performance management system at managerial level.

## BUDGET POLICY

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The IDP, performance management systems (PMS) and budget are all components of one overall development planning and management system. The IDP sets out what the municipality aims to accomplish and how it will do this. The PMS enables the municipality to check to what extent it is achieving its aims. The budget provides the resources that the municipality will use to achieve its aims. As indicated earlier, every attempt has been made in this process plan to align the IDP and PMS formulation and/or review, and the budget preparation process.

### **7.5 Medium Term Policy Review**

- 7.5.1 The budget process starts early in the year with a review of the IDP and budget processes of the previous year.
- 7.5.2 The Strategic Executive Director: Budget and Treasury Office commences the process in July of each year by preparing a draft Medium Term Budget Statement. The Medium Term Budget Statement is a document that spells out the planning for the ensuing three years. This process also includes the review of the previous year's budget process and completion of the Budget Evaluation checklist.
- 7.5.3 The Strategic Executive Director: Budget and Treasury Office draws up a budget process plan with time schedule outlining key deadlines for preparing, tabling and approving the budget and reviewing the IDP and budget related policies and consultation process at least 10 months before the start of the budget year. This budget process plan is then incorporated into the main process plan which includes IDP and PMS as these processes go hand in hand.
- 7.5.4 The Strategic Executive Director: Budget and Treasury Office Services tables the draft Medium Term Budget Statement and the budget process plan to the MANCO (Accounting Officer and Strategic Executive Directors) for discussion. At this forum options and contracts for service delivery are reviewed.

### **7.6 August Activities**

- 7.6.1 The draft Medium Term Budget Statement and the budget process plan are tabled at the Finance Portfolio Committee for consideration, input and recommendations to Exco.



## BUDGET POLICY

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- 7.6.2 The Mayor tables at the Council meeting a time schedule outlining key deadlines for preparation, tabling and approving the budget.

### **7.7 September Activities**

- 7.7.1 Budget and Treasury Office determine revenue projections and proposed rate and service charges and draft initial allocations to functions and departments for the next financial year after taking into account strategic objectives.
- 7.7.2 Budget and Treasury Office engages with the provincial, national sector departments and other national public entities on specific programmes for alignment with municipality plans.
- 7.7.3 The budget parameters are set with the Executive Committee, Budget Steering Committee, and Management Committee.

### **7.8 October Activities**

The Strategic Executive Director: Budget and Treasury Office:-

- 7.8.1 reviews the national policies and budget plans and potential price increases of bulk resources.
- 7.8.2 determines revenue projections and policies.
- 7.8.3 engage with sector departments, share and evaluate plans, MTBPS.
- 7.8.4 draft initial allocations to functions.

### **7.9 November/December Activities**

- 7.9.1 The Strategic Executive Director: Budget and Treasury Office consolidates budgets and plans.
- 7.9.2 The Budget Steering Committee reviews the consolidated budget and plans and prepare proposed budget.

## BUDGET POLICY

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7.9.3 The Executive Committee determines the strategic choices for the ensuing three years and finalizes tariff policies.

### 7.10 January/February Activities

7.10.1 The Accounting Officer reviews proposed national and provincial allocations to the municipality for incorporation into the draft budget for tabling. Proposed national and provincial allocations for ensuing three years must be finalized not later than 20 January of each year.

7.10.2 The Strategic Executive Director: Budget and Treasury Office prepares detailed budgets and plans for the ensuing three years.

7.10.3 The Accounting Officer finalizes and submits to the Mayor the proposed budgets and plans for the ensuing three years taking into account the recent mid-year review and any corrective measures proposed as part of the oversight report for the previous year's audited annual financial statements and annual report.

7.10.4 The Mayor tables the budgets and plans at the Finance Portfolio and Executive Committee for their oversight function and recommendations to the Council.

### 7.11 March/April Activities

7.11.1 The Accounting Officer reviews any changes in the prices for bulk resources for publication not later than 15 March each year.

7.11.2 The Mayor tables the budget at the council meeting for deliberations and adoption not later than 31 March of each year.

7.11.3 Immediately after the budget has been tabled at the council meeting, the Accounting Officer must in accordance with Chapter 4 of the Municipal Systems Act make public the annual budget and the documents referred to in section 17 (3) of the MFMA. The Accounting Officer must invite the local community to submit representations in connections with the budget.

7.11.4 The Accounting Officer must submit the annual budget in both hard and soft copies to the National Treasury and KwaZulu-Natal Provincial Treasury.



# BUDGET POLICY

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7.11.5 When the budget has been tabled, the municipal council must consider any views of the local community, National Treasury, KwaZulu-Natal Provincial Treasury and any provincial or national organs of state or municipalities which made submissions on the budget.

7.11.6 After considering all budget submissions, the council must give the Mayor an opportunity to respond to the submissions and if necessary, to revise the budget and table amendments for consideration by the council.

## 7.12 May Activities

The municipal council must at least 30 days before the start of the budget year consider approval of the annual budget in accordance with Section 24 of the MFMA.

## 8 ADJUSTMENT BUDGET

8.1 Each adjustment budget shall reflect realistic excess, however nominal of current revenues over expenses.

8.2 Section 28(2) (d) of the MFMA provides that an adjustment budget may authorize utilization of projected savings in one vote towards spending in another vote. However, virements between the votes should only be permitted where the proposed shifts in funding facilitate sound risk and financial management.

8.3 The municipal council may revise an approved budget through an adjustment budget. In adjusting its approved budget the municipal council shall do it in accordance with Section 28 of the MFMA.

8.4 The Strategic Executive Director: Budget and Treasury Office shall ensure that the adjustment budgets comply with the requirements of the National Treasury and reflect the budget priorities determined by the Mayor, are aligned with the IDP, comply with all budget related policies, and shall make recommendations to the Mayor on the revision of the IDP and the budget related policies where these are necessary.

8.5 Any deviation from or adjustment to an annual budget or transfer within a budget which is not specifically permitted under this policy and MFMA provisions or MFMA circulars and

## BUDGET POLICY

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guidelines issued by National Treasury from time to time or any other policy or the municipality is prohibited unless approved by the council through an adjustment budget.

- 8.6 Council may revise its annual budget by means of an adjustment budget only once per year.
- 8.7 The Accounting Officer must promptly adjust its budgeted revenues and expenses if a material under-collection of revenues arises or is apparent.
- 8.8 The Accounting Officer shall appropriate additional revenues, which have become available but only to revise or accelerate spending programme already budgeted for or any areas of critical importance identified by Council in compliance with the MFMA.
- 8.9 The Council shall in such adjustment budgets, and within the prescribed framework, confirms unforeseen and unavoidable expenses on the recommendation of the Mayor.
- 8.10 The Council should also authorize the spending of funds unspent at the end of the previous financial year, where such under-spending could not reasonably have been foreseen at the time the annual budget was approved by Council.

## 9 BUDGET TRANSFERS & VIREMENTS

### 9.1 Restrictions

9.1.1 Virements from the capital budget to operating budget and virements towards personnel expenditure shall not be permitted.

9.1.2 Virements to and from the following items shall not be permitted

- (a) Bulk purchases;
- (b) Debt impairment;
- (c) Interest charges;
- (d) Depreciation;
- (e) Conditional Grants;
- (f) Revenue foregone;
- (g) Insurance; and
- (h) Value Added Tax

## BUDGET POLICY

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- 9.1.3 This policy shall not apply to transfers between or from capital projects or items and no such transfers may be performed under this policy.
- 9.1.4 A transfer of funds between line items shall not be done if the effect thereof would result:-
- 9.1.4.1 In alteration of the approved outcomes or outputs of the IDP;
  - 9.1.4.2 In any adjustment to the Service Delivery and Budget Improvement Implementation Plan;
  - 9.1.4.3 In any changes to the staff establishment of the municipality, except if the council approves such change.
- 9.1.5 Transfer for funds that have been specifically ring-fenced shall not be permitted.
- 9.1.6 Transfer of funds between or from capital items or projects.
- 9.1.7 To the extent that it is practical to do so, transfers within the first three months are not permitted.
- 9.1.8 Transfers may not be made from a line item administered by one department to a line items administered by another department.

### **9.2 Authorization of Virements**

A transfer of funds from one line item to another under this policy may, subject to the provisions of this policy or MFMA or national MFMA circulars and guidelines which are issued by National Treasury from time to time authorized as follows:-

- 9.2.1 A request for virement of an amount not exceeding R100 000.00 may be approved by the by the Strategic Executive Director of the department in consultation with the Strategic Executive Director: Budget and Treasury Office.
- 9.2.2 A request for virement of an amount above R100 000 shall be the Executive Committee, having obtained budget comments from the Strategic Executive Director: Budget and Treasury Office.

## BUDGET POLICY

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- 9.2.3 A transfer of funds from one item to another may take place only if savings within the first mentioned line item are projected, and such transfer may, subject in any event to the provisions of this policy, not exceed the amount of such projected savings.

### **9.3 Limitations of Amount of Virements**

- 9.3.1 Notwithstanding the provisions of paragraph 9.2:-

9.3.1.1 The total amount transferred from and to line items within a particular vote in any financial year may not exceed 20% of the amount allocated to that vote.

9.3.1.2 The total amount transferred from and to line items in the entire budget in any financial year may not exceed 20% for the total operating budget for that year.

9.3.1.3 The amount of any single transaction relating to transfer of funds between the line items may not exceed the sum of R 100 000.00

- 9.3.2 A transfer which exceeds, or which would result in exceeding of any of the thresholds referred to in paragraph 9.3.1 above may, however, be authorized through a Executive Committee resolution.

## **10 BUDGET IMPLEMENTATION**

### **10.1 Monitoring**

10.1.1 The Accounting Officer with the assistance of the Strategic Executive Director: Budget and Treasury Office and other Strategic Executive Directors is responsible for the implementation of the budget, and must take reasonable steps to ensure that:-

10.1.1.1 Funds are spent in accordance with the budget, expenses are reduced if expected revenues are less than projected and revenues and expenses are properly monitored

10.1.2 The Accounting Officer with the assistance of the Strategic Executive Director: Budget and Treasury Office must prepare any adjustment budget when such budget is necessary and submit it to the Mayor for consideration and tabling to Council.

## BUDGET POLICY

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10.1.3 The Accounting Officer must report in writing to the Council any impending shortfalls in the Annual Revenue Budget, as well as any impending overspending, together with the steps taken to prevent or rectify these problems.

### 11 REPORTING

The Accounting Officer shall report on quarterly basis all transfers to the Mayor, Finance Portfolio and Executive Committees.

#### 11.1 Monthly Budget Statements

11.1.1 The Accounting Officer with the assistance of the Strategic Executive Director: Budget and Treasury Office must, not later than ten working days after the end of each calendar month, submit to the Mayor, Finance Portfolio and Executive Committees, KwaZulu-Natal Provincial Treasury and National Treasury a report in the prescribed format on the state of the Municipality's budget for such calendar month, as well as on the state of the budget cumulatively for the Financial Year to date. This report must reflect the following:-

- (a) Actual revenues per source, compared with budgeted revenues;
- (b) Actual expenses per vote, compared with budgeted expenses;
- (c) Actual Capital Expenditure per vote, compared with budgeted expenses;
- (d) Actual borrowings, compared with the borrowings envisaged to fund the Capital Budget;
- (e) The amount of allocations received, compared with the budgeted amount;
- (f) Actual expenses against allocations, but excluding expenses in respect of equitable share;
- (g) Explanations of any material variances between the actual revenues and expenses as indicated above and the projected revenues by source and expenses by vote as set out in the Service Delivery and Budget Implementation Plan;
- (h) The remedial or corrective steps to be taken to ensure that the relevant projections remain within the approved or revised budget; and
- (i) Projections of the Revenues and Expenses for the remainder of the Financial Year, together with an indication of how and where the original projections have been revised.

## BUDGET POLICY

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11.1.2 The report to the National Treasury must be both in electronic and signed hard copies.

### 11.2 Quarterly Reports

The Mayor must submit to the Council within thirty days of the end of each quarter a report on the implementation of the budget and the financial state of affairs of the municipality.

### 11.3 Mid-Year Budget and Performance Assessment

11.4 The Accounting Officer must assess the budgetary performance of the municipality for the first half of the financial year, taking into account all the monthly budget reports for the first six months, the Service Delivery Performance of the municipality as against the Service Delivery Targets and Performance Indicators which are set in the Service Delivery and Budget Implementation Plan.

11.5 The Accounting Officer must then submit a report on such assessment to the Mayor by 25 January of each year and to Finance Portfolio and Executive Committees, Council, KwaZulu-Natal Provincial Treasury and National Treasury by 31 January of each year.

11.6 The Accounting Officer may in such report make recommendations after considering the recommendation of the Strategic Executive Director: Budget and Treasury Office for adjusting the annual budget through adjustment budget and for revising the projections of revenues and expenses set out in the Service Delivery and Budget Implementation Plan

## 12 UNSPENT FUNDS & ROLLOVER OF BUDGET

12.1 The appropriation of funds in an annual or adjustment budget will lapse to the extent that they are spent by the end of the relevant budget year, but except for funds relating to Capital Expenditure.

12.2 Only unspent grants (if conditions for such grant funding allows that) or loan funded Capital Budget may be rolled over to the next budget year.

12.3 Conditions of the grant fund shall be taken into account in applying for such rollover of funds.



## BUDGET POLICY

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- 12.4 Application for rollover of funds shall be forwarded to the budget office no later than 30<sup>th</sup> of April each year to be included in the following year's budget for adoption by Council in May each year.
- 12.5 Budget adjustments to be rolled over shall be done during the 1<sup>st</sup> budget adjustment in the new financial year after taking into account expenditure up to the end of the previous financial year.
- 12.6 No funding for projects funded from the Capital Replacement Reserves shall be rolled over to the next budget year except in cases where a commitment has been made 90 days (31 March each year) prior the end of that particular financial year.
- 12.7 No unspent operating budget shall be rolled over to the next budget year.

### 13 IMPLEMENTATION OF THIS POLICY

- 13.1 The Accounting Officer shall be responsible for the implementation and administration of this policy with the assistance of the Strategic Executive Director: Budget and Treasury Office.
- 13.2 The policy shall be reviewed on annual basis and updated if there are any changes brought about through an amendment of any legislation and/or policies by National Treasury or arrangement within the municipality.

The Accounting Officer must place on the municipality's official website the following:-

- (a) The Annual and Adjustment Budgets and all budget related documents;
  - (b) All budget related policies;
  - (c) The Integrated Development Plan;
  - (d) The Annual Report;
  - (e) All Performance Agreement of Section 57 Managers;
  - (f) All long-term borrowing contracts;
  - (g) All Service Delivery Agreements;
  - (h) All quarterly and mid-year term reports submitted to the Council on the implementation of the budget and the financial state of the municipality.
- 13.3 This policy must be read together with the Funding and Reserves and Borrowing Policies; Local Government Municipal Finance Management Act, Act 56 of 2003; and

## BUDGET POLICY

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Local Government Municipal Budget and Reporting Regulation, Regulation 393, published under Government Gazette 32141, 17 April 2009.

14 Council resolves in terms of Sec 111 of the Local Government Municipal Finance Management Act (Act No. 56 of 2003), to adopt the following proposal as the Budget Policy of Newcastle Municipality as per council resolution number \_\_\_\_\_

15 This policy will takes effective on the \_\_\_\_\_





# **NEWCASTLE MUNICIPALITY**

## **TARIFF POLICY 2021/2022**

## TABLE OF CONTENTS

1. PREAMBLE	3
2. DEFINITIONS	3
3. INTRODUCTION	3
4. TARIFF PRINCIPLES	4
5. EXPENDITURE CLASSIFICATIONS AND COST ELEMENTS	5
6. TARIFFS	6
7. UNIT OF MEASUREMENT	6
8. BYLAWS	7

## 1. Preamble

In terms of Section 62 (1) of the Municipal Finance Management Act (MFMA) the Accounting Officer of a Municipality is responsible for managing the financial administration of the municipality and, in terms of S62 (1) (f), must for this purpose take all reasonable steps to ensure – “that the municipality has and implements a tariff policy referred to in Section 74 of the Municipal Systems Act” (MSA).

In giving effect to S74 (1) of the Municipal Systems Act, the municipality adopts the following as the framework tariff policy within which the municipal council must adopt various policies.

## 2. Definitions

In this policy:

“**municipal area**” means the area in respect of which the municipality has executive and legislative authority as determined by the constitution and the National legislation and the area as demarcated by the Demarcation Act (Act 27 1998);

“**municipal council**” means a municipal council referred to in section 157 of the Constitution.

“**indigent households**” means those households in the municipal area whose monthly household income is no more than an amount as determined by Council annually and are included in the indigent register.

“**the Act**” means the Municipal Systems Act 2000, (Act 32 of 2000) (MSA).

## 3. Introduction

One of the primary functions of a local authority is to provide services to the people within its municipal area. The funding of these services is made possible by levying property taxes, charging for municipal services rendered and levy collection through business levies. Tariffs represent the charges levied by Council on consumers for the utilization of services provided by the Municipality. These are calculated dependent on the nature of service being provided.

They may be set in a manner so as to recover the full cost of the service being provided or recover part of the costs or bring about a surplus that can be utilized to subsidise other non-economical services.

#### 4. Tariff principles

- 4.1 Users of municipal services must be treated equitably. The various categories of customers must pay the same charges based on the same cost structure<sup>1</sup>.
- 4.2 The amount payable must be in proportion to usage<sup>2</sup>.
- 4.3 Indigent households must have access to basic services through lifeline tariffs or direct subsidisation in accordance with the Integrated Development Plan<sup>3</sup>.
- 4.4 Tariffs must reflect the total cost of the service<sup>4</sup>.
- 4.5 Tariffs must be set at a level that facilitates the sustainability of the service.<sup>5</sup> Sustainability can only be achieved when:
  - (i) Cash inflows cover cash outflows. This means that sufficient provision for working capital and bad debts must be made.
  - (ii) Access to the capital market is maintained. This can be achieved by providing for the repayment of capital, maintaining sufficient liquidity levels and making profits on trading services.
- 4.6 Provision must be made in appropriate circumstances for a surcharge on a tariff. This will be necessary for major breakdowns in infrastructure and periods of droughts when a restriction of usage is required<sup>6</sup>.
- 4.7 Efficient and effective use of resources must be encouraged. Penalties to promote the economic use of services as well as the conservation of water may be introduced.
- 4.8 The extent of subsidisation of tariffs should be fully disclosed.
- 4.9 On closure of the municipal account, a charge for the final reading shall be levied thereon.
- 4.10 The tariff structure of Newcastle may make provision for the differentiation between different categories of customers, debtors, service providers, services and geographical areas as long as the differentiation does not amount to unfair discrimination<sup>7</sup>. Where there is a substantial difference between the standard of services provided within a specified category, the Council can determine differentiated tariffs within the specified category.
- 4.11 Municipal use will be deemed an exempt service.

