

PORT ST JOHNS MUNICIPALITY



PORT ST JOHNS
• MUNICIPALITY •
OUR HERITAGE, OUR PEOPLE

CREDIT CONTROL AND DEBT COLLECTION POLICY

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PREAMBLE

Whereas s152 (1) (b) of the Constitution of the Republic of South Africa Act 108 of 1996 ('the Constitution') provides that one of the objects of local government is to ensure that the provision of services to communities occurs in a sustainable manner.

And whereas s153(a) of the Constitution provides that a municipality must structure its administration, budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community.

And whereas s195 (1) of the Constitution provides that the public administration must be governed by the democratic values and principles enshrined in the Constitution, including:

- ❖ The promotion of the efficient, economic and effective use of resources.
- ❖ The provision of services impartially, fairly, equitably and without bias; and
- ❖ The fact that people's needs must be responded to.

And whereas s4(1) of the Local Government: Municipal Systems Act 32 of 2000 ('the Systems Act') provides that the Council of a municipality has the right to finance the affairs of the municipality by charging fees for services, imposing surcharges on fees, to the extent authorised by national legislation, other taxes, levies and duties.

And whereas s5 (1) (g), read with (2)(b), of the Systems Act provides that members of the local community have the right to have access to municipal services which the municipality provides, provided that, where applicable and subject to the policy for indigent debtors, pay promptly for service fees, surcharges on fees, other taxes, levies and duties imposed by the municipality.

And whereas s6 (2)(c), (e) and (f) of the Systems Act provides that the administration of a municipality must take measures to prevent corruption; give members of a local community full and accurate information about the level and standard of municipal services that they are entitled to receive; and inform the local community about how the municipality is managed, and of the costs involved and the persons in charge.

And whereas Chapter 9, s95, 96, 97, 98, 99 and 100 of the Systems Act provides for Customer Care Management, Debt Collection responsibility of the municipality, contents of the policy and by-laws that give effect to the policy, supervisory authority and implementing authority.

The Credit Control and Debt Collection Policy of the Port St John's Municipality (hereafter the Municipality) will be adopted by the Council.

PURPOSE

It is vital to the long-term financial viability of the Port St John's Municipality (hereafter the Municipality) that it collects the revenues (such as service charges, rates and taxes) due to it for services rendered. In terms of s96 of the Systems Act, a municipality:

- ❖ Must collect all money that is due and payable to it subject to this Act and any other applicable legislation; and
- ❖ For this purpose, must adopt, maintain, and implement a credit control and debt collection policy, which is consistent with rates and tariff policies and complies with the provisions of this Act.

This means that appropriate credit control and debtors' mechanisms must be maintained. The services provided by the Municipality include, refuse removal and other municipal services.

DEFINITIONS

Act	The Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) as amended from time to time.
Arrangement	A written agreement entered into between the municipality and the debtor where specific repayment arrangements are agreed to.
Arrears	Means those rates and service charges that have not been paid by the due date and for which no arrangement has been made.
Authorised representative	Person or entity legally appointed by the Council to act or to fulfill a duty on its behalf.
Accounting Officer	The person appointed in terms of section 82(1) (a) or (b) of the Municipal Structures Act; 1998 (Act 117 of 1998) and include any person acting in that position or to whom authority was delegated.
CFO	Means a person designated in terms of section 80 (2) (a) of the MFMA
Municipal Council	Means the council of a municipality referred to in section 18 of the Municipal Structures Act.
Credit control	All the functions relating to the collection of monies owed by

	ratepayers and the users of municipal services.
Customer	Any occupier of any premises to which the municipality has agreed to supply or is actually supplying services, or if there is no occupier, then the owner of the premises and includes any debtor of the municipality.
Defaulter	Any person who owes the municipality arrear monies in respect of rates and/or service charges.
Engineer	The person in charge of the civil/infrastructure/technical and/or water and sanitation services department of the municipality.
Equipment	A building or other structure, pipe, pump, wire, cable, meter, engine or any accessories.
Implementing authority	Means the Accounting Officer or his or her nominee, acting in terms of s100 of the Systems Act.
Interest	A charge levied with the same legal priority as service fees and calculated at a rate determined by the municipality from time to time on all arrear monies.
Municipal account	An account rendered specifying charges for services provided by the municipality, or any authorised and contracted service provider.
Municipality	Refers to Port St John's Municipality
Municipal services	Those services provided by the municipality, such as, inter alia: -the supply of electricity, refuse removal and other municipal services

	for which services charges are levied
Occupier	Any person who occupies any property or part thereof, without regard to the title under which he or she occupies the property
Owner	<p>The person in whom from time to time is vested the legal title to premises.</p> <p>In a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative.</p> <p>In a case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of such premises with a building thereon.</p> <p>In the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof.</p> <p>In relation to:</p> <p>A piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act 1986 (Act 95 of 1986), and without restricting the above the developer or the body corporate in respect of the common property; or</p> <p>A section as defined in such Act, the person in whose name such a</p>