<sup>1</sup> Section 74(2) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

<sup>2</sup> Section 74(2) (a) of Act 32 of 2000.

<sup>3</sup> Section 74(2) (c) (i) and (ii).

<sup>4</sup> Section 74(2) (d)

<sup>5</sup> Section 74(2) (e)

<sup>6</sup> Section 74(2) (f)

<sup>7</sup> Section 74(3)

## 5. Expenditure classification and cost elements

The Chief Financial Officer shall, subject to the guidelines of the Executive Committee of the Council, make provision for the following classification of services:

### 5.1 *Trading services*

These are services that the Council has classified as trading services and the tariffs have been compiled with the intention that the Council makes a profit on the delivery of the services. The consumption of the services is measurable and can be accurately apportioned to an individual consumer.

### 5.2 *Economic services*

These are services that the Council has classified as such and the tariffs have been compiled with the intention that the total costs of the services are recovered from customers. No surplus or deficit should be incurred.

### 5.3 *Community services*

These are services that the Council has classified as such and the tariffs have been compiled with the intention that the cost of the services cannot be recovered from public service charges. The service may be of a regulatory nature and the Council is usually unable to accurately determine the individual consumption.

### 5.4 *Subsidised services*

These are municipal services which are provided at an applicable rate which is less than the cost of actually providing the service, including services provided to customers at no cost. The cost of providing the service is usually such that it would not necessarily be affordable to the community.

### 5.5 *Cost elements*

The following cost elements will be used to calculate the tariffs of the different services:

- (i) *Fixed costs* are costs which do not vary with consumption or volume produced and which consist of the capital costs (interest and redemption) on external loans and or depreciation; whichever are applicable on the service and any other costs of a permanent nature as determined by the Council from time to time.
- (ii) *Variable cost*: These are costs that vary with consumption or volume produced and include all variable costs that have reference to the service.
- (iii) *Total cost* is equal to the fixed cost plus variable cost.
- (iv) *Flat rate*: This cost is calculated by dividing the total costs by volume used.

## 6. Tariffs

6.1 The tariffs are reviewed annually during the preparation of the budget and the proposed tariffs are presented to the community during the Council's budget consultative process prior to the approval of the final budget by the Council.

6.2 In setting service charges the Council shall:

- (i) accurately reflect costs to achieve economic efficiency;
- (ii) ensure equity and fairness between different types of consumers;
- (iii) utilise appropriate metering and supporting technology;
- (iv) be transparent; and
- (v) extend assistance to the poor by giving preference to single tariffs where possible.

6.3 In determining the type of tariff applicable to the type of service the Council may make use of the following four options or a combination of same:

- (i) *Single tariff*: This tariff shall consist of a fixed cost per unit consumed. All costs will therefore be recovered through a unit charge at the level of breakeven consumption.
- (ii) *Cost related two to four part tariff*: This tariff shall consist of two to four parts. They are raised to cover the fixed and variable costs separately. The fixed costs are recovered by grouping certain components together and may be recovered by a fixed charge while the variable costs may be recovered by a unit charge per unit consumed.
- (iii) *Inclining block tariff*: This tariff is based on consumption levels being categorised into blocks, the tariff being determined and increased as consumption levels increase.
- (iv) *Declining block tariff*: This tariff is the opposite of the inclining block tariff and decreases as consumption levels increase.

## 7. Unit of measurement

The following units of measurement will, where possible, be used to determine tariffs:

### 7.1 Water

- (i) Cost per kilolitres consumed
- (ii) Basic/availability charge - based on the fixed cost associated with the service
- (iii) When consumption is not measured a flat rate will be applicable.
- (iv) When consumption cannot be read for a particular meter reading period, an estimate amounting to a 3 to 12 month average shall be levied on the account.

### 7.2 Electricity

- (i) Basic/availability charge - based on the fixed cost associated with the service
- (ii) Cost per kWh consumed
- (iii) Cost per Kilovolt-ampere (kVA)

- (iv) Maximum demand – Network demand charge and network access charge
- (v) When consumption is not measured a flat rate will be applicable.
- (vi) When consumption cannot be read for a particular meter reading period, an estimate amounting to a 3 to 12 month average shall be levied on the account.

**7.3 Refuse removal**

- (i) Bag removal
- (ii) Container Service
- (iii) Rental of containers
- (iv) Individual services as required

**7.4 Sewerage**

- (i) Per kilolitre of water consumption
- (ii) Per kilolitre of water consumption plus costs for strength of disposal.
- (iii) Basic/availability charge - based on the fixed cost associated with the service.

**8. By-laws**

The principle contained in this policy will be reflected in the various service by-laws as adopted and adjusted by Council from time to time.



**NEWCASTLE MUNICIPALITY**  
**RATES POLICY**  
**2021/2022**



## INDEX

	<u>PAGE</u>
Part One : Preamble	3
Part Two : Definitions	4
Part Three : Purpose of the policy	20
Part Four : Fundamental principles of the policy	21
Part Five : Implementation of policy and effective date	22
Part Six : Equitable treatment of ratepayers	22
Part Seven : Discretionary decisions adopted by the municipality	23
Part Eight : Categories of properties for differential rating purposes	23
Part Nine : Categories of owners of property	23
Part TEN : Relief measures for ratepayers	26
Part Eleven : Relief measures for use categories and ownership categories	26
Part Twelve : Community participation	34
Part Thirteen : Recovery of rates	35
Part Fourteen : Consideration and apportionment of payments	36
Part Fifteen : Deferment of rates	36
Part Sixteen : Impermissible rates in terms of section 17 of the Act	37
Part Seventeen : Constitutionally impermissible rates	40
Part Eighteen : Newly rated property	40
Part nineteen : Transitional arrangement: Public service infrastructure	41

## PART ONE: PREAMBLE

### Whereas:

- 1.1 Section 229 of the Constitution of the Republic of South Africa (Act 108 of 1996) provides that a municipality may impose rates on property;
- 1.2 The Local Government: Municipal Property Rates Act (Act 6 of 2004) regulates the power of a municipality to impose rates on property;
- 1.3 In terms of the Municipal Property Rates Act a municipality:
  - 1.3.1 may levy a rate on property in its area; and
  - 1.3.2 must exercise its power to levy a rate on property, subject to:
    - (a) section 229 and any other applicable provisions of the Constitution;
    - (b) the provisions of the Municipal Property Rates Act; and
    - (c) its rates policy;
- 1.4 The Newcastle Municipal Council has resolved to levy rates on the market value of all rateable properties within its area of jurisdiction;
- 1.5 The municipality must, with regard to section 3 of the Municipal Property Rates Act, adopt a rates policy consistent with the provisions of the said Act on the levying of rates in the municipality;
- 1.6 In terms of section 4 of the Local Government: Municipal Systems Act (Act 32 of 2000), the municipality has the right to finance the affairs of the municipality by imposing, inter-alia, rates on property; and

- 1.7 In terms of section 62 of the Local Government: Municipal Finance Management Act (Act 56 of 2003), the Municipal Manager must ensure that the municipality has and implements a rates policy.

## **PART TWO: DEFINITIONS**

All words and phrases in this policy shall have the same meaning and interpretation as assigned in terms of the Local Government: Municipal Property Rates Act, Act 6 of 2004, and unless the context indicates otherwise:-

**Act**

Means the Local Government: Municipal Property Rates Act (Act 6 of 2004), as amended.

**Agent**

In relation to the owner of a property, means a person appointed by the owner of the property:

- (a) to receive rental or other payments in respect of the property on behalf of the owner; or
- (b) to make payments in respect of the property on behalf of the owner.

**Agricultural property**

Means a property that is used primarily for agricultural purposes but, without derogating from section 9 of the Act, excludes any portion thereof that is used commercially for the hospitality of guests, and excludes the use of the property for the purpose of eco-tourism or for the trading in or hunting of game.

Agricultural property excludes formally protected areas, and any other specified category of property. Agricultural property may fall within a proclaimed township.

**Annually**

Means once every financial year.

<b>Appeal board</b>	Means a valuation appeal board established in terms of section 56 of the Act.
<b>Assistant municipal valuer</b>	Means a person designated as an assistant municipal valuer in terms of section 35(1) of the Act.
<b>Bed and Breakfast</b>	Means an establishment, which is primarily a dwelling and makes excess rooms available to transient guests. The bathrooms may or may not be en suite. This establishment may be managed by the owner and/or designated person. Breakfast may be available for all guests. Public areas are usually shared by guests and owners/hosts alike.
<b>Category</b>	<p>(a) In relation to property, means a category of properties determined in terms of section 8 of the Act; and</p> <p>(b) In relation to owners of properties, means a category of owners determined in terms of section 15(2) of the Act.</p>
<b>Child Headed Household</b>	Means a household recognized as such in terms of section 137 of the Children's Amendment Act, 41 of 2007.
<b>Commercial Properties and Business</b>	Means properties covered in section 8(2) of the Act namely, business and commercial properties, farm properties used for other business and commercial purposes, small holdings used for business, industrial and commercial purposes. This category of property includes property used for eco-tourism/hospitality purposes, grain co-ops and grain silos, cell phone towers, mines, petrol filling stations, racetracks and shopping centers, property on which the administration

of the business of private or public entities takes place including private schools and property used by the state or any organ of state.

**Commercial Accommodation**

Means lodging or board and lodging, in any house, flat, apartment, room, hotel, motel. Inn, Guesthouse, bed & breakfast, boarding house, residential holiday resort establishment, student accommodation or similar establishment which is regularly or systematically supplied but excludes a domicile.

**Constitution**

A body of fundamental principles or established precedents according to which our State is governed and as embodied and promulgated per Act 108 of 1996.

**Data-collector**

Means a person designated as a data-collector in terms of section 36 of the Act.

**Date of valuation**

Means the date determined by a municipality in terms of section 31(1) of the Act.

**Day**

Means when any number of days are prescribed for the performance of any act, those days must be reckoned by excluding the first and including the last day, unless the last day falls on a Saturday, Sunday or any public holiday, in which case the number of days must be reckoned by excluding the first day and also any such Saturday, Sunday or public holiday.

**Disabled**

Means a person who qualifies to receive relief in terms of the Social Services Act, 1992 (Act No. 59 of 1992) or has been certified as disabled by a medical practitioner and qualifies in terms of the income threshold as defined in the Council's Customer Care Policy.

<b>Disaster</b>	Means a disaster within the meaning of the Disaster Management Act (Act 57 of 2002) or any other serious adverse social or economic condition as adopted by a Council resolution from time to time.
<b>Disaster area</b>	Means owners of property situated within an area affected by: <ul style="list-style-type: none"> <li>(a) a disaster within the meaning of the Disaster Management Act 57 of 2002;</li> <li>(b) any other serious adverse social or economic conditions as determined by Council from time to time;</li> </ul>
<b>District Municipality</b>	Means a municipality that has municipal executive and legislative authority in an area that includes more than one municipality, and which is described in section 155 (1) of the Constitution as a category C municipality.
<b>Dominant use</b>	Means the use of a property is predominant in a specific use in terms of its measured building area. The use of a property is determined by the Municipal Valuer.
<b>Effective date</b>	<ul style="list-style-type: none"> <li>(a) In relation to a valuation roll, means the date on which the valuation roll takes effect in terms of section 32(1) of the Act; or</li> <li>(b) In relation to a supplementary valuation roll, means the date on which a supplementary valuation roll takes effect in terms of section 78(2)(b) of the Act.</li> </ul>
<b>Equitable treatment of ratepayers</b>	Means the fair, just and impartial treatment of all ratepayers.
<b>Exclusion</b>	In relation to a municipality's rating power, means a

	restriction of that power as provided for in section 17 of the Act.
<b>Exemption</b>	In relation to the payment of a rate, means an exemption granted by a municipality in terms of section 15 of the Act.
<b>Financial year</b>	Means the period starting from 1 July in a year to 30 June the next year.
<b>Formally Protected Areas</b>	Means those parts of a special nature reserve, national park or nature reserve within the meaning of the Protected Areas Act, or of a national botanical garden within the meaning of the National Environmental Management: Biodiversity Act, 2004 which are not developed or used for commercial, business, residential or agricultural purposes.
<b>Garages/carports/storeroom</b>	means sectional title units that have been separately registered at the deeds office and do not qualify for rebates or reductions
<b>Income Tax Act</b>	the Income Tax Act, 1962 (Act No. 58 of 1962).
<b>Indigent owner</b>	Means an owner of property who has permanent occupation of the property and qualifies for indigent relief in terms of the Council's Indigent policy.
<b>Industrial Property</b>	means property used for a branch of trade or manufacturing, production, assembly or processing of finished or partially finished products from raw material or fabricated parts or the holding thereof in respect of which capital and labour are involved, and includes— (a) The processing of raw products on the property;

(b) The storage and warehousing of products on the property; and

(c) Any office or other similar facility on the same property, the use of which is incidental to such activity;

**Land reform beneficiary**

In relation to a property, means a person who:

(a) acquired the property through -

(i) the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993); or

(ii) the Restitution of Land Rights Act, 1994 (Act No. 22 of 1944);

(b) holds the property subject to the Communal Property Associations Act, 1996 (Act No. 28 of 1996); or

(c) holds or acquires the property in terms of such other land tenure reform legislation as may pursuant to section 25(6) and (7) of the Constitution be enacted after the Act has taken effect.

**Land tenure right**

Means a land tenure right as defined in section 1 of the upgrading of Land Tenure Rights Act, 1991 ( Act No. 112 of 1991)

**Legal entity**

In law an entity is something which is capable of bearing legal rights and obligations, has a distinct separate existence.

**Local community**

In relation to a municipality:

(a) means that body of persons comprising:

(i) the residents of the municipality;

(ii) the ratepayers of the municipality;



- (iii) any civic organisations and non governmental, private sector or labour organisations or bodies which are involved in local affairs within the municipality; and
- (iv) visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality.

(b) includes, more specifically, the poor and other disadvantaged sections of such body of persons.

**Local municipality**

Means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, and which is described in section 155(1) of the Constitution as a category B municipality.

**Market value**

In relation to a property, means the value of the property determined in accordance with section 46 of the Act.

**MEC for Local Government**

Means the member of the Executive Council of a province who is responsible for local government in that province.

**Mining property**

Means property used for mining operations as defined in the Mineral and Petroleum Resources Development Act, 2002 ( Act No. 28 of 2002).

**Minister**

Means the cabinet member responsible for local government.

**Multiple purpose**

In relation to a property, means the use of a property for more than one purpose, subject to section 9 of the Act.

<b>Municipal Finance Management Act</b>	Means the Local Government: Municipal Finance Management Act 2003 (Act N°. 56 of 2003).
<b>Municipal Manager</b>	Means a person appointed in terms of section 82 of the Municipal Structures Act.
<b>Municipal owned property</b>	Means property owned by the municipality.
<b>Municipal leases</b>	Means property owned by the municipality and leased to another party. The municipality reserves the right to recover municipal rates against all properties registered in the name of the municipality over which a portion or all of its property is leased either through an existing lease agreement where rates are exclusive or through the provisions of the Act. Rates payable will be based on the rates category and market value as contained in the Valuation Roll.
<b>Municipal Structures Act</b>	Means the Local Government: Municipal Structures Act, 1988 (Act No. 117 of 1998).
<b>Municipal Systems Act</b>	Means the Local Government: Municipal Systems Act 2000 (Act No. 32 of 2000).
<b>Municipal Valuation</b>	Means a valuation of a rateables property within the municipal area by the Municipal Valuer in terms of the Act.
<b>Municipal Valuer</b>	Means a person designated as a Municipal Valuer in terms of section 33(1) of the Act.
<b>Occupier</b>	In relation to a property, means a person who occupies

the property, whether or not that person has a right to occupy the property.

**Office bearer**

In relation to places of public worship, means the primary person who officiates at services at that place of worship;

**Official residence**

In relation to places of public worship, means

(a) a portion of the property used for residential purposes, or

(b) one residential property, if the residential property is not located on the same property as the place of public worship,

registered in the name of a religious community or registered in the name of a trust established for the sole benefit of a religious community and used as a place of residence for the office bearer.

**Organ of state**

Means an organ of state as defined in section 239 of the Constitution.

**Owner**

(a) In relation to a property referred to in paragraph (a) of the definition of property, means a person in whose name ownership of the property is registered;

(b) In relation to a right referred to in paragraph (b) of the definition of property, means a person in whose name the right is registered;

(bA) in relation to a time sharing interest contemplated in the property time sharing Control Act, 1983 (Act No. 75 of 1983), means the

management association contemplated in the regulations made in terms of section 12 of the property Time Sharing Control Act, 1983, and published in Government Notice R 327 of 24 February 1984,

(bB) in relation to a share in a share block company, the share block company as defined in the Share Blocks Control Act, 1980 (Act No. 59 of 1980)

(bC) in relation to buildings, other immovable structures and infrastructure referred to in section 17 (1) (f) of the Act, means the holder of the mining right or the mining permit, and

- (c) In relation to a land tenure right referred to in paragraph (c) of the definition of property, means a person in whose name the right is registered or to whom it was granted in terms of legislation; or
- d) In relation to public service infrastructure referred to in paragraph (d) of the definition of property, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of "publicly controlled";

provided that a person mentioned below may for the purposes of the Act be regarded by a municipality as the owner of a property in the following cases:

- (i) a trustee, in the case of a property in a trust excluding state trust land;
- (ii) an executor or administrator, in the case of a property in a deceased estate;
- (iii) a trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;

- (iv) a judicial manager, in the case of a property in the estate of a person under judicial management;
- (v) a curator, in the case of a property in the estate of a person under curatorship;
- (vi) a person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of property that is registered in the name of the municipality and is leased by it; or
- (viiA) a lessee, in the case of property to which a land tenure right applies and which is leased by the holder of such right, or;
- (viii) a buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer.