	<p>section is registered under a sectional title deed and includes the lawfully appointed agent of such a person.</p> <p>Any legal person including but not limited to:</p> <ul style="list-style-type: none"> i) A company registered in terms of the Companies Act, 1973 (Act 61 of 1973), a trust, a closed corporation registered in terms of the Closed Corporations Act, 1984 (Act 69 of 1984) and a voluntary association. ii) Any department of State; any Council of Board established in terms of any legislation applicable to the Republic of South Africa. iii) Any Embassy or other foreign entity
Supervisory authority	Means the Mayor of the Municipality or his or her nominee, acting in terms of s99 of the Systems Act.

PRINCIPLES

- ❖ The administrative integrity of the municipality must be maintained at all costs. The democratically elected Councillors are responsible for policy making, while it is the responsibility of the Accounting Officer to ensure the implementation of the policies.
- ❖ All customers must complete an official application form, formally requesting the municipality to connect them to service supply lines. Existing customers may be required to complete new application forms from time to time, as determined by the Accounting Officer.
- ❖ A copy of the application form, conditions of services and extracts of the relevant Council's credit control and debt collection policy and by-laws must be handed to every customer on request at such fees as may be prescribed by Council.
- ❖ Upon change of ownership, the municipality must advise the new owner in writing that the relevant policies are available at the municipality for their perusal.
- ❖ All relevant billing is to be accurate, timeous, and understandable.
- ❖ The customer is entitled to reasonable access to pay points and to a variety of reliable payment methods.
- ❖ The customer is entitled to an efficient, effective, and reasonable response to appeals, and should suffer no disadvantage during the processing of a reasonable appeal.
- ❖ Enforcement of payment must be prompt, consistent and effective.
- ❖ Incentives and disincentives may be used in collection procedures as determined by the Council from time to time.
- ❖ The collection process must be cost-effective.
- ❖ Results will be regularly and efficiently reported by the Accounting Officer and the Mayor.
- ❖ Application forms will be used to, inter alia, categorise customers according to credit risk and to determine relevant levels of services and deposits required.

- ❖ Targets for performance in both customer service and debt collection will be set and pursued and remedies implemented for non-performance.

PART 1: OBJECTIVE AND CONSTITUTIONAL OBLIGATIONS

The council of the municipality, in adopting this policy on credit control and debt collection, recognizes its constitutional obligations to develop the local economy and to provide acceptable services to its residents. It simultaneously acknowledges that it cannot fulfil these constitutional obligations unless it exacts payment for the services which it provides and for the taxes which it legitimately levies – in full of those residents who can afford to pay, and in accordance with its indigency relief measures for those who have registered as indigents in terms of the council's approved indigency management policy.

PART 2: EXPECTED FUTURE PAYMENT LEVELS

In terms of the budgets approved by the council, and in accordance with commonly accepted best practice, this municipality will have to strive to ensure that payment levels for the present and future financial years, in respect of all amounts legitimately owing to the municipality (that is, inclusive of the balance of the monthly accounts payable by registered indigents) are maintained at an annual average of at least 85%.

It is generally accepted by this council that payment levels averaging below 85% per month are untenable and are a certain forerunner of financial disaster for this municipality. Even with payment levels of 85%, the council will annually have to provide on its expenses budget a contribution to bad debts 15% of the remainder of the aggregate revenues legitimately owing to this municipality – a contribution that is made at the direct cost of improved service delivery and developmental projects.

The only solution to the ongoing problem of non-payment by residents who can afford their monthly commitments to the municipality is to introduce a twofold approach; to promulgate credit control and debt collection by-laws which deal stringently with defaulters, but at the same time – through the formal political structures of the municipality, and in the administration's general dealings with the public – to make the community aware of its legal obligations towards the municipality, and to emphasise the negative consequences for all if non-payment continues. The municipality's ward committees are particularly charged with this responsibility.