**Pensioner**

Means a person that :

- (a) must be at least 60 years of age;
- (b) who is the sole owner of the property, or owner jointly with his/her spouse and residence permanently on the property.

**Permitted use**

In relation to a property, means the limited purposes for which the property may be used in terms of -

- (a) Any restrictions imposed by:
  - (i) a condition of title;
  - (ii) a provision of a town planning or land use

scheme; or

(iii) any legislation applicable to any specific property or properties; or

(b) Any alleviation of any such restrictions.

**Person**

Includes an organ of state.

**Places of public worship**

Means a developed property primarily used for purposes of congregation, excluding structure that is primarily used for educational instruction in which secular or religious education is the primary instructive medium: provided that the property is-

(a) registered in the name of the religious community;

(b) registered in the name of a trust established for the sole benefit of a religious community; or

(c) subject to a land tenure right;

**Prescribe**

Means prescribe by regulation in terms of section 83 of the Act.

**Property**

Means:

(a) immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person/legal entity;

(b) a right registered against immovable property in the name of a person/legal entity, excluding a mortgage bond registered against the property;

(c) a land tenure right registered in the name of a person/legal entity or granted to a person/legal entity

	in terms of legislation; or
	(d) public service infrastructure.
<b>Property register</b>	Means a register of properties referred to in section 23 of the Act.
<b>Protected Area</b>	Means an area that is or has to be listed in the register referred to in sec 10 of the Protected Area Act.
<b>Protected Areas Act</b>	Means the National Environmental Management: Protected Areas Act, 2003.
<b>Properties owned by public benefit organizations and used for specified public benefit activities;</b>	Means a property where the dominant activity is listed in item 1 (welfare and humanitarian), item 2 (health care) and item 4 (education and development) of Part 1 of the Ninth Schedule to the Income Tax Act.
<b>Publicly controlled.</b>	Means owned by or otherwise under the control of an organ of state, including: <ul style="list-style-type: none"> <li>(a) a public entity listed in the Public Finance Management Act, 1999 (Act No.1 of 1999);</li> <li>(b) a municipality; or</li> <li>(c) a municipal entity as defined in the Municipal Systems Act.</li> </ul>
<b>Public service infrastructure</b>	Means publicly controlled infrastructure of the following kinds: <ul style="list-style-type: none"> <li>(a) national, provincial or other public roads on which goods , services or labour move across a municipal boundary;</li> <li>(b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer</li> </ul>

scheme serving the public;

- (c) power stations, power substations or power lines forming part of an electricity scheme serving the public.
- (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels.
- (e) railway lines forming part of a national railway system.
- (f) communication towers, masts, exchanges or lines forming part of a communication system serving the public.
- (g) runways, aprons and the air traffic control unit at national or provincial airports, including the vacant land known as the obstacle free zone surrounding these, which must be vacant for air navigation purposes.
- (h) any other publicly controlled infrastructure as may be prescribed; or
- (i) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) – (h).

### **Public service purposes**

In relation to the use of a property, means property owned and used by an organ of state as -

- (a) hospitals or clinics.
- (b) schools, pre-schools, early childhood development centres or further education and training colleges.
- (c) national and provincial libraries and archives.
- (d) police stations.



(e) correctional facilities; or

(f) courts of law,

but excludes property contemplated in the definition of public service infrastructure.

**Rate** Means a municipal rate on property envisaged in section 229(1)(a) of the Constitution.

**Rateable property** Means a property on which a municipality may in terms of section 2 of the Act levy a rate, excluding property fully excluded from the levying of rates in terms of section 17 of the Act.

**Ratio** In relation to section 19 of the Act, means the relationship between the cent amount in the rand applicable to residential properties and different categories of non-residential properties: Provided that the two relevant cent amounts in the rand are inclusive of any relief measures that amount to rebates of a general application to all properties within a property category;

**Rebate** In relation to a rate payable on a property, means a discount granted in terms of section 15 of the Act on the amount of the rate payable on the property.

**Reduction** In relation to a rate payable on a property, means the lowering in terms of section 15 of the Act of the amount for which the property was valued and the rating of the property at that lower amount.

**Register** (a) means to record in a register in terms of –

- (i) the Deeds Registries Act, 1937 (Act No. 47 of 1937); or
  - (ii) the Mining Titles Registration Act, 1967 (Act No. 16 of 1967); and
- (b) includes any other formal act in terms of any other legislation to record :
- (i) a right to use land for or in connection with mining purposes; or
  - (ii) a land tenure right.

**Residential property**

Means a property included in a valuation roll in terms of section 48 (2) (b) in respect of which the primary use or permitted use is for residential purposes without derogating from section 9 of the Act;.

**Sectional Titles Act**

Means the Sectional Titles Act, 1986 (Act No. 95 of 1986).

**Sectional title scheme**

Means a scheme defined in section 1 of the Sectional Titles Act.

**Sectional title unit**

Means a unit defined in section 1 of the Sectional Titles Act.

**Sectional title garages/  
Carports/ storerooms**

Means sectional title units that have been separately registered at the deeds office and do not qualify for rebates or reductions.

**State trust land**

Means land owned by the State:

- (a) in trust for persons communally inhabiting the land

in terms of a traditional system of land tenure;

(b) over which land tenure rights were registered or granted; or

(c) which is earmarked for disposal in terms of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994).

**Trading Services**

Shall include property used by the Municipality's Electricity Department, Municipal Parking Areas/Buildings, Municipal Entities, property used by the Municipality's water, refuse and sanitation departments:

**Unauthorized or illegal development**

**Or use and abandoned prop or building** Where a property is being or, has been developed or is being used without authority or illegally, in contravention of National / Provincial Legislation, any Municipality's By-laws or any Regulations, the Land Use Scheme or any other applicable law, the Municipality Valuer must consider changing its category to the "Unauthorised or Illegal development or use, and Abandoned Property or Building" category.

**Vacant Land**

Means land that has not been developed with any permanent structures.

## **PART THREE: THE PURPOSE OF THE POLICY**

3. The purpose of this policy is to:

- 3.1 Comply with the provisions of the Act, specifically with section 3 thereof;
- 3.2 Give effect to the principles outlined hereunder;
- 3.3 Ensure the equitable treatment of persons liable for rates;

- 3.4 Determine the basis for valuation and to prescribe procedures for the implementation of the Act;
- 3.5 Determine criteria for different property use categories to apply differential rates;
- 3.6 Determine or provide criteria for the determination of categories of owners of properties;
- 3.7 Determine criteria to be applied for granting relief in the form of exemptions, rebates and reductions to categories of properties and categories of owners;
- 3.8 Determine measures to promote local economic and social development; and
- 3.9 Identify which categories of properties the municipality has elected not to rate as provided for in section 7 of the Act.

## **PART FOUR: FUNDAMENTAL PRINCIPLES OF THIS POLICY**

The principles of the Act are to regulate the power of a municipality to impose rates on property; to exclude certain properties from rating in the national interest; to make provision for municipalities to implement a transparent and fair valuation method of properties; to make provision for an objection and appeal process.

**The principles of the policy are to ensure that:**

- 4.1 The power of the municipality to impose rates on property within its area will not be exercised in a way that materially and unreasonably prejudices national economic policies, economic activities or the national mobility of goods, services, capital or labour as prescribed in terms of section 229 of the Constitution;
- 4.2 All ratepayers will be treated equitably;
- 4.3 Property rates will be assessed on the market value of all rateable properties within the jurisdiction of the municipality;
- 4.4 Penalties may be charged if and when necessary;
- 4.5 Property rates will not be used to subsidize trading and economic services;

- 4.6 The property rates policy will take into account relief measures to address the social and economic needs of the community;
- 4.7 This policy will be developed in consultation with the community and in compliance with a process of community participation in terms of Chapter 4 of the Municipal Systems Act.

## **PART FIVE: IMPLEMENTATION OF THIS POLICY AND EFFECTIVE DATE**

- 5.1 This policy takes effect from 1 July 2019, being the effective date of the third valuation roll prepared by the municipality in terms of the Act, and must accompany the municipality's budget for the financial year.
- 5.2 The rates policy must be reviewed annually, and if necessary amended by the Council. Such amendments must be effected in conjunction with the municipality's annual budget in terms of sections 22 and 23 of the Municipal Finance Management Act.
- 5.3 The municipality must adopt by-laws to give effect to the implementation of its rates policy and such by-laws must be read in conjunction with this policy.
- 5.4 The adopted by-laws must also be reviewed annually, and if necessary be amended by the Council, in conjunction and in accordance with the rates policy.

## **PART SIX: EQUITABLE TREATMENT OF RATEPAYERS**

- 6.1 The municipality is committed to treating all ratepayers on an equitable basis. The circumstances of each category of owner or category of property will be considered in a fair manner and within the limitations set out in the Act. The municipality must adopt measures to ensure equitable and fair treatment of ratepayers.
- 6.2 Any differentiation in the levying of rates must not constitute unfair discrimination.

## **PART SEVEN: DISCRETIONARY DECISIONS ADOPTED BY THE MUNICIPALITY WITH RESPECT TO LEVYING PROPERTY RATES**

It is recorded that the Council has adopted the following resolutions on 30 May 2018 (reference CM 42/30 May 2018):

- 7.1 To levy rates on all rateable property in its area of jurisdiction;
- 7.2 To determine the date of implementation as being 1 July 2019;
- 7.3 To determine the date of general valuation as being 2 July 2018;
- 7.4 To levy different cents in the rand for different use categories of rateable property;
- 7.5 That the categories of properties for the purpose of differential rating are those specified in this policy document;
- 7.6 That the criteria for the assessment of market value in terms of section 8(1) of the Act shall be dominant actual use and where the land is vacant on permitted use;
- 7.7 Where a property is used for multiple purposes, the Municipality will assign the appropriate categories listed in **clause 8.2** to the different purposes for which the property is used.

## **PART EIGHT: CATEGORIES OF PROPERTIES FOR DIFFERENTIAL RATING PURPOSES**

- 8.1 Section 8 of the Act provides that a municipality may, subject to section 19 of the Act and in terms of criteria set out in its rates policy, levy different rates for different specified categories of rateable property.
- 8.2 For the purposes of section 8 of the Act, the following categories of rateable property have been determined, being:
  - 8.2.1 Residential Property;
  - 8.2.2 Business and Commercial Property ;

- 8.2.3 Industrial Property;
- 8.2.4 Agricultural Property;
- 8.2.5 Public service Infrastructure;
- 8.2.6 Mining Property;
- 8.2.7 Public Benefit Organizations;
- 8.2.8 Properties used for multiple purpose, subject to section 9;
- 8.2.9 Public Service Purposes (owned and used by state)
- 8.2.10 Vacant land.
- 8.2.11 Unauthorized or illegal Development or use/and abandoned property or building

8.3 The Municipality does not value Real Rights except:

- (a) Public Service Infrastructure;
- (b) Municipal leases and Developers Rights and Extension in Sectional Title schemes
- (c) Registered Leases within identified rural areas of the Municipality
- (d) Exclusive use
- (e) Usufruct or right of habitation will be regarded the owner
- (f) Where the Real Right is registered, a person who has entered on to contract is contractually liable for the rates and regarded as the owner,
- (g) Rights of extension will be valued and the holder of the rights will be rated.

8.4 Rating of Multiple use Properties & Vacant Land

- 1) The Municipality rates multiple use properties in terms of section 9(1)(c) : a rate levied on a property assigned in terms of subsection 9 (1)(c) to a category of properties used for multiple purposes must be determined by-
  - (a) Apportioning the market value of the property, in relation to the different purposes for which the property is used; and

(b) Where a property is used for multiple purposes, the Municipality will assign the appropriate categories listed in clause 8.2 above to the different purposes for which the property is used.

2) Vacant Land

Prior to properties being eligible for development rate or rebate, a permanent electricity and/or Occupancy Certificate must have been issued in respect thereof by the relevant Council national Building Regulations concerned into town Development laws and Regulations.

If a Right is developed and not yet registered as a unit, the development will be valued and charged on the current owner unit.

**8.5** It is recorded that in terms of section 19 of the Act, a municipality may not levy:

**8.5.1** different rates on residential properties, except as provided for in sections 11(1)(b), 21 and 89 of the Act;

**8.5.2** a rate on non-residential properties that exceeds a prescribed ratio to the rate on residential properties determined in terms of section 11(1)(a) of the Act;

**8.5.3** rates which unreasonably discriminate between categories of non-residential properties; or

**8.3.4** additional rates except in special rating areas as provided for in section 22 of the Act.

**8.6** Differential rating among the above determined categories of properties will be done by way of setting different cent amounts in the rand for each property category within the municipal budgetary processes.

**8.7** The criteria for weighting the categories determined above, for the purpose of determining rate randages for each category, must take account of the following :

**8.7.1** The perceived affordability factor for the different categories of property;

**8.7.2** The strategic importance of a category of property with reference to the aims and objectives of the Council and the Government of the Republic as a whole (such as social, economic and developmental issues).



## **PART NINE: CATEGORIES OF OWNERS OF PROPERTY**

- 9.1 The Municipality has determined the following categories of owners of property-
- a) Residential
  - b) Pensioners
  - c) Disability grantees
  - d) Child headed households.
  - e) Public benefit organizations
  - f) Bed and breakfast and guesthouse
  - g) Land reform beneficiaries
  - h) Municipal (Owned and used)
  - i) Owners of property affected by natural and other disasters.
  - j) Vacant land
  - k) Properties owned by an organ of state and used for public service purpose.
  - l) Properties Situated Outside of the Proclaimed Boundaries of the Townships
  - m) Protected /Nature Reserves/ Conservation Areas
  - n) Public place of Worship

## **PART TEN: RELIEF MEASURES FOR RATEPAYERS**

- 10.1 The municipality has considered the need and desire to grant relief to specific categories of owners of properties and owners of specific categories of properties with a view to providing appropriate measures to alleviate the rates burden on them.
- 10.2 The municipality will not grant relief in respect of the payment of rates other than by way of an exemption, rebate or reduction provided for in this policy and granted in terms of section 15 of the Act to:
- 10.1.1 A specified category of properties; or
  - 10.1.2 A specified category of owners of property as provided for hereunder.
- 10.2 The municipality will not grant relief to the owners of property on an ad hoc or individual basis.

## PART ELEVEN: RELIEF MEASURES FOR USE CATEGORIES AND CATEGORIES OF OWNERS OF PROPERTY.

The municipality has identified the following use categories of properties and the requisite criteria for the purposes of granting exemptions, rebates or reductions to the owners of these categories of property in terms of section 15 of the Act:

The municipality has identified the following categories of owners of properties and the requisite criteria for the purposes of granting exemptions, rebates or reductions in terms of section 15 of the Act:

<b>11.1 Indigent Owners</b>		
<b>11.1.1 Criteria</b>	In order to qualify for the indigent subsidy as an indigent owner, the owner must:	
	(a)	Be the sole owner of the property or own the property jointly with his/her spouse;
	(b)	Live permanently on the property;
	(c)	Not own any other property within Newcastle municipality;
	(d)	Have an income threshold as defined in the Indigent policy;
	(e)	Make application annually on the prescribed form and within the prescribed period, if so required.
<b>11.1.2 Rebate Granted</b>	Percentage Rebate	A subsidy will be granted dependent on budgetary affordability factors.

<b>11.2 Pensioner Owners</b>		
<b>11.2.1 – Criteria</b>	In order to qualify as a pensioner owner, the owner must:	
	(a)	Be at least 60 years of age; Be the sole owner of the property or own the property jointly with his/her spouse; Live permanently on the property.
	(b)	In the case of the co-ownership of a property other than in terms of marriage in community of property all the owners in their individual capacities must meet the applicable qualifying criteria for a Senior Citizen; and

		The property must be registered jointly in the names of the applicant and the co-owner (who must be a natural person) in equal and undivided shares.
	(c)	Not be granted more than one pensioner rebate at a time.
	(d)	The rebate will lapse on death of the applicant if he/she owns 100% of the property, or on date of transfer, or applicant ceases to reside permanently on the property.
	(e)	<p>In the case of a property registered in the name of a trust The application must be made by the trustee(s) of the trust and;</p> <p>All the beneficiaries of the trust must meet the above criteria</p> <p>The trustee must submit with the application for the rebate certified copies of: Title deed of the property The trust deeds; and Any document amending the trust deed; and The current letters of Authority in respect of the trust.</p> <p>Make application annually on the prescribed form and within the prescribed period.</p>
<b>11.2.2 – Rebate Granted</b>	Percentage Rebate	A rebate may be applied at the Council's discretion, dependent on budgetary affordability factors.

<b>11.3 Disabled Owners</b>	
<b>11.3.1 – Criteria</b>	In order to qualify as a disabled person, the owner must:
	(a) Be the sole owner of the property or own the property jointly with his/her spouse;
	(b) Live permanently on the property;
	(c) May not own any other property within the Newcastle municipality;
	(d) Have an income threshold as defined in the Council's

		Customer Care Policy;
	(e)	Make application annually on the prescribed form and within the prescribed period.
<b>11.3.2 – Rebate Granted</b>	Percentage Rebate	A rebate may be applied at the Council's discretion, dependent on budgetary affordability factors.

<b>11.4 Child-Headed Households</b>		
<b>11.4.1 Criteria</b>	A household may be recognized as a child-headed household if it is deemed to fit the definition as contained at the beginning of this policy, and the owner must :	
	(a) Live permanently on the property;	
	(b) May not own any other property within the Newcastle municipality;	
	(c) Make application annually on the prescribed form and within the prescribed period.	
<b>11.4.2 Rebate Granted</b>	Percentage Rebate	A rebate may be applied at the Council's discretion, dependent on budgetary affordability factors.

<b>11.5 Properties owned by public benefit organisations and used for specified public benefit activities;</b>		
<b>11.5.1 Criteria</b>	In order to qualify applicants shall produce a tax exemption certificate issued by the South African Revenue Services ( SARS) as contemplated in Part 1 of the 9 <sup>th</sup> Schedule to the Income Tax Act, 1962 (Act 58 of 1962)	
	(a)	Make application in writing annually in the prescribed format;
	(b)	Provide proof of ownership of the property and registration as a Public Benefit Organisation in terms of the Income Tax Act, conducting one or more of the following specified public benefit activities listed in Part 1 of the 9 <sup>th</sup> Schedule: <ul style="list-style-type: none"> <li>• welfare and humanitarian; or</li> </ul>

		<ul style="list-style-type: none"> <li>• health care; or</li> <li>• education.</li> </ul>
<b>11.6.2 Relief granted</b>	Properties meeting the above criteria shall be exempted from the payment of rates.	

**11.6 Agricultural Properties**

When considering criteria to be applied in respect of any relief for properties used for agricultural purposes a municipality must take into account:

- (a) The extent of services provided by the municipality in respect of such properties;
- (b) The contribution of agriculture to the local economy;
- (c) The extent to which agriculture assists in meeting the service delivery and development obligations of the municipality; and
- (d) The contribution of agriculture to the social and economic welfare of farm workers.

In order to qualify for the rebates detailed hereunder, the Farmers Association/s within the municipal jurisdiction shall present a submission motivating for the criteria as listed above within the prescribed time frame. All owners of agricultural properties within the municipality will receive relief based upon this evidence as determined through the municipal budgetary processes.

Failure on behalf of the relevant Farmers Association to submit this evidence will leave the municipality without a basis for the consideration of relief for this property sector in terms of the prescribed criteria.

<b>11.6.1 Rebate granted</b>	Percentage rebate	A rebate may be applied at the Council's discretion, dependent on budgetary affordability factors.
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**11.7 Properties Situated Outside of the Proclaimed Boundaries of the Townships**

<b>11.7.1 Criteria</b>	The owner of a property situated outside of the proclaimed boundaries of the townships within the municipality, excluding properties categorized as agricultural properties and public service infrastructure, shall receive a rebates, that may be applicable, a rebate in lieu of the limited municipal services available to such properties.	
<b>11.7.2 Rebate granted</b>	Percentage rebate	Properties used for residential purposes a

		<p>60 percentage is applicable</p> <p>Ratable vacant land 40 percentage rebate</p> <p>A rebate may be applied at the Council's discretion, dependent on budgetary affordability factors.</p>
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**11.8** It is recorded that in terms of section 17(1)(h) of the Act that the levying of rates on the first R 85, 000 of the market value of a residential property is impermissible.

**11.9** The municipality may, in its budget, extend this relief through a further reduction in market value of residential property depending upon affordability factors determined by the Council.

<b>11.10 Residential Properties with a Market Value Below a Prescribed Municipal Valuation Threshold</b>	
<b>11.10.1 Criteria</b>	The owner of a property assigned to a category determined by this policy for residential purposes with a municipal valuation below a threshold to be determined annually through the budgetary process shall be exempted from the liability for the payment of rates. In other words a further discretionary reduction may be applied to the residential category of properties in addition to the first R 85, 000 of the market value which is a prescribed impermissible rate.
<b>11.10.2 Relief granted (Impermissible rate + reduction)</b>	The owner of a property meeting the above criteria is exempted from the payment of rates.

<b>11.11 Properties Affected by a Disaster or other serious adverse social or economic conditions</b>	
<b>11.11.1 – Criteria</b>	In order to qualify as a disaster or other serious adverse

	social or economic conditions owner, the owner must qualify in terms of the following:	
	(a)	A disaster within the meaning of the Disaster Management Act (57 of 2002); or
	(b)	Any other serious adverse social or economic conditions as may be defined and determined by the Council.
<b>11.11.2 – Rebate Granted</b>	Percentage Rebate	A rebate may be applied at the Council's discretion, dependent on budgetary affordability factors.

<b>11.12 Bed and Breakfast establishments</b>		
<b>11.12.1 – Criteria</b>	In order to qualify for a rebate as a Bed and Breakfast Establishment:	
	(a)	The applicant must provide details of the establishment in respect of total size of developed property, total number of rooms and facilities available to guests.
	(b)	An annual application must be made by 30 April preceding the start of the new financial year for which relief is sought.
	(c)	The applicant must attach a copy of their current Certificate of Membership of the Local Tourism Authority.
<b>11.12.2 – Rebate Granted</b>	Percentage Rebate	A rebate may be applied at the Council's discretion, dependent on budgetary affordability factors.

<b>11.13 Municipal Properties</b>	
<b>11.13.1- Criteria</b>	All Municipal owned properties are exempted from property rates, except for:  (a) Trading services (b) All property owned by an owner as defined in this policy.
<b>11.13.2 Relief granted</b>	Properties meeting the above criteria shall be exempted from the payment of rates.

<b>11.14 Commercial/Industrial Development</b>	
<b>11.14.1 – Criteria</b>	This benefit is meant for new businesses/commercial developments who will be investing in the Newcastle area and where the property has/will have a market value of at least R 50 million at the start of business, in the establishment of newly improved sites.  <ul style="list-style-type: none"> <li>• From years 0 – 4 = 40% rebate</li> <li>• From years 5 – 6 = 25% rebate</li> <li>• From years 7 – 8 = 10% rebate</li> <li>• From year 9 onwards = 0% rebate</li> </ul>
	(a) Application must be submitted to the Chief Financial Officer before or within the first three months of the new financial year (July to September) in the first year of application.
	(b) An annual application must thereafter be made by 30 May preceding the start of each new financial year for which relief is sought.



	(c)	The applicant must attach to their annual application, a copy of their current Business Licence as well as a set of the company's audited financial statements.
<b>11.14.2 – Rebate Granted</b>	Percentage Rebate	The above rebate may be applied at the Council's discretion, dependent on budgetary affordability factors.

**11.15** It is recorded that the market value of a property for the purpose of levying rates be capped at a value to be determined by Council from time to time.

## **PART TWELVE: COMMUNITY PARTICIPATION**

- 12.1** It is recorded that the municipality may only adopt its rates policy or any amendment thereof or any review of its policy after following a process of community participation in accordance with Chapter 4 of the Municipal Systems Act, as well as sections 4 and 5 of the Act. These provisions include:
- 12.1.1** Building capacity of the local community to enable it to participate in the affairs of the municipality; and
  - 12.1.2** To foster community participation for which the municipality will allocate funds in its budget for such processes.
- 12.2** Participation by the local community in municipal affairs will take place through the political structures of the municipality; the mechanisms, processes and procedures for participation in municipal governance and any other appropriate mechanisms processes and procedures established by the municipality.
- 12.3** The municipality will provide for:
- 12.3.1** The receipt, processing and consideration of petitions, objections and comments lodged by the members of the local community;
  - 12.3.2** Public meetings and hearings by the Council and other political structures (e.g. ward committees) and political office bearers of the municipality;



- 13.3 The municipality will furnish each person liable for the payment of rates with a written account in terms of section 27 of the Act.
- 13.4 The municipality may recover rates in arrears from tenants and occupiers in accordance with the provisions of section 28 of the Act.
- 13.5 The municipality may recover rates due, either whole or in part, from the agent of the owner if this is more convenient for the municipality and in terms of section 29 of the Act.
- 13.6 Rates must be paid on or before a date determined by the municipality. The municipality may impose interest on overdue amounts.
- 13.7 The procedures regarding the determination of rates or any portion that are outstanding and the processes to be followed to recover such amounts are contained within the municipality's Customer Care, Credit Control and Debt Collection Policy.

#### **PART FOURTEEN: CONSOLIDATION AND APPORTIONMENT OF PAYMENTS**

14. Separate accounts of persons liable for payment to the municipality for either rates or services may be consolidated in one account and any appropriation of payments will be done in accordance with the municipality's Customer Care, Credit Control and Debt Collection Policy.

#### **PART FIFTEEN: DEFERMENT OF RATES**

15. The municipality may on application defer the payment of rates in terms of section 26(3) of the Act, but only in special circumstances which may be prescribed by the Council.

## **PART SIXTEEN: IMPERMISSIBLE RATES IN TERMS OF SECTION 17 OF THE ACT**

16. It is recorded that the municipality may not, in terms of section 17 of the Act levy a rate on:
- 16.1 the first 30% of the market value of public service infrastructure;
  - 16.2 Any property referred to in paragraphs (a) (b) (e) (g) and (h) of the definition of "public service infrastructure."
  - 16.3 the first R 85 000 of the market value of a property assigned in the valuation roll or supplementary valuation roll of a municipality to a category determined by the municipality –
    - (i) for residential properties; or
    - (ii) for properties used for multiple purposes, provided one or more components of the property are used for residential purposes.
  - 16.4 The Minister, acting with the concurrence of the Minister of Finance, may from time to time by notice in the *Gazette*, increase the monetary threshold referred to in subsection 15.3 to reflect inflation.
  - 16.5 The Minister may, by notice in the *Gazette*, lower the percentage referred to in subsection 15.1 but only after consultation with –
    - (i) Relevant Cabinet members responsible for the various aspects of public service infrastructure;
    - (ii) Organized local government; and
    - (iii) Relevant public service infrastructure entities.
  - 16.6 **The Municipality has determined the following Non- Rateables categories**
    - 16.6.1 A property registered in the name of and used primarily as a place of public worship by a religious community, including an official residence registered in the name of that community which is occupied by an office-bearer of that community who officiates at services at that place of worship.

**16.6.2** The exclusion from rates of a property referred to in subsection 16.6.1 lapses if the property –

- (i) Is disposed of by the religious community owning it; or
- (ii) Is no longer used primarily as a place of public worship by a religious community or, in the case of an official residence contemplated in that subsection, is no longer used as such an official residence.

**16.6.3** If the exclusion from rates of a property used as such an official residence lapses, the religious community owning the property becomes liable to the municipality concerned for any rates that, had it not been for subsection 15.3 of the act would have been payable on the property during the period of one year preceding the date on which the exclusion lapsed.

**16.6.4** The amount for which the religious community becomes liable in terms of paragraph 16.6.3 must be regarded as rates in arrears, and the applicable interest on that amount is payable to the municipality.

**16.7                    Protected Areas/ Nature Reserves/ Conservation**

16.7.1 Nature Reserves and Conservation areas which are proclaimed in terms of the National Environmental management: Protected Areas Act no 57 of 2003 shall be excluded from rates.

16.7.2 Newly Proclaimed Nature Reserves/Conservation areas shall receive excluded for rates upon application and production of the relevant Proclamation.

16.7.3 Nature Reserves not proclaimed as aforesaid, shall be rated as vacant land and may be excluded from rates, once the owners are in receipt of an Environmental Certificate in terms of clause 11.16.4.

16.7.4 upon application to the Environmental Planning and Climate Protection Department, an Environmental Certificate may be granted to owners of any piece of land or part thereof, where:

- (a) the Municipality considers the land to be environmentally sensitive. E.g. its forms part of the municipality open space system;
  - (b) the land is zoned for conservation purposes or an environmental servitude has been registered in favour of the municipality over the environmentally sensitive area; and
  - (c) The Landowner, with the assistance of the Municipality, prepares and implements an approved management plan aimed at protecting and improving the local environment.
- 16.7.5 where the land is not zoned for conservation purposes and an environmental servitude has not been registered in favour of the Municipality, an owner may be granted a reduction or rebate, provided the owner has agreed to the Municipality rezoning the affected land to protect the environment.
- 16.7.6 The owner of a Nature Reserve/Conservation area cannot receive a reduction or rebate on the Nature Reserve/Conservation area component of the property in addition to the rate benefits in terms of clause 16.7.4 above.
- 16.7.7 the Environmental Certificate will lapse if the property is no longer used for bona fide environmental conservation purposes, in which event, the property will be rated on its new use from date of such use.
- 16.7.8 Parks and environmental protection areas within a Home Owners Association shall receive an exemption once a servitude restricting its use is registered or the land is zoned for environmental protection.
- 16.7.9 A rebate will lapse if the owner or any person acting through the owner or on the owners instructions, breaches any provision of an environmental management plan pertaining to the property of environmental legislation and fails to remedy such breach, notwithstanding a written demand or directive to do by the Municipality.

## **PART SEVENTEEN: CONSTITUTIONALLY IMPERMISSIBLE RATE**

- 17.** The Act provides that in terms of section 229(2)(a) of the Constitution a municipality may not exercise its power to levy rates on property in a way that would materially and unreasonably prejudice -
- 17.1** national economic policies;
  - 17.2** economic activities across its boundaries; or
  - 17.3** the national mobility of goods, services, capital or labour.

## **PART EIGHTEEN: NEWLY RATED PROPERTY**

- 18** Any property which has not previously been rated must be phased in over a period of three financial years subject to the condition that:
- 18.1** property registered in the name of a land reform beneficiary must be phased in after the exclusion period referred to in section 17(1)(g) of the Act;
  - 18.2** The phasing in period shall be as set out in the following table:

**Applicable rates for newly rateable properties to be phased in over three years**

<b>Year</b>	<b>Percentage Rates Payable</b>
First	25%
Second	50%
Third	75%

## **PART NINETEEN: TRANSITIONAL ARRANGEMENT: PUBLIC SERVICE INFRASTRUCTURE**

- 19.1\_** The prohibition on the levying of rates on public service infrastructure referred to in section 15.2 must be phased in over a period of 5 municipal financial years, with effect from 1 July 2015;
- 19.2** the rates levied on the property must
- 19.2.1 in the first year, must be no more than 80 percent of the rate for that year otherwise applicable to that property;
  - 19.2.2 in the second year, must be no more than 60 percent of the rate for that year otherwise applicable to that property;
  - 19.2.3 in the third year, must be no more than 40 percent of the rate for that year otherwise applicable to that property;
  - 19.2.4 in the fourth year, must be no more than 20 percent of the rate for that year otherwise applicable to that property;
  - 19.2.5 in the fifth year, must be no more than 10 percent of the rate for that year otherwise applicable to that property;





# **NEWCASTLE MUNICIPALITY**

## **INDIGENT POLICY**

## **PREAMBLE**

**Whereas** the municipality receives an equitable share contribution from National Treasury annually;

**And whereas** the National Department of Provincial and Local Government has issued guidelines regarding indigent support;

**And whereas** the municipal council wishes to give access to basic services for all of its communities;

**Now therefore** the municipal council of NEWCASTLE adopts the following Indigent Policy.

## **TABLE OF CONTENTS**

<b>1. DEFINITIONS</b>	<b>4</b>
<b>2. PURPOSES OF THE INDIGENT POLICY</b>	<b>4</b>
<b>3. CRITERIA FOR QUALIFICATION</b>	<b>5</b>
<b>4. EXTENT OF INDIGENT SUPPORT</b>	<b>7</b>
<b>5. ARREARS ON INDIGENT ACCOUNTS</b>	<b>8</b>
<b>6. NON-COMPLIANCE OF HOUSEHOLDS REGISTERED AS INDIGENT</b>	<b>9</b>
<b>7. REPORTING REQUIREMENTS</b>	<b>10</b>
<b>8. SHORT TITLE</b>	<b>10</b>
<b>9. IMPLEMENTATION AND REVIEW</b>	<b>10</b>

## DEFINITIONS

1. In this policy, unless inconsistent with the context –

“**account holder**” means any person over 16 years of age who is responsible for the family unit and/or for the payment of any services accounts.

“**commercial activity**” means any activity for profit or gain.

“**financial year**” means the financial year of the municipality that runs from July to June.

“**indigent**” means a household earning a combined total monthly income as determined by Council from time to time.

“**industrial activity**” means any activity that involves the manufacturing or production of a product.

“**municipality**” means the Newcastle Municipality.

“**resident**” means a person or family unit that ordinarily resides within the area of jurisdiction of Newcastle Municipality either within their own or leased accommodation.

## PURPOSES OF THE INDIGENT POLICY

2. (1) The purposes of the indigent policy are to:
  - (a) provide basic services to the community within the financial and administrative capacity of the municipality;

- (b) provide procedures and guidelines for the subsidisation of basic service charges to indigent households using the equitable share allocation received from National Treasury and other budgetary provisions;
- (c) ensure affordability by subsidising tariffs calculated in terms of the municipality's tariff policy and by setting appropriate service levels in accordance with the municipality's service delivery plan.

### **CRITERIA FOR QUALIFICATION**

3. (1) In order to qualify for indigent support the following criteria must be met:

- (a) The verified monthly income of all household occupants over 18 years of age may not exceed the amount approved by Council during the annual budget process, the amount will be after statutory deductions of PAYE and UIF (the amount should be below R5000);
- (b) The verified monthly household income of a pensioner (after statutory deductions of UIF and PAYE) of an amount below R6000 may qualify for an indigent subsidy;
- (c) The account holder must complete an official application form and provide the required documentary proof;
- (d) The account holder must reside in the municipal area and may not conduct any commercial or industrial activity from the property;
- (e) The applicant must be the full-time occupant and may not own any other property, whether in or out of the municipal area, unless such property is vacant or is improved and held for investment purposes and an economical rental is obtained therefrom and is included in the gross monthly income.
- (f) The application will be approved by the municipality after the information supplied has been verified and vetted by the ITC system

- (g) An indigent account holder must immediately request de-registration if his/her circumstances have changed to an extent that s/he no longer qualifies for indigent support;
  - (h) All applicants shall be notified by sms with regard to the outcome of their application;
  - (i) In the event that the approved accountholder passes away, the heir/s of the property must re-apply for indigent support provided they qualify in terms of the stipulated criteria;
  - (j) Council reserves the right to send officials to premises/households for the purpose of conducting an on-site audit of the details provided as well as for indigent audit purposes.
  - (k) The rates account of a household where the account holder is deceased, i.e. an "estate late" account, may be accepted, on condition that only the surviving spouse and/or dependent children ~~or~~ legal representative on their behalf, may apply;
  - (l) Where an existing indigent account holder is now deceased, the "estate late" owner account can continue to benefit as an indigent account provided that the surviving spouse and/or dependent children, as included in the original application, apply for and qualify for indigent support as a legal tenant.
- (2) The following documents are compulsory and must be attached to all application forms:
- a) Identity Book;
  - b) Proof of income, i.e. pension / government grant card / pay slip etc., if applicable; or if over 18 and unemployed, a letter from Department Labour and Bank verification form;
  - c) Names and identity books of all persons over the age of 18 residing on the property;

- (3) The following additional documentation must be attached; where applicable depending on the individual circumstances:
- (a) SASSA pensioners: SASSA card together with ATM/ bank slip/ purchase slip dated within the past month to indicate that the card is still current;
  - (b) A Bank verification form must be filled in;
  - (c) A sworn affidavit or legal proof regarding their separation if a married couple is no longer living together but not yet officially divorced;
  - (d) Any relevant death certificates should the house be registered in both partners name;
  - (e) Retrenchment letter;
  - (f) Decree of divorce;
  - (g) Marriage certificate;
  - (h) Letter of authority order / memorandum from DPHS or the Will for Estate late properties
  - (i) Three month's bank statements, if applicable.
  - (j) Slip of purchased Eskom electricity

#### **EXTENT OF INDIGENT SUPPORT**

4. (1) Subsidies will be limited to rates, water, refuse removal, electricity and sewerage disposal services.
- (2) Subsidies will be determined during the compilation of the annual budget.
- (3) The source of funding of the indigent subsidy is that portion of the equitable share contribution received from National Treasury and any additional provisions made by council and provided for in the annual operating budget.
- (4) The subsidy will only be credited to the qualifying customer's accounts until the amount provided on the budget has been exhausted.

- (5) The following table depicts the extent of the indigent subsidy granted to approved indigent consumers:

Service	Subsidy for indigent customer where household income is below R3720 per month	Subsidy for the pensioner where household income is below R 6000
Rates	100% subsidy	100% subsidy
Sewer	100% subsidy	100% subsidy
Refuse	100% subsidy	100% subsidy
Water availability	100% subsidy	100% subsidy
Water consumption	6Kl	6Kl
Electricity availability	100% subsidy	75% subsidy
Electricity consumption	50Kwh	50Kwh
Rental – Municipal dwellings	75% subsidy	75% subsidy

- (6) If consumption per metering period (month) exceeds any of the norms stated in the table above, usage will be restricted and the accountholder will be obliged to pay for such excess consumptions at the applicable normal tariffs.
- (7) If a customer's consumption or use of municipal service is less than the subsidised service, the unused portion may not be accrued and the customer will not be entitled to a cash rebate in respect of the unused portion.



- (8) Annual service charges on the indigent's account will automatically be converted to monthly instalments.
- (9) The accounts of indigent households will be exempted from interest.
- (10) Where it occurs that consumers are minors due to circumstances, the support will be determined as per Council decision from time to time.
- (11) Occupiers of the Government Assisted Housing Schemes are subsidised with regard to their housing instalments and rentals in terms of the National Housing Act.
- (12) The municipality may make alternative energy sources available in place of electricity.
- (13) It is compulsory that a prepaid electricity meter be installed for all registered indigent account holders

#### **ARREARS ON INDIGENT ACCOUNTS**

- 5. (1) Once an application for indigent support has been approved all arrears on the consumer account will be written off.
- (2) Arrears related to excess services consumed and housing instalments or rental may be recovered through the restriction of services, either water or electricity, where applicable.
- (3) Should the indigent consumer's account subsequently goes into arrears due to unforeseen circumstances then these arrears may be written off at the discretion of the CFO of an amount not more than R30 000.

#### **NON-COMPLIANCE OF HOUSEHOLDS REGISTERED AS INDIGENT**

6. (1) When a property owner or occupier who has registered as an indigent fails to comply with any of the conditions relevant to the receipt of indigent relief, such person will forfeit his or her status as a registered indigent with immediate effect, and will thereafter be treated as an ordinary accountholder.
- (2) The onus is on each registered indigent to advise the Council of such failure to comply due to the changed circumstances
- (3) The indigent status of a customer will be reviewed from time to time, at intervals as determined by Council. This could be done by either physical audit or external verification check (ITC – Credit Bureau). Should the requirements not be met, the subsidy for that consumer will be cancelled.
- (4) If a registered indigent is found to have provided fraudulent information to the municipality in regard to any material condition for registration as an indigent, such person shall immediately be removed from the register of indigents, and shall be liable to repay the municipality with immediate effect all indigent relief received and debt written off from the date of such fraudulent registration.
- (5) Indigent support will be automatically terminated under the following circumstances:
  - (a) Upon identification of the death of the accountholder unless the conditions in terms of 3 (1) (k) above are met;
  - (b) Upon identification of the accountholder who no longer qualifies for indigent support in terms of 6 (3) above:
  - (c) When the indigent accountholder disposes of the property, either by sale or by means of donation, on date of vacation of the property or registration of transfer whichever occurs first.
  - (d) Upon termination of the lease or vacation of the premises with regard to a tenant account.
  - (e) Upon identification of the accountholder who no longer qualifies for indigent support in terms of this policy.

## **REPORTING REQUIREMENTS**

7. (1) The Strategic Executive Director: Budget and Treasury Office shall report for the month concerned and, where possible, by municipal ward:
- (a) the number of households registered as indigents and a brief explanation of any movements in such numbers;
  - (b) the monetary value of the actual subsidies and rebates granted;
  - (c) the budgeted value of the subsidies and rebates concerned; and
  - (d) the above information cumulatively for the financial year to date; and
  - (e) Any other detail as required by the Council.

## **SHORT TITLE**

8. This policy shall be called the Indigent Policy of the Newcastle Municipality.

## **IMPLEMENTATION AND REVIEW**

9. (1) The Accounting Officer shall be responsible for the implementation and administration of this policy with the assistance of the Strategic Executive Director: Budget and Treasury Office, once approved by Council.
- (2) The policy shall be reviewed annually as part of the budget process.



**NEWCASTLE MUNICIPALITY**  
**CREDIT CONTROL AND DEBT COLLECTION POLICY**  
**2021/2022**

1.	PURPOSE.....	3
2.	DEFINITIONS .....	3
3.	REGISTRATION FOR MUNICIPAL SERVICES .....	11
4.	DEPOSITS .....	13
5.	ACCOUNTS.....	16
6	RESPONSIBILITY FOR AMOUNTS DUE .....	19
7	PAYMENT OPTIONS .....	22
8	FULL AND FINAL SETTLEMENT .....	23
9	CASH ALLOCATION.....	24
10	INTEREST AND ADMINISTRATIVE CHARGES.....	24
11	PROCUREMENT OF GOODS AND SERVICES AND PAYMENTS IN TERMS OF CONTRACTS.....	26
12	AGREEMENT WITH EMPLOYERS .....	27
13	STAFF, COUNCILLORS AND WARD COMMITTEE MEMBERS IN ARREARS .....	28
14	ARREAR ACCOUNTS.....	30
15	DOMESTIC WATER AND SEWAGE DISPOSAL CUSTOMERS.....	33
16	TERMINATION OF SERVICES AND SERVICES AGREEMENT .....	36
17	UNALLOCATED CONSUMPTION .....	38
18	METER READINGS .....	38
19	REVENUE CLEARANCE CERTIFICATES.....	42
20	LEGAL ACTION .....	45
21	CREDIT AUTHORITIES IN RESPECT OF ARREARS IN TERMS OF SECTION 58 OF THE MAGISTRATES COURTS ACT.....	47
22	DISPUTES .....	50

23	REFUNDS.....	52
24	DECEASED ESTATES.....	53
25	IRRECOVERABLE DEBT .....	54
26	INCENTIVE SCHEMES.....	55
27	DEBT RELIEF PROGRAMME.....	56
28	BUSINESS RESCUE .....	57
29	MISREPRESENTATION .....	57

## **1. PURPOSE**

This Policy, read together with the Newcastle Municipality Credit Control and Debt Collection By law, has been compiled in compliance with the Local Government: Municipal Systems Act 32 of 2000 and provides procedures and mechanisms for credit control and debt collection as contemplated in Chapter 9 of the Systems Act.

In terms of Section 96, the Municipality is enjoined to (a) collect all money that is due and payable to it, subject to the Act and any other applicable legislation; and (b) for that purpose, to adopt, maintain and implement a credit control and debt collection policy which is consistent with its rates and tariff policies.

The raising and recovery of revenue is a constitutional right and duty of the Municipality and is fundamental to the long term financial and economic sustainability of the Municipality and to the achievement of the Municipality's constitutional responsibilities in, inter alia, addressing the needs of the local community. In turn, members of the local community have the right, amongst others, to access municipal services (subject to the law), and a reciprocal statutory duty in terms of Section 5(2) of the Systems Act to pay promptly service fees, rates on property and other charges, levies and duties imposed by the Municipality.

This Policy aims, on the one hand, to ensure that the Municipality's approach to credit control and debt collection is sensitive, transparent and is equitably applied throughout the Municipality's geographic area and seeks on the other hand, to enable the Municipality to conduct its financial affairs in an effective, economic and efficient manner by ensuring that the incidence of under collection of revenue and bad debt is minimized, its revenue base is protected and has ability to grow and that cash flow is not negatively impacted upon, thereby compromising optimal delivery of services

## **2. DEFINITIONS**

Unless indicated to the contrary in this Policy, words contained in this Policy have the same meaning as in the Newcastle Municipality: Credit Control and Debt Collection By-law

**"Account"** means written notification in the form of a statement of account in respect of municipal services, rates, sundry charges and other charges, addressed to a person liable for payment thereof;

**"Acknowledgement of debt"** means an admission of liability and written undertaking by a debtor to repay an amount owing to the Municipality; and includes a consent to judgement and for the purposes of this policy it also means a Credit Authority;

**"Agent"** means a person authorised by the Customer to act on his or her behalf;

**"Arrears"** means any amount which is due, owing and payable and which remains unpaid by due date;

**"Authorised Official"** means the Head: Revenue or his delegate in terms of the Municipality's System of Delegations;

**"Availability Fee"** means the tariff referred to under Tariff Type in the eThekweni Municipality's Tariff Policy;

**"Bulk Customer"** means a Customer who consumes large amounts of electricity for commercial or industrial purposes;

**"By-law"** means the eThekweni Municipality: Credit Control and Debt Collection By-Law, as amended;

**"Category of Owners"** means, for the purpose of section 4.2 of this Policy, any department of state or administration in the national, provincial or local sphere of government which has a good credit history with the Municipality.

**"CFO"** means a person employed by the Municipality in terms of section 57 of the Systems Act as the Chief Financial Officer of the Municipality, and includes any person to whom the Chief Financial Officer has delegated or sub-delegated a power, function or duty in accordance with the system of delegation developed by the Municipal Manager in terms of section 79 of the Municipal Finance Management Act and section 59 of the Systems Act;

**"Collection Charges"** means the charges which the Municipality is entitled to recover in terms of section 75A (1) of the Systems Act, and includes the administrative cost–

- (a) of reminding any ratepayer or Customer of arrears;
- (b) for the termination, restriction or reinstatement of any Municipal service to a defaulting ratepayer or Customer;
- (c) of any notice rendered, sent, delivered or published to a ratepayer or Customer in terms of the By-law or any other law;
- (d) of any merchant fee; and
- (e) in respect of any other charge which the Municipality is by law entitled to recover;

**"Company"** means a Company as defined in the Companies Act, 2008 (Act 71 of 2008);

**"Consolidated account"** means a monthly account reflecting municipal service fees, charges, surcharges on fees, property rates, sundry charges and other municipal taxes, levies and duties and all consolidations in terms of section 102 of the Systems Act;

**"Credit Authority"** means any arrangement made by agreement between the Municipality and a Customer for the payment of any arrears in instalments. Such arrangement may take the form of an agreement or an acknowledgment of debt;

**"Customer"** means any person or their agent with whom the Municipality or an Authorised Official has entered into an agreement for the provision of any Municipal service to the premises;

**"Defaulter"** means a Customer whose account is in arrears;

**"Deposit"** means a monetary amount raised by the Municipality in relation to the consumption of a Municipal service and mitigation of credit risk to the Municipality, irrespective of the existence of an agreement;

**"Disconnection"** means a termination or restriction of a Municipal service supplied to a meter;

**"Due date"** means the date on which a Customer's account becomes payable, which in the case of monthly accounts is twenty-one days from the date of the account, and in the case of annual accounts is the 31 October each year;



**“Effective Date”** means the date on which this Policy comes into effect which shall be 1 July 2021

**“Fee”** means a prescribed amount charged by the Municipality to a Customer for the provision of any Municipal service;

**“Financial Guarantee”** means an irrevocable and unconditional written undertaking issued by a registered South African Bank in favour of the Municipality, to honour all obligations (present or future) owed by a person to the Municipality, should that person be in breach of any or such obligation;

**“Fines”** means any lawfully determined pecuniary penalty which is payable by a person to the Municipality in terms of applicable legislation, arising from the commission of an act or an omission that is punishable by law;

**“Flow restrictor”** means a washer which is installed in the water connection which allows a monthly consumption of 6 kilolitres of water but at an extremely low flow rate;

**“Illegal connection”** means any connection or reconnection to a system through which Municipal services are provided, which is not authorised or approved by the Municipality or an Authorised Official;

**“Juristic person”** includes a partnership, a proprietor, association or other body of persons, corporate or unincorporated and includes a trust and organ of state;

**“Leak period”** means the metering period immediately prior to the date of repair of the leak and the metering period during which the leak is repaired. Each of these two periods will not exceed 65 days;

**“Meter”** means any device which measures any demand or quantity of either electricity energy or water passing through such meter;

**“Metering period”** means the time interval between two successive billed meter readings but shall exclude previous leak periods;

**“MPRA”** means the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004), as amended;

**“Multi-property owner”** means an owner of 50 or more registered properties in the Municipality’s area of jurisdiction;

**“Municipal charges”** means municipal service fees, surcharge on fees, penalties, interest, property rates, and other municipal taxes, levies and duties, as well as any other charges in terms of Legislation, Policy or an agreement including Sundry Charges and Collection charges;

**“Municipal service”** means a service provided by the Municipality in terms of its powers and functions to or for the benefit of the local community, irrespective of whether or not –

- (a) such service is provided by the Municipality itself or by engaging an external mechanism contemplated in section 76 of the Systems Act; or
- (b) any fees, charges or tariffs are levied in respect thereof;

**“Net salary”** means the gross salary minus pension and statutory deductions;

**“Owner”** means:

- (a) In relation to a property referred to in paragraph (a) of the definition of “property” in the MPRA, a person in whose name ownership of the property is registered;
- (b) The administrator of the body corporate of a sectional title scheme where the common property of a sectional title scheme is at issue and there are no elected trustees of the body corporate;
- (c) The administrator, where the owner of a property is a mental health care user as defined in section 1 of the Mental Health Act, 2002 (Act No. 17 of 2002);
- (d) The business rescue practitioner, where the owner of a property has been placed under business rescue;
- (e) The managing agent, where the owner of a property is absent from the Republic of South Africa or where the Municipality has, after reasonable attempts, not been able to determine his or her whereabouts;
- (f) Every person who is entitled to occupy or use a building, or who does occupy or use a building, where –

- (i) The owner of the property is absent from the Republic of South Africa;
- (ii) The Municipality has, after reasonable attempts, not been able to determine the whereabouts of the owner of the building; and
- (iii) There is no managing agent;
- (g) Trustees and beneficiaries jointly, in the case of property in a trust;
- (h) An executor or administrator, in the case of property in a deceased estate;
- (i) A trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- (j) A judicial manager, in the case of a property in the estate of a person under judicial management;
- (k) A curator, in the case of property in the estate of a person under curatorship;
- (l) A person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude, as joint owner together with the registered owner;
- (m) A lessee, in the case of a property that is registered in the name of the Municipality and is leased by it;
- (n) A buyer or a developer, in the case of a property that was sold by the Municipality and of which possession was given pending registration of ownership in the name of the buyer, beneficiary, or a developer;
- (o) A fideicommissary as joint owner together with the fiduciary;
- (p) Ingonyama Trust in respect of the land vested in the Ingonyama Trust by virtue of the Ingonyama Trust Act of 1994, as amended, or any other law;
- (q) The National Government of the Republic of South Africa, in the case of a property that is registered in the name of a deregistered company or close corporation and where ownership thereof has accrued to the state by operation of law ( bona vacantia);
- (r) An owner of a property in the name of any other juristic person not mentioned in this definition of an owner; and
- (s) A child or children in charge of a property in the case of a child headed household as contemplated in this Policy and the Rates Policy of the Municipality;

**"Person"** means a natural person or Juristic Person;

**"Property"** means–

- (a) immovable property registered in the name of a person, including, in the case of sectional title scheme, a sectional title unit registered in the name of a person;
- (b) a right registered against immovable property in the name of a person;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation, excluding a permission to occupy; or
- (d) public service infrastructure;

**"Prescribed"** means a determination set or laid down by law, or by the Municipal Council or the CFO from time to time;

**"Prescribed Form"** means any document that may be prescribed by law or approved by Municipal Council or required by the CFO from time to time;

**"Rates"** means a municipal rate on property envisaged in terms of section 229(1) (a) of the Constitution and levied by the Municipality in terms of the MPRA, expressed as cents in the rand;

**"Rates Regulations"** means the Municipal Property Rates Regulations, 2006 as amended;

**"Residential property"** means a dwelling, in any building, premises, structure, or any other place, or any part thereof, used predominantly as a place of residence or abode of any natural person **excluding** a dwelling where the dominant use is for any purpose other than residential, or where it is used in the supply of commercial accommodation;

**"Revenue Clearance Certificate"** means a certificate of the kind referred to in Section 118(1) of the Systems Act;

**"Section 118(1) debt"** means debt contemplated in Section 118(1) of the Systems Act;

**"Section 118(3) debt"** means debt contemplated in Section 118(3) of the Systems Act;

**"Services Account"** means an account which relates to water and or electricity consumption and related charges;

**“Service Agreement”** means an agreement entered into between the Customer and the Municipality for the provision of a Municipal service which includes but is not necessarily limited to water and electricity;

**“Social Worker”** means a person employed by the Municipality who is registered as a social worker under the Social Service Professions Act, 1978 (Act No 110 of 1978);

**“Sundry charge”** means an amount charged to a Person which is not directly linked to a property and includes but is not limited to-

- (a) charges arising from damage to municipal property and equipment;
- (b) monies owed for Municipal services other than rates, water, electricity and sanitation;
- (c) monies awarded to the Municipality through court orders and judgments;
- (d) fines; and
- (e) monies owed to the Municipality by the Municipality staff (staff debts);

**“Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as amended;

**“Tenant”** means in relation to this Policy, a person who entered into a lease agreement with a Landlord; and became a Customer of the Municipality prior the adoption of section 3.1 of this Policy .This excludes tenants referred to in section 3.3 and 14.5 and Social Housing Tenants as mentioned in this Policy;

**“Tenderer”** means a contractor, service provider or supplier who has submitted a tender for the provision of services or the delivery of goods to the Municipality;

**“Water services”** means the supply of potable water and, where a municipal sewerage reticulation system exists, the disposal of sewage;

## PROVISION OF MUNICIPAL SERVICES

### 3. REGISTRATION FOR THE PROVISION OF MUNICIPAL SERVICES

- 3.1 **Residential property** - The Municipality will endeavour to register **owners only** for services on their properties. Tenant registrations that are currently in place will continue until the tenant vacates the premises, the account is closed or the Municipality cancels the contract of the tenant that is in default in terms of subsection 6.1 (b) of this Policy.
- 3.2 **Business property** - The Municipality will only enter into new contracts for the provision of Municipal services with tenants if the owner of the property is a multi-property owner as defined in this Policy, and the municipal accounts on all of his or her properties are paid. Where the landlord is not a multi-property owner, the owner of the property must register for the provision of Municipal services.
- 3.3 When the owner of the property is a Bulk Customer, the CFO, at his or her discretion, may allow tenants of the bulk customer to be registered for municipal services on the property concerned, upon submission of any documents or information that may be requested by the CFO.
- 3.4 **Government property** - The Municipality will continue to register tenants for services. The respective Government Departments shall be held liable for the debts on their own property.
- 3.5 **Sundry accounts** – A Person must provide the Municipality with a municipal account number. If the Person does not have an existing municipal account then a new account must be created.
- 3.6 The Municipality shall whenever possible, combine any separate accounts of a person who is liable for payment to the Municipality, into one consolidated account.
- 3.7 No registrations or additions to the customer database can be processed unless legal documentation acceptable to the CFO has been produced in each instance.

- 3.8 If there is an outstanding debt on the property this debt must be settled in full, or suitable payment arrangements must be made by the owner of the property, before a Customer or owner is registered for services. This section does not apply to a new owner who has taken transfer of property and applies for a Municipal service.
- 3.9 Customers who fail to register and who illegally consume services will be subjected to such administrative, civil or criminal action as the Municipality deems appropriate.
- 3.10 Where the purpose for or extent to which any Municipal service used is changed, the onus and obligation is on the Customer or owner to advise the Municipality of such change.
- 3.11 A Person applying for a Municipal service must enter into a Service Agreement with the Municipality in order for such Municipal service to be provided.
- 3.12 **Documentation and Information (Juristic Persons)**- An application by a Juristic Person for a Municipal service must include –
- (a) The submission of a resolution delegating authority to the applicant and furnishing, if applicable, the Juristic person's Registration Number or Trust Reference Number with the Master of the High Court.
  - (b) The names, identity number, cell phone number, physical and postal addresses, email addresses and any other particulars of all the directors (excluding ex-officio directors as contemplated in the Companies Act, 2008 (Act 71 of 2008) or members or trustees or proprietors or partners.
  - (c) Certified copies of the following where applicable:
    - (i) Current Letter of Authority of the Trustee(s).
    - (ii) Identity documents of the persons referred to in (b) above.
    - (iii) CIPC registration documents.
    - (iv) Constitution.
  - (d) A signed Direct Debit form in the prescribed form.

- 3.13 A person may be required to provide to the Municipality with personal information, as may be prescribed, for any purpose contemplated in this policy, amongst others, all contact details (such as postal/physical/email address.), proof of identification, financial information and any other relevant documentation, as may be required by the Municipality from time to time (such as a lease agreement or a title deed).
- 3.14 All information furnished may be verified by the Municipality with any or all data information institutions, credit information bureau's and any financial institutions as may be deemed necessary by the Municipality in determining a person's credit worthiness or for any other reason as determined by the CFO.
- 3.15 The Municipality 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 the Municipality.
- 3.16 A full payment or an arrangement must be entered into for all properties held by the prospective account holder with the Municipality prior to opening of new accounts.

#### 4. DEPOSITS

- 4.1 Upon date of ownership transfer, a deposit will be automatically raised, based on the criteria determined by the CFO, from time to time which include but are not limited to the Customer's profile, the risk the Customer poses to the Municipality, previous consumption, connection type and size of the metered Municipal service.
- 4.2 Where a tenant terminates a Services Account, consumption charges emanating from a meter must thereafter be linked to the owner's rates account and a deposit will be raised once consumption is recorded and will become due in the next months' bill.
- 4.3 The Municipality may appropriate a Customer's deposit on any account related to that Customer.
- 4.4 Notwithstanding receipts for different services, deposits payable to the Municipality shall be a consolidated deposit, paid **in cash**.



- 4.5 Where a business customer does not present a valid South African ID Document, a deposit equivalent to twice the prescribed deposit shall apply, in addition to the personal suretyships.
- 4.6 If a Customer is in arrears, the deposit may, upon due notice, be increased.
- 4.7 The Municipality may utilise the consolidated deposit as security for any or all of the charges or amounts owed by the customer as included in the statement of account.
- 4.8 No deposit will be raised on property where there is no consumption however an availability fee shall be raised.
- 4.9 Where a tenant has absconded leaving a debt on a property, an additional deposit, equal to the debt on the property, may be raised on any other account held by the tenant with the Municipality.
- 4.10 No deposit will be levied on an indigent consumer account.
- 4.11 **Guarantees**
- a. Existing Guarantees held by the Municipality in lieu of a Deposit shall be honoured for the duration of the contract with the Municipality.
  - b. Addendums to existing Guarantees shall not be accepted. The additional deposit must be paid in cash.
  - c. Where guarantees are held in lieu of deposits, such guarantee shall be presented for payment and a new deposit shall be raised on any arrear account.
  - d. Notwithstanding the provisions of section 4.12 (a), a Financial Guarantee issued by a registered South African Bank and in a form acceptable to the CFO, may be furnished by an applicant for a Municipal service in lieu of the Deed of Suretyship referred to in section 3.12(e) above. Written application to furnish

such a Financial Guarantee must be made to the CFO who shall have the right to conduct a full financial analysis and credit check of the applicant and to call for such other documents and have regard to such other information as may be considered relevant to the consideration of the application.

- e. The CFO may demand or accept, a Financial Guarantee issued by a registered South African Bank on behalf of a contractor, in favour of the Municipality as security for any damage or loss that is incurred by, or may be sustained by the Municipality during the course of any work undertaken by the contractor in the circumstances set out in section 33.1.
- f. Where municipal property is alienated, the CFO may accept the lodging of a Financial Guarantee, in a form acceptable to the CFO, in lieu of a cash deposit on the purchase price.
- g. The CFO may, on written application, permit a person to substitute a Financial Guarantee referred to in (e) with another Financial Guarantee either from the same guarantor or a different guarantor, provided there is no risk to the Municipality.

#### 4.12 **Review of Deposits**

- a. If the Customer poses a credit risk, the value of the original deposit paid or an existing guarantee held by the Municipality, may be reviewed from time to time by the CFO.
- b. The deposit on an account shall be reviewed when–
  - i. Annually
  - ii. the Account is paid after the due date;
  - iii. payment by negotiable instrument or direct debit is dishonoured; or
  - iv. there is increased consumption of services.
- c. The deposit will be increased annual as per the approved tariffs
- d. The Municipality may increase the deposit payable by a Customer by up to 12 months average usage.

4.13 **Interest Payable on Cash Deposits**

The Municipality will not pay interest on cash deposits.

## **ACCOUNTS MANAGEMENT**

### **5. ACCOUNTS**

- 5.1 The Municipality will deliver notices, any other document and accounts in accordance with section 115 of the Systems Act. A Customer may register for another mode of transmission as set out in the Credit Control and Debt Collection By-Law. In the case of multiple-ownership, the account will be delivered to any one of the owners.
- 5.2 Subject to the provisions of section 95(e) of the Systems Act, a failure to receive or accept accounts does not relieve a Customer of the obligation to pay any amount due and payable. The onus is on the Customer to make every effort to obtain a copy of the account, or establish the amount payable for payment.
- 5.3 The Municipality or an authorised official must, if administratively possible, issue a duplicate account to a customer on request. The Municipality will provide owners with copies of their tenant's accounts if requested in writing.
- 5.4 The Municipality may post annual rates assessment for record purposes.

- 5.5 With the exception of Government Accounts, assessment rates shall be billed on a monthly basis, and may only be billed annually by prior written agreement, subject to the Rates Policy of the Municipality.
- 5.6 Customers are required to update their information details with the Municipality promptly whenever information on record changes and or whenever requested by the Municipality. A failure to update information with the Municipality or a failure to respond to the Municipality's request for updated information may, subject to the principles of administrative justice, result in the restriction of services, disconnection of services or prosecution. Such update of information includes, but is not limited to-
- a. Details of executors or administrators of deceased estates;
  - b. Deregistration or termination of a company, close corporation or trust if the company, close corporation or trust is the account holder;
  - c. Details of deceased company directors, members of Close Corporations and trustees of Trusts;
  - d. Details of deceased - partners
    - (i) Company directors;
    - (ii) Members of close corporations; or
    - (iii) Trustees of Trusts;
  - e. Letters of appointment of a Trustee or Liquidator in the case of an insolvency /liquidation together with contact particulars.
  - f. Contact details of the Customer;
  - g. Notice of a company or close corporation placed under business rescue or liquidation and
  - h. Any change of members, trustees or directors of a juristic person.
- 5.7 The payment of rates shall not be affected by reason of an objection, appeal or non-compliance with the Rates Policy of the Municipality.

- 5.8 There is no obligation on the Municipality to provide records older than 5 years from the date such records are requested.
- 5.9 Accounts may reflect actual or estimated Municipal charges.
- 5.10 In order to ensure that credit control information on owners and property is regularly updated, the Municipality's Building Plans Assessment Department must provide the CFO with monthly returns of all applications submitted in terms of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977). Such monthly returns must contain the name of the owner of the property, the nature of the application and application reference number, as well as the deeds office description and street address of the property that is the subject of the application. Similar information must be provided by the Municipality's Land Use Management Department in relation to land development applications that are made under the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) read together, with the Newcastle Municipality: Planning and Land Use Management Bylaw, 2016.
- 5.11 In terms of Section 22 of the Companies Act, 2008 (Act 71 of 2008), a company may not carry on its business recklessly, with gross negligence, with intent to defraud or trade under insolvent circumstances. Where a company fails to honour its obligations to the Municipality in terms of the law, and its debt to the Municipality exceeds 90 days or longer, the CFO may (without detracting from other credit control measures that may be implemented), report such company to the Companies and Intellectual Property Commission for investigation for having breached the provisions of such Act. This could result in the Commissioner issuing an order for the company or close corporation to cease trading.

## 6 RESPONSIBILITY FOR AMOUNTS DUE

- 6.1 In terms of Section 118 (3) of the Systems Act, an amount due for municipal service fees, surcharge 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. Accordingly —
- a. the owner of such property shall be liable for charges incurred in connection with such property during his or her ownership and shall remain liable irrespective of the change of ownership, and all municipal debts must be paid by the owner of such property without prejudice to any claim or right of recovery which the Municipality may have against another person;
  - b. the Municipality reserves the right to cancel a contract with the Customer in default and to register the owner of such property for services on the property; and
  - c. Subject to the right to a basic water supply as contemplated in the Water Services Act, 1997 (Act No.108 of 1997), as amended, the Municipality will not provide any services on the property until all municipal debts (other than historic debt incurred by a previous owner of the property), on the property have been paid in full or suitable arrangements have been made to pay such debts. The Municipality reserves the right to determine the manner in which access to a basic water supply will be provided.
- 6.2 Where the property is owned by more than one person, each owner shall be jointly and severally liable, the one paying the other to be absolved, for all municipal debts charged on the property.
- 6.3 Owners with their tenants who are registered as Customers shall be held jointly and severally liable, the one paying the other to be absolved, for debts on their property, except for property rates. It is in the interests of a tenant of property, however, to ensure

that the landlord provides the tenant with proof of payment of rates on the leased property, on a regular basis.

- 6.4 Refuse removal shall form part of the property debt payable by the owner of the property.
- 6.5 When a Juristic person opens a Service Account, the directors, members or trustees as the case may be must sign personal suretyships in favour of the Municipality. Liability for outstanding amounts maybe extended to such directors, members or trustees jointly and severally, the one paying the other to be absolved.
- 6.6 The Municipality may —
- a. In a case of an Owner who is in arrears:
    - (i) recover from a tenant, occupier or agent such monies as are owing by the tenant, occupier or agent to the owner, as payment of the arrears owing by such owner for so long as a tenant or occupier occupies a property in respect of which arrears are owing, or an agent acts for an owner in respect of whose property arrears are owing;
    - (ii) recover the amount in whole or in part despite any contractual obligation to the contrary on the part of the tenant, occupier or agent; or
    - (iii) recover from the tenant, occupier or agent an amount which is limited to the amount of the rent or other money due and payable, but not yet paid by the tenant, occupier or agent;
  - b. apply to the Companies and Intellectual Property Commission to re-register a deregistered company or close corporation or apply to court for an order of restoration or the voiding of the deregistration for the purposes of recovering the amounts owed by that company or close corporation for all municipal debts which have accrued and shall recover the costs of re-registration from the directors or members accordingly; or
  - c. In the case of assets accruing to the State by operation of any law [(bona vacantia) – Section 76 (2) (i) of the PMFA] collect outstanding fees from

the relevant treasury who may exercise all powers, authority and prerogatives, and fulfill any obligation on behalf of the state.

- 6.7 Should the tenant, occupier or agent refuse to pay as contemplated in subsection 6.6 to the Municipality, the services of the tenant, occupier or agent may be disconnected.
- 6.8 Should any dispute arise as to the amount owing, the Customer shall pay all amounts which are not subject to the dispute that are due and payable, pending the finalisation of the dispute lodged in respect of the specific amount owed by the Customer.
- 6.9 Subject to sections 20 and 21 of this Policy, where an existing Customer wishes to convert an existing electricity and or water supply service to a Pre-paid meter, the Customer must first settle all outstanding amounts or make a suitable arrangement to liquidate the outstanding amount as contemplated in section 24 of this Policy, before an application for a pre-paid meter may be considered.
- 6.10 On special projects identified by the Municipal Council, pre-paid meters may be zero costed in the case of indigent consumers.
- 6.11 The owner of the property may be held liable for tampering with the electricity metering equipment or the water metering equipment on the property as well as charges that arise therefrom.
- 6.12 Subject to the operation of the law, where any subsidiary company of a holding company is indebted to the Municipality, the liability for such arrears may be extended to the holding company; and where any holding company is indebted to the Municipality, the liability for such arrears may be extended to any subsidiary company
- 6.13 Debtors may be referred to a third party debt collector and tracing agent.
- 6.14 In terms of Section 102 of the Municipal Systems Act, A Municipality may
  - (a) consolidate any separate accounts of persons liable for payments to the municipality;



- (b) credit a payment by such a person against any account of that person; and
- © implement any of the debt collection and credit control measures provided for in this Chapter in relation to any arrears on any of the accounts of such a person.

- 6.14 The Municipality may enter into a Credit Authority for the liquidation of a debt by a person other than the debtor, where such person offers to settle the debt and meeting the qualifying criteria as contained in this policy or as prescribed by the CFO.

## 7 PAYMENT OPTIONS

- 7.1 The Municipality will endeavour to establish a payment network to ensure that wherever practically possible, Customers have access to a payment site within a reasonable distance of their home.
- 7.2 The Municipality shall accept payment under the following circumstances--
- a. Payment via , electronic funds transfer (EFT) or Cash for Settlement of final accounts.
  - b. Subject to a. and b. above, the following payment methods are also available:
    - (i) EFT;
    - (ii) Internet Transfers;
    - (iii) Third party collectors appointed from time to time by the Municipality;
    - (iv) Direct Debit; and
    - (v) Debit Order payments.
    - (vi) EasyPay outlets (Pick n Pay, Shoprite, Checkers, Woolworths, Pep Stores
  - c. The following shall apply for all EFT payments of the Customer's arrears accounts:
    - (i) Only proof of payments from customers will be accepted.
    - (ii) The proof of payment will be verified, where applicable, for authenticity (through the submitting bank's website).
    - (iii) All reconnection requests where services have been disconnected will ONLY be actioned once payments have been cleared and or receipted to the respective consumer accounts.

- (iv) Customers whose accounts are in arrears are encouraged to submit their proof of payment to the municipality via email or the contact numbers provided as per the disconnection notice.
- (v) Consumers are advised that normal disconnections may be reconnected within a period of 24 hours on receiving proof of payment and hard disconnections (removal of wires) may be reconnected within a period of 48 hours.

- 7.3 Where any direct debit or payment made to the Municipality or an authorised official is later dishonoured by the bank, the Municipality or its authorised official–
- a. will recover the bank charges incurred relating to that dishonoured payment against the account of the Customer;
  - b. may regard such an event as default on payment and the account shall be dealt with as an arrear account; and
  - c. reserves the right to take legal action for recovery of arrears.

7.4 The methods of payment shall be determined by the CFO from time to time.

7.5 Where a Customer signs a Credit Authority with the Municipality, payment shall, as far as possible, only be accepted via a direct debit procedure.

7.6 Account holders who can prove that they receive their salary on the 15<sup>th</sup> of the month from their employer must sign a debit order facility with the Municipality to qualify for such an extension. Should the 15<sup>th</sup> fall over a weekend then the debit order will be effected on the Friday before such date.

## **8 FULL AND FINAL SETTLEMENT**

8.1 Where the exact amount due and payable has not been paid in full, any lesser amount tendered and receipted, shall not be in full and final settlement of such an account, except when duly accepted in terms of a delegated authority.

8.2 The CFO must be consulted on any settlement, out of court or otherwise, that has a budgetary implication on the Municipality.

## **9 CASH ALLOCATION**

- 9.1 The Municipality may--
- a. consolidate any separate accounts of persons liable for payments to the Municipality;
  - b. credit a payment by such a person against ANY accounts of that person; and
  - c. implement any of the debt collection and credit control measures provided for in this Policy and the By-law in relation to any arrears on any of the accounts of such a person.
- 9.2 Any amounts paid may be appropriated to the oldest debt first.
- 9.3 Any amount paid by the Customer in excess of an existing debt may be held in credit for the Customer in anticipation of future rates and fees for Municipal services, and no interest will be payable on that amount.
- 9.4 The Municipality's allocation of payment is not negotiable and the Customer may not choose which account to pay.

## **10 INTEREST AND ADMINISTRATIVE CHARGES**

- 10.1 Interest will be charged on business accounts only.
- 10.2 Interest charged on government accounts previously will be reversed for arrear accounts only.
- 10.3 The legal rate of interest raised on arrears is equivalent to the rate of interest as determined in Municipal Property Regulation 9 of the Rates Regulations, 2006 or applicable legislation.
- 10.4 Interest shall accrue 30 days from date of account on unpaid accounts. Interest shall

accrue for each completed month in respect of any arrears remaining unpaid after 30 days of the account. A part of a month shall be deemed to be a completed month on the basis that interest is charged as from the first day of the account being in arrears.

10.5 Interest may only be reversed under the following circumstances–

- a. exemptions as determined by Council from time to time;
- b. if the Municipality has made an administrative error on the account;
- c. Where any debt has arisen as a result of a faulty meter or the Municipality has applied an incorrect charge, meter constant or tariff due to an administrative error;
- d. where an owner takes over the debts of the tenant; or
- e. where the CFO approves such reversal from time to time;

## **11 PROCUREMENT OF GOODS AND SERVICES AND PAYMENTS IN TERMS OF CONTRACTS**

- 11.1 When submitting a tender for the provision of services or the delivery of goods, each potential tenderer must prove to the satisfaction of the Municipality that all accounts for which the tenderer is liable, have been paid up to date, and that all accounts for which each and every director, member, owner, partner or trustee of the tenderer is liable for are also up to date or suitable payment arrangements have been signed.
- 11.2 The Municipality shall at its own discretion check whether all the municipal accounts of the tenderer are up to date. Copies of all current accounts sent to the tenderer and to each director, member, owner, partner or trustee must be attached to the tender documents.
- 11.3 Where a tenderer's place of business or business interests are outside the jurisdiction of the Municipality, a Revenue Clearance Certificate from the relevant Municipality must be produced.
- 11.4 Before awarding a tender, the Municipal debts of the tenderer and of each director, member, owner, partner or trustee of the tenderer must be paid in full or suitable payment arrangements have been signed.
- 11.5 Where payments are due to a creditor of the Municipality, or in terms of any contractual arrangement with the Municipality, any arrear amount owing to the Municipality may be set off against such payments.
- 11.6 The provisions of this Policy also apply to quotations, public tenders and tenders in terms of section 47 of the Municipality's Supply Chain Management Policy.

## **12 AGREEMENT WITH EMPLOYERS INTERMS OF SECTION 103 OF THE SYSTEMS ACT**

12.1 Section 103 of the Systems Act reads as follows—

A Municipality may—

- (a) with the consent of a person liable to the Municipality for the payment of rates or other taxes or fees for Municipal services, enter into an agreement with that person's employer to deduct from the salary or wages of that person-
  - (i) any outstanding amounts due by that person to the Municipality;  
or
  - (ii) regular monthly amounts as may be agreed.

12.2 In the event that the employee voluntarily chooses to use the method of payment as contemplated in subsection 12.1 for the payment of his or her municipal accounts, the employee may approach the Municipality for an agreement to be concluded.

12.3 A collection commission may be payable to the employer as determined from time to time.

### **13 STAFF, COUNCILLORS AND WARD COMMITTEE MEMBERS IN ARREARS**

- 13.1
- a. Item 10 of Schedule 2 to the Systems Act (Code of Conduct for Municipal Staff Members) states that–
    - i. a staff member of the Municipality may not be in arrears to the Municipality for rates and service charges for a period longer than three (3) months; and
    - ii. a Municipality may deduct any outstanding amounts from a staff member's salary after this period; and
  - b. The Municipality shall liaise with the relevant staff on repayment of their arrears.
  - c. The staff member must sign a Credit Authority and direct debit deduction form in accordance with this Policy
  - d. No special treatment shall be afforded to staff members whose accounts are arrears.
  - e. Any staff member who has breached the code will be dealt with in accordance with the disciplinary procedures adopted by the Municipality or as prescribed by Law or determined by a Collective Agreement.
- 13.2
- a. Item 12A of Schedule 1 to the Systems Act states that a Councillor may not be in arrears to the Municipality for a period longer than three months.
  - b. The Municipal Manager shall liaise with the Speaker and issue the necessary salary deduction instruction where appropriate.
- 13.3
- Where the Municipality is satisfied with the reasons supplied by the staff member or Councillor or Ward Committee Member stating why the account is in arrears, the staff member or Councillor or Ward Committee Member must pay such arrears within a reasonable period of time



- 13.4 On appointment to a higher post, employees who have signed a Credit Authority shall increase their instalments on the Credit Authority in accordance with their new salary increase.
- 13.5 The Council reserves the right to deduct any arrears from the stipend or any other amounts payable to ward committee members.

## **14 ARREAR ACCOUNTS**

### **Disconnection and Reconnection of Services**

- 14.1 Arrears on rates, services or any other consolidated debt may result in disconnection of ANY service or in a restriction of use of municipal facilities.
- 14.2 A disconnection/reconnection fee, as determined by the Council, from time to time, will be raised on all accounts printed for disconnection.
- 14.3 Any official or contractor appointed by the Municipality for the purposes set out herein, may, at all reasonable times enter any premises to which services are supplied by the Municipality, in order to inspect pipes, wires or any apparatus used for the supply of services and belonging to the Municipality, for the purpose of ascertaining the quantity of services supplied or consumed, or to disconnect or terminate such supply or remove any apparatus belonging to the Municipality.
- 14.4 Should the owner fail to allow access to the premises or the property to which services are supplied by the Municipality on three consecutive occasions, the CFO may, having given due notice, disconnect, stop, restrict or discontinue the provision of any service, and the owner, at his or her cost should opt for a pre-paid meter.
- 14.5 The owner of the property remains liable and responsible for all instances of unauthorised reconnections and disconnections, illegal connection, tampering, damage or theft of municipal infrastructure, and services installed in the property. Furthermore, the onus is upon the owner to ensure that tenants on the premises or the property refrain from such acts. Nothing precludes the Municipality from recovering charges from a previous owner where tampering is proven by the Municipality, or in a court of law, to have predated a current owner's title to the property, or where the application of the laws allows from both the previous and current owner, jointly or severally, the one paying the other to be absolved (given that the debt attaches by law to the property).

- 14.6 An unauthorised reconnection or illegal connection of, or tampering with a service supply is prohibited and shall constitute a criminal offence which shall result in legal action being taken against the owner and disconnection of Municipal services or removal of the entire services supply being effected.
- 14.7 Subject to applicable legislation, the Municipality may refuse the supply of water or electricity to a consumer who is found guilty of fraud, theft or any other criminal offence related to Municipal services, or, where it is evident that such criminal offence has occurred, until such time as the total costs, penalties, other fees, illegal consumption and any applicable tariffs and rates due to the Municipality have been paid in full.
- 14.8 Reconnections of Municipal services will only be allowed when all applicable penalties and fees have been paid and the debt has been extinguished or suitable arrangements have been made to settle the debt.
- 14.9 In addition to the other circumstances in which a Municipal service may be disconnected in terms of this policy or the By-law, services may be disconnected , after due notice has been given –
- a. Where the owner or tenant is deceased and such has not been reported to the Municipality; or
  - b. Where a company, close corporation or trust has been deregistered and such has not been reported to the Municipality, or
  - c. Where a company or close corporation is deregistered and continues to trade but fails to settle debt owed to the Municipality.
- 14.10 Reconnection of services where services have been disconnected in terms of subsection 14.10 above will be authorised when–
- a. an executor has been appointed; or
  - b. the Company or Close corporation has been re-registered.

- 14.11 In addition to the other circumstances in which a Municipal service may be disconnected in terms of this policy or the By-law, services may be disconnected, after due notice has been given –
- a. Where the owner or tenant is deceased and such has not been reported to the Municipality; or
  - b. Where a company, close corporation or trust has been deregistered and such has not been reported to the Municipality, or
  - c. Where a company or close corporation is deregistered and continues to trade but fails to settle debt owed to the Municipality.
- 14.12 Reconnection of services where services have been disconnected in terms of subsection 14.10 above will be authorised when–
- a. an executor has been appointed; or
  - b. the Company or Close corporation has been re-registered.
- 14.13 The services of Customers on pre-paid meters, who tamper with their services, will be disconnected and any amounts due to the Municipality will become payable immediately.
- 14.14 Where a Municipal service, which is not in the name of the registered owner, has been restricted, disconnected or discontinued, the CFO may, subject to the principles of administrative justice, insist that the service be transferred into the name of such property owner; and
- a. Notwithstanding subsection 14.13, the CFO may at any other time insist that the service be transferred into the name of such property owner.
- 14.15 Where a Municipal service is to be disconnected or restricted, as contemplated in subsection 14.1, due notice of intention to disconnect or restrict such Municipal service will be given not only to the debtor but also to the owner of the property, or the tenant/occupier, as the case may be, in line with the Constitutional Court decision in Joseph and Others v City of Johannesburg and Others CC 43/09.
- 14.16 Any additional grounds for disconnecting Municipal services as set out in the Bylaw, shall be deemed to form part of this Policy.
- 14.17 Any municipal employee involved in an instance of not carrying out the disconnection processes may be subjected to the relevant disciplinary procedures.

## **DOMESTIC WATER AND SEWAGE DISPOSAL CUSTOMERS**

- 15.1 Flow restrictors shall be installed in water connections of Customers who have not paid the total charges for water services (i.e. supply of portable water, and, where applicable, the disposal of sewage) for sixty (60) days or more, and who owe the Municipality more than the amount determined by the CFO from time to time, for water used and sewage discharged and who have not responded to written notification from the Municipality to–
- a. pay the outstanding amount;
  - b. meet with officials of the Municipality; or
  - c. make arrangements to settle the debt.
- 15.2 On restriction of the water supply via a flow restrictor washer, Customers have the following payment options–
- a. pay the outstanding arrear amount in respect of water service charges plus all relevant charges in full
  - b. Pay the current account and sign a payment arrangement for the arrear amount
- 15.3 In the event of tampering of a restricted supply, the Municipality may remove the entire water connection. Customers may facilitate the re- instatement of the water supply– pay the outstanding debt in respect of water services charges in full (including all charges) plus the prevailing costs of a new water connection and penalty charges;

- 15.4 Flow restrictors shall be installed in water connections of Customers who have not paid the total charges for water services (i.e. supply of portable water, and, where applicable, the disposal of sewage) for sixty (60) days or more, and who owe the Municipality more than the amount determined by the CFO from time to time, for water used and sewage discharged and who have not responded to written notification from the Municipality to–
- a. pay the outstanding amount;
  - b. meet with officials of the Municipality; or
  - c. make arrangements to settle the debt.
- 15.5 On restriction of the water supply via a flow restrictor washer, Customers have the following payment options–
- a. pay the outstanding arrear amount in respect of water service charges plus all relevant charges in full
  - b. Pay the current account and sign a payment arrangement for the arrear amount
- 15.6 In the event of tampering of a restricted supply, the Municipality may remove the entire water connection. Customers have one option to facilitate the re- instatement of the water supply–
- a. pay the outstanding debt in respect of water services charges in full (including all charges) plus the prevailing costs of a new water connection and penalty charges;

- 15.7 Flow restrictors shall be installed in water connections of Customers who have not paid the total charges for water services (i.e. supply of portable water, and, where applicable, the disposal of sewage) for sixty (60) days or more, and who owe the Municipality more than the amount determined by the CFO from time to time, for water used and sewage discharged and who have not responded to written notification from the Municipality to–
- a. pay the outstanding amount;
  - b. meet with officials of the Municipality; or
  - c. make arrangements to settle the debt.
- 15.8 On restriction of the water supply via a flow restrictor washer, Customers have the following payment options–
- a. pay the outstanding arrear amount in respect of water service charges plus all relevant charges in full
  - b. Pay the current account and sign a payment arrangement for the arrear amount
- 15.9 In the event of tampering of a restricted supply, the Municipality may remove the entire water connection. Customers have two options to facilitate the re- instatement of the water supply–
- a. pay the outstanding debt in respect of water services charges in full (including all charges) plus the prevailing costs of a new water connection and penalty charges; or
  - b. The current amount, the connection costs and penalty charges must be paid immediately and sign a suitable payment arrangement for the arrear amount.

- 15.10 If a Customer has received a new connection and then tampers with it again, the connection will be removed and will not be replaced until all outstanding water debts and penalties have been paid in full.
- 15.11 All illegal connections that are found will be removed and owners and occupiers may be prosecuted by a court of law.
- a. The Credit Authority shall be cancelled on application for a revenue clearance certificate and all debts on the property shall become due, owing and payable.
- 15.12 In the event of a funeral or other function associated with the death of a family member, or a family wedding, an application may be made for temporary relief whereby the flow regulator may be removed for a specific period of up to seven days only. The application must be supported by a letter from the ward or PR Councillor. The flow regulator will be reinstated after seven days.

## **16 TERMINATION OF SERVICES AND SERVICES AGREEMENT**

- 16.1 At least fourteen (14) days' notice is required from the Customer upon termination of an account, to enable the Municipality to take final meter readings and process account adjustments.
- 16.2 Once the account is terminated, the account must thereafter be linked to the owner's rates account.
- 16.3 Unless otherwise directed by an order of court, the Municipality will not terminate or disconnect water and or electricity supply, at the request of a Landlord or owner, where there are occupiers on the property or premises and the Landlord or the owner is not a Customer in respect of such supply.



- 16.4 A Customer who wishes to terminate, disconnect or remove a water and or electricity supply where there are occupiers on the property or premises, must, before such an application may be considered:
- (a) Provide the Municipality with proof that the occupiers have been given 14 days' notice of the proposed termination (not later than 30 days prior to the lodging of an application with the Municipality); and
  - (b) Settle all amounts owing to the Municipality or make a suitable arrangement to liquidate the debt as contemplated in section 24 of this Policy.
- 16.5 The requirement to give 14 days' notice mentioned in subsection 18.4 above, is in line with the Constitutional Court decision in Joseph and Others v City of Johannesburg & Others CCT 43/09 and the principles of administrative justice.
- 16.6 The Municipality may exercise its common-law right where a tenant on a property is in breach of his or her contract with the Municipality, and link the debt to the owners' account. The tenant shall forfeit his or her deposit to the owner where the outstanding debt is paid by the owner.
- 16.7 The Municipality may terminate a service agreement, having given a written notice of not less than 14 days to the Customer, if the Customer concerned has breached or failed to comply with any specific term or condition of the service agreement, and has failed to remedy such breach or rectify such failure after service on such Customer of a notice to do so in terms of section 11 of the Credit Control and Debt Collection By-law.

## **17 UNALLOCATED CONSUMPTION**

17.1 A registered owner remains liable to monitor his /her property as well as meter readings even if all electricity or water services have been disconnected. Accordingly when electricity and water consumption is recorded on a property during a period for which there is no registered Customer against whom a bill can be raised, the relevant charges for electricity and water services shall be raised against the registered owner on his or her consolidated bill. Furthermore, the Municipality has the right to remove relevant

Municipal infrastructure (and other components) at the cadastral boundary of the property to ensure that ongoing electricity and or water consumption, is terminated.

## **18 METER READINGS**

The Municipality may estimate readings and read meters in accordance with the period prescribed in the respective water and electricity Policies and By-laws.

## 19 REVENUE CLEARANCE CERTIFICATES

Subject to Sections 118(1) and (1A) of the Systems Act, the following shall apply to the issue of a revenue clearance certificate for the purpose of effecting transfer of a property to a new owner.

### 19.1 Assessments–

- a. an application shall be made by a conveyancer, in the prescribed form. Each application must be accompanied by the relevant application fee. The application will not be processed until the fee is paid.
- b. copies of all current accounts must accompany any application made manually or electronically, as the case may be. If the relevant information is not provided, the application will be returned to the conveyancer.
- c. the Municipality does not accept responsibility for errors on manual applications. The Conveyancer must check that all details on the application, assessment and the revenue clearance certificate are correct.
- d. assessed figures are calculated in advance based on the period determined by the CFO. Municipal charges are estimated based on previous consumption, taking into account any existing Property Rates Rebate. However, in the case of a transfer of a share in a deceased estate property to the heir and holder of the other share/s, assessment figures may be calculated thirty (30) days in advance if all arrear debt is paid or will be paid when the assessment is paid by the Conveyancer and the heir is already registered on the system as a Customer in respect of such property. Should the Conveyancer opt for the reduced assessment period, he/she must indicate this when making application for a revenue clearance certificate.

- e. Where an assessment is requested and there is Section 118(1) debt, and other outstanding amounts that have arisen during ownership of a property ("Section 118(3) debt"), the Municipality shall notify the Conveyancer, in writing and request an indication of the manner in which the whole of the debt will be settled. The Conveyancer must inform both the seller and the purchaser of the outstanding debt due to the Municipality.
- f. The only acceptable modes of settlement of Section 118(3) debt, other than in the case of insolvency, are: (1) full payment or (2) the furnishing of a Financial Guarantee in favour of the Municipality for the Section 118(3) debt payable on date of registration of transfer of the property.
- g. The Conveyancer must indicate to the Municipality in writing, which of the two settlement modes referred to in 22.1(f) will be used in order to settle the Section 118(3) debt. Such notification must be furnished as soon as possible but no later than 2 days after the date of issue of a revenue clearance certificate in terms of Section 118(1) of the Systems Act.
- h. an "Attorneys' Report" in respect of all amounts owing and the assessed figures, shall be issued upon the receipt of the request for the report.
- i. the assessment shall remain valid for a period of thirty (30) days from the issue date. If payment has not been received within this period, a re-assessment may be required and payment of a further application fee will apply.
- j. prior to the issue of a revenue clearance certificate for a subdivision which is still held under the title of the parent property, the owner/seller must pay all debt on the parent property. The onus rests with the owner/seller to ensure that on new sub-divisions, the debts on the parent property are fully paid.

- k. any discrepancies may result in delays in the issuing of a revenue clearance certificate, and in addition may result in the levying of additional backdated rates, penalties or charges.
- l. any amounts paid shall be appropriated to the oldest debt first.
- m. a separate application is required for each transfer.
- n. an assessment in terms of S118 (1) of the Systems Act will only be issued on request by a Conveyancer.
- o. The Municipality shall exercise its rights to recover such debt as guided by the law on the application of Section 118 of the Systems Act.
- p. the onus is on the Conveyancer to advise the seller of the provisions of section 19.1.o above.
- q. where the Municipal account is in respect of a debt consolidated under Section 102 of the Systems Act, the said consolidated account will be deconsolidated on application for a revenue clearance certificate. An account for the property subject to the Revenue Clearance application will be rendered together with the full interest that accrued on the consolidated account.
- r. Assessed figures **must** be based on, and will be issued only, once an actual reading has been done.
- s. Subject to section 19.7 of this Policy, a revenue clearance certificate shall be issued within ten (10) days of the date of payment of the amount requested in the "Attorneys' Report".

- t. Where simultaneous transfers of a property are contemplated, the Conveyancer must apply for a separate revenue clearance certificate in respect of each new transfer.
  
- u. A conveyancer must, when requesting an assessment in respect of a property to be transferred to a minor, submit an affidavit in the prescribed form providing such particulars of the minor and of the minor's guardian as may be prescribed.

19.2 Revenue Clearance Certificates–

- a. Payment of the assessment must be made in cash, EFT payments, direct debit, bank transfers or other instruments accepted by the CFO from time to time.
- b. There shall be no refunds on the cancellation of a sale or otherwise.
- c. The Certificate shall be valid for a period of sixty (60) days from date of issue.
- d. The certificate shall be endorsed with the balance owing as a charge against the property in order to bring the same to the attention of the seller, buyer and conveyancer. The onus is on the conveyancer to advise his or her clients accordingly.
- e. The Municipality reserves the right to follow any of the legal mechanisms available to it in order to recover the balance of the debt, including, lodging an urgent application to interdict the sale of the property until the debt is paid in full.
- f. All Collection Charges incurred in pursuing recovery of arrears, shall be levied against the debtor's account.

19.3 Information and contact details of the purchaser provided on the revenue clearance certificate shall be used as details of the new owner (purchaser) for the purposes of billing for rates, services and consolidated accounts, until the same has been changed by the purchaser.

19.4 On the date of ownership transfer, the previous owner's (the Seller) service agreement will be deemed to have lapsed, and the new owner (purchaser) must conclude a new service agreement with the Municipality in terms of this policy and By-law.

- 19.5 The seller shall furnish to the Municipality new contact details, in writing, comprising a postal and physical address and such further information as may be determined by the CFO from time to time, prior to the Municipality issuing the rates clearance certificate. The seller shall continue to keep the Municipality informed of any change in contact details until such time as the Municipality has confirmed in writing that all amounts that became due whilst the property was in the ownership of the seller (whether or not raised at the time of the rates clearance certificate) have been paid up. Non-compliance with this section will be regarded as an offence.
- 19.6 Subject to the application of the law, where, subsequent to the transfer of ownership of a property, the Municipality becomes aware of any Municipal Charges that ought to have been raised in terms of any Legislation (e.g. the MPRA) or this Policy against a predecessor in title to the property, the Municipality will be entitled to hold such predecessor in title liable for such Municipal Charges. If, by law, the Municipality is entitled to continue raising such Municipal Charges post transfer, the new owner will only become liable for those Municipal Charges that become due and payable with effect from the date of transfer.
- a. An example will be the levying of adjusted rates in terms of Section 78 of the MPRA on account of an event on the property (e.g. illegal building works) or a change of category (e.g. an illegal use of the property) that occurred prior to transfer and continues post transfer.
- 19.7 Where an application has been made for a revenue clearance certificate, in respect of a property on which unauthorised development has taken place, or unauthorised /illegal activities have been conducted, the application will not be processed further until such time as the Municipality has re-assessed the valuation of the property.



## 20 LEGAL ACTION.

- 20.1 Legal proceedings may be instituted by the Municipality to recover arrear amounts on service accounts, where—
- a. disconnection action yielded no satisfactory result;
  - b. disconnection action is not possible due to the nature of the services for which the account has been rendered; or
  - c. the arrears are older than ninety (90) days.
- 20.2 The Municipality may, in terms of Sections 28 and 29 of the MPRA, recover arrear rates from tenants in occupation of the relevant property, or managing agents, but only to the extent of the rent payable or amount due by the tenant but not yet paid to the owner of the property. This does not preclude further legal action against the owner.
- 20.3 For residential properties occupied by owners, all reasonable steps shall be taken to ensure that the ultimate sanction of judgment and sale-in-execution is avoided or taken as the last resort. The Municipality, however, has total commitment to follow the legal process through to judgment and sale-in-execution should the debtor fail to make use of the alternatives provided for by the Municipality from time to time.
- 20.4 Once judgment is obtained the properties will be advertised and sold through public auction, unless appropriate settlement has been made to the satisfaction of the Municipality. The Municipality shall assess annually, the appropriate minimum amount below which it will not attach homes.
- 20.5 All Collection Charges shall be debited to the relevant debtor's account.
- 20.6 Proceeds of the Sale in Execution may be appropriated to any of the debtor's accounts in arrears.

- 20.7 Metering and connection equipment remain in the ownership of the Municipality at all times and the owner of the property, on which such meters and connection equipment is installed, shall be held responsible for all instances of tampering, damage or theft. Accordingly, the owner of the property concerned is liable for any breach of this duty and may be prosecuted.
- 20.8 Where a Sectional Title Body Corporate is in arrears, the CFO may apply to court for the appointment of an administrator in terms of Section 16 of the Sectional Titles Management Scheme Act 8 of 2011, as amended, or for the joinder of the members of the Body Corporate, in their personal capacities as joint judgment debtors in respect of a judgment debt in favour of the Municipality in terms of section 15 of such Act.

## **21 CREDIT AUTHORITIES IN RESPECT OF ARREARS IN TERMS OF SECTION 58 OF THE MAGISTRATES COURTS ACT**

- 21.1 The Municipality may, at its discretion, enter into a Credit Authority in the prescribed form, incorporating a consent to judgment in terms of section 58 of the Magistrates Courts Act, with Customers and owners in arrears with municipal service fees, surcharges on fees, property rates and other municipal taxes, levies, duties and sundry charges, after consideration of an application submitted by such persons as prescribed by the Municipality.
- 21.2 The Municipality may conduct a credit check and request certain information from a Customer or owner in order to satisfy itself that the Customer or owner will be able to honor the agreement. Such credit check may include a full risk analysis of the Customer or owner concerned to determine his/hers/it's:
- (a) Risk profile as an individual/entity;
  - (b) Interests in any Juristic person;
  - (c) Affordability of the proposed debt instalments; and
  - (d) Court orders or agreements, if any, with other creditors for payment of a debt and costs in instalments
- 21.3 Before any Credit Authority is concluded, all municipal service fees, surcharges on fees, property rates and other municipal taxes, levies, duties and sundry charges must be consolidated onto one account (if not done previously) and a Credit Authority concluded for the full debt.
- 21.4 The customers' current account must be paid in full, and maintained, for the duration of the Credit Authority.
- 21.5 The owner of a property must consent in writing to a Credit Authority being entered into between the Municipality and his or her tenant.

- 21.6 Should the tenant breach the Credit Authority referred to in subsection 24.5 above, the Credit Authority and the account shall be terminated immediately with the tenant and linked to the owner's rate account.
- 21.7 Re-connection and disconnection fees, where applicable, must be paid in full before any Credit Authority can be entered into.
- 21.8 By entering into a Credit Authority, the debtor(s), and where applicable, the owner, acknowledges that failure to meet any installment will, subject to the provision of the Bylaw, result in prompt disconnection action being taken, without prejudice to any legal action that the Municipality may take to recover the arrears.
- 21.9 Credit authorities to be concluded with Juristic persons shall require;
- a. documentation and information as set out in section 3.12 above as maybe applicable;
  - b. the financial situation of the Juristic person to be reviewed taking into account latest audited financial statements and other supporting documentation relevant to their financial position;
  - c. Deeds of suretyship in favour of the Municipality, by the persons referred to in subsection 3.12 (b) above, as the case maybe; in an amount equivalent to the value of the debt plus current accounts; and
  - d. the deposit to be reviewed.
- 21.10 A Credit Authority may **not** be granted where—
- a. arrears have arisen due to dishonoured cheques or direct debit reversals;
  - b. instances of repeated meter tampering or illegal connections have been identified;
  - c. the services have been removed;
  - d. a customer has failed to honour a previous acknowledgement of debt for the payment of arrears to the Municipality, unless the CFO otherwise decides on good cause shown;

- e. the CFO determines that the customer will be unable to afford the debt repayments under the Credit Authority; or
  - f. Any other relevant factors as determined by the CFO from time to time.
- 21.11 Where any debt has arisen as a result of a faulty meter or the Municipality having applied an incorrect charge or tariff, the Customer may arrange to pay the debt over a maximum period at the discretion of the CFO.
- 21.12 The amount of the down payment and the period of the Credit Authority shall be at the discretion of the CFO.
- 21.13 The Credit Authority shall be terminated if a debtor relocates from the property. The balance owing shall become immediately due and payable.
- 21.14 The monthly installments on a Credit Authority are payable within twenty one (21) days from the date of the account notwithstanding any further extension of time printed on the face of the account.
- 21.15 A Credit Authority shall be cancelled upon application for a revenue clearance certificate on the property, and the whole debt shall become due, owing and payable, notwithstanding any agreement to the contrary.
- 21.16 Where the Credit Authority is based on interim readings, the amounts on the Credit Authority will accordingly be adjusted once the actual readings are taken. The Customer must sign any additional documentation relative to this.
- 21.17 A Credit Authority for staff and councilors shall be in accordance with section 13.
- 21.18 The customer who signs a Credit Authority may make payment to the Municipality via a Debit Order.
- 21.19 The Municipality is not a Credit Provider within the meaning of the National Credit Act, 2005 (Act No 34 of 2005). Nothing in this Policy should be construed as conferring such status on the Municipality.

## 22 DISPUTES

- 22.1 A Person who wishes to lodge a dispute in respect of an account must submit the dispute in writing, on the prescribed form in the case of rates, to the Authorised Official as defined in this Policy stating the reasons for such dispute and any relevant facts, information or representation which the Authorised Official should consider to resolve the dispute.
- 22.2 The dispute must be submitted within twenty one (21) days of the account. If a dispute is raised after this period, it will be treated as an enquiry, the account will not be suspended and normal credit control procedures will apply.
- 22.3 The dispute must relate to a specific amount on the account. Amounts not in dispute must be paid in full. If the amounts not in dispute remain unpaid, services may be disconnected.
- 22.4 Should any dispute arise with respect to the amount owing, the debtor must continue to make regular payments based on the average charges for the preceding three (3) months prior to the dispute, plus interest where applicable. A debtor may not raise a dispute under this Policy in relation to rates levied on a property due to its categorization of Unauthorised or Illegal Development in terms of the MPRA. The legal remedies to object or appeal against such categorization, are contained in the MPRA
- 22.5 A query is not regarded as a dispute. A query is a verbal inquiry whereas a dispute must be in writing and lodged with the relevant municipal department or section.
- 22.6 Proven tampering charges are not regarded as a dispute. Where a charge or penalty has been legally raised in relation to an Illegal Connection, a person may not raise a dispute in terms of this section 25. Any legal remedies must be invoked under the legislation that gave rise to the charge or penalty. The charge or penalty remains payable unless reversed by law.
- 22.7 The person contemplated in 25.1 above must provide the Authorised Official with the account alleged to be in dispute, which includes incorrect readings, misallocation of payments, incorrect tariffs charged and incorrect property values used and any other relevant information that may be required.

22.8 The Authorised Official:

- a) May investigate or cause the dispute to be investigated within thirty (30) days , or as soon as possible after such dispute is received;
- e) May call for additional information /documentation from a Customer who disputes an account;
- f) Must inform the person in question , promptly, in writing, of his or her finding after conclusion of the investigation; and
- g) Must take a decision, based on the spirit of the Policy.

22.9 A dispute submitted above shall not stop or defer the continuation of any credit control and legal procedure already instituted for the recovery of arrear payments relating to such dispute.

22.10 A Person has the right to appeal to the CFO against the decision of the Authorised Official. The CFO may hear representations and either confirm, vary or revoke the decision of the Authorised Official and must communicate his decision within 30 days of date of receipt of the appeal or as soon thereafter as possible.

22.11 A person whose rights are affected by the decision of the CFO may lodge an appeal against that decision within 21 days of the date of notification of the decision, to the Municipal Manager in terms of section 62 of the Systems Act. The appeal must be lodged on the prescribed form.

22.12 Disputes regarding the General Valuation Roll must be submitted to the Municipality's Real Estate Unit in the form of an objection or appeal as envisaged by Sections 50 and 54 of the MPRA. The account must be paid in full until an objection or appeal outcome is reached where after the account will be credited or debited accordingly.

## 23 REFUNDS

23.1 Credits on accounts shall only be refunded:

- 23.1.1 On application and subject to all the Customer's accounts being fully paid,
- a. to the account holder, on a water services or electricity account; or
  - b. to the owner; or
  - c. to the conveyancer to pay the buyer or seller, on/after transfer of a property,

unless otherwise directed by an order of Court.

23.2 The provisions of subsection 26.1.1 above shall also apply to any credits that may arise from an objection or Appeal process.

23.3 A refund shall be forfeited after 3 years if it remains unclaimed.



## 24 DECEASED ESTATES

- 24.1 Subject to subsection 27.7, the Executor or representative of a Deceased Estate shall be liable for payment of all debts on the property.
- 24.2 Notwithstanding the provisions of section 3, for the purposes of liability for an account, including a consolidated account, the occupier or occupiers of a property which vests in a deceased estate where neither an executor nor representative has been appointed, will be regarded as the Deemed Owner. The CFO may request a deemed owner to sign a Service agreement. Where there is more than one occupier on the property, every occupier will be jointly and severally liable for an account or consolidated account.
- 24.3 "Deemed Ownership" does not confer any rights on an occupier other than the liability to pay the accounts or as contemplated in this policy.
- 24.4 In accordance with subsection 14.10, failure to inform the Municipality that the property forms part of a deceased estate may result in the disconnection of services, until an executor or representative has been appointed.
- 24.5 Where a deceased estate is insolvent (liabilities exceed all assets) and a property is sold by the executor pursuant to section 34 of the Administration of Deceased Estates Act, 1965 (Act 66 of 1965), the Municipality enjoys preferent creditor status in terms of section 118 (1) of the MSA. Accordingly, no revenue clearance certificate will be issued until all amounts assessed for the prescribed 2 year period, have been paid. The  
balance of the debt will be dealt with as guided by the law on the administration of deceased estates.
- 24.6 Where a deceased estate has not been wound up within a period of 3 years, then the Municipality, without derogating from such other rights as may exist in law, may disconnect a Municipal service to the property, or review the provisions of any applicable Service Agreement.
- 24.7 The Municipality may conclude a Credit Authority with any person who wishes to settle a deceased person's debt or a portion thereof. This provision is intended to assist family members of a deceased person or an occupier of property that is vested in a

deceased estate, to receive Municipal services pending the winding up of an estate.

## **25 IRRECOVERABLE DEBT**

25.1 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;
- 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;
- c. the cost to recover the debt does not warrant further action;
- d. it has been proven that the debt has prescribed;
- e. the debtor is untraceable or cannot be identified so as to proceed with further action;
- f. the debtor has emigrated leaving no assets of value to cost-effectively recover the Municipality's claim;
- g. it is not possible to prove the debt outstanding;
- h. a court has ruled that the claim is not recoverable;
- i. the claim is subject to any order of court;
- j. the claim is subject to an out of court settlement agreement;
- k. the debt is subject to a settlement in terms of section 109 of the Systems Act;
- l. the Municipality has resolved that the debt is irrecoverable;

- m. if an offer of Full and Final Settlement is accepted and confirmed in writing by the Head: Legal and CFO if it has financial implications;
- n. the outstanding amount is -
  - i. as a result of an administration error;
  - ii. an interest as a result of a property debt that arose prior to the current owner taking transfer and successive transfers before his; or
- o. expenditure incurred in respect of internal accounts raised in the name of the Municipality, in any previous financial year;
- p. conversion of old dormant account balances of debtors, inherited from the previous municipalities which now form part of the Municipality, and where reasonable steps have been taken to recover these debts; or
- q. where the Municipality-
  - i. expropriates any property; or
  - ii. purchases any property in terms of its Sales in Execution.

25.2 Provided there is sufficient provision for bad debt, the CFO shall write off any revenue which is irrecoverable or the recovery of which is considered not to be reasonably practicable.

25.3 The CFO must report to Council all amounts that have been written off as irrecoverable with the Section 71 MFMA report

## **26. INCENTIVE SCHEMES**

Incentive schemes may be implemented at the discretion of the CFO from time to time to encourage the payment of municipal accounts.

## 27. DEBT RELIEF PROGRAMME

27.1 The debt relief programme is aimed at assisting Customers who are in arrears for rates and services charges, for a period of sixty (60) days or more. Customers, excluding staff and Councillors, eligible for the debt relief programme are those families–

- a. who reside on property with a rateable value as determined by the Municipality at its annual budget; or
- b. who, irrespective of the property value, are confirmed by the CFO as being too poor to be able to afford their current service charges debt; after having taken into consideration an assessment report from a Municipal Official in terms of subsection 16.2.b; or
- c. where the Customer has temporarily lost employment and has been verified through the ITC system

27.2 The following criteria must be met before a Customer will be regarded as eligible for debt relief:

- d. a comprehensive report by the ward or PR councillor on the Customer and status as contemplated in 16.1 b. and/or 16.1 c must be submitted to the Municipality;
- e. an assessment and report by the municipal official who would present his or her opinion, based on a site visit, on whether the family qualifies for debt relief;

27.3 Upon approval of the Customer's eligibility for debt relief by the CFO, the debt may be written off or the subsidy (that equivalent to the indigent) may be provided for the specified period of relief. The CFO must report the writing off of all debt in terms of this section to the Municipal Council by compiling a report in terms of with the Section 71 of the MFMA.

## **28. BUSINESS RESCUE**

28.1 In terms of Section 118 (3) of the Systems Act, an amount due for municipal service fees, surcharge 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. Accordingly

28.1.1 Where in terms of the Companies Act, 2008, a company is required to publish a notice in terms of subsection (3)(a) or (4)(b) of Section 129 relating, respectively to the adoption of a resolution to be placed under business rescue or the appointment of a business rescue practitioner, it must simultaneously give notice to the Municipality.

## **29. MISREPRESENTATION**

29.1 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 commits an offence and, in addition to criminal proceedings, remedial measures will be taken in a manner as determined by the Municipality from time to time, and the CFO--

- (a) Will reverse all benefits and relief received;
- (b) Will raise any fee, as determined by Council from time to time, as set out in the Tariff Policy; and
- (c) Will cancel any Credit Authority and all amounts due to the Municipality will become payable immediately.

29.2 The Municipal Manager shall report any misrepresentation in terms of this Policy to the South African Police Services.