PART 3: INSTITUTION OF LEGAL PROCEEDINGS

If an accountholder has not paid arrears owing to the municipality, including the interest raised on such account or made an acceptable arrangement with the municipal manager for the payment in arrear account, including interest raised on such an account, which is over 90 days in respect of domestic and over 30 days in respect of businesses, the municipal manager shall forthwith.

- (a) Hand such account over for collection and such further action as is deemed necessary to the municipality's attorneys or any debt collecting agency appointed by the council unless the cost of such collection and prospects of recovery in relation to the amount of the arrears concerned would render such action non-cost effective.
- (b) Such further action shall include, if necessary, the sale in execution of such property to recover arrear property rates and service charges (If the accountholder is also the owner of the property).
- (c) All legal expenses incurred by the municipality shall be for the account of the defaulting accountholder.

NOTICE OF DEFAULT AND INTENDED TERMINATION OR RESTRICTION OF SERVICES

Within 7 (seven) calendar days after each monthly due date for payment of municipal accounts for property rates and/or service charges, the municipal manager shall dispatch to every defaulting account holder, that is, every account holder who as at the date of the notice has not paid the monthly account in full or has not made an acceptable arrangement with the municipal manager for partial or late payment, a notice stating that unless full payment is received or an acceptable arrangement made with the municipal manager for partial or late payment, the municipal electricity to the property to which the account in arrears relates shall be terminated 14 (fourteen) calendar days after the date of the notice concerned.

RECONNECTION OR REINSTATEMENT OF TERMINATED OR RESTRICTED SERVICES

Services to defaulting account holders terminated or restricted in terms of part 3 above shall be reconnected or reinstated by the municipal manager only when all the following conditions have been met:-

- ✓ The arrear account has been paid in full, including the interest raised on such account; or an acceptable arrangement has been made with the municipal manager for the payment of the arrear account, including the interest raised on such account.
- ✓ The charge(s) for the notice sent in terms of part 3 and for the reconnection or reinstatement of the terminated or restricted service(s), as determined by the council from time to time, have been paid in full.

- ✓ A service contract has been entered into with the municipality, as contemplated in part 10 below; and
- ✓ A cash deposit has been lodged with the municipal manager in compliance with part 11, such deposit to be newly determined on the basis of currently prevailing consumption and usage of services in respect of the property concerned or, if insufficient data is available with regard to such consumption, of the currently prevailing consumption and usage of services in respect of a comparable property.
- ✓ In the case of consumers using prepaid meters, but who have fallen into arrears with the remainder of their obligations to the municipality, no prepaid purchase shall be accepted until the outstanding arrears have been settled or an acceptable arrangement made for the payment of the arrear account, as contemplated above; such arrangement may entail the limitation of the amount of prepaid services which may be purchased until the arrears or a stated percentage of the arrears has been settled.

PERIODS FOR RECONNECTIONS OR REINSTATEMENTS

The municipal manager shall reconnect or reinstate terminated or restricted services within 3 (three) working days after the date on which the conditions set out in part 4 have been met, unless the municipal manager is unable to do so because of circumstances beyond the control of the municipality. In the latter event, the municipal manager shall promptly inform the mayor of such circumstances and of any actions required to overcome the circumstances concerned.

ILLEGAL RECONNECTIONS

The municipal manager shall, as soon as it comes to the notice of the municipal manager that any terminated or restricted service has been irregularly reconnected or reinstated, report such action to the Peace Officer, disconnect such service(s), and not reconnect such service(s) until the arrear account, including the interest raised on such account, the charges for the notice sent in terms of part 3 and the charges for both the original and subsequent reconnection of the service(s) and the revised deposit have been paid in full, together with such penalty as may be determined by the council from time to time. In addition, all metered consumption since the date of the illegal re-connection, or the estimated consumption if a reliable meter reading is not possible, shall also be paid in full before any reconnection or reinstatement is considered.

RESTRICTION OF SERVICES

If the municipal manager is of the opinion that the termination of services, in the case of a particular property in respect of which the account is in arrear, is not in the best interests of the community – specifically because of the potential endangerment of the life of any person, whether resident in or outside the property concerned – the municipal manager may appropriately restrict rather than terminate the services in question.

SERVICES NOT RECONNECTED OR REINSTATED AFTER FOUR WEEKS

If services have been terminated or restricted in the case of a property in respect of which the account is in arrear, and the account holder has not paid such arrears, including the interest raised on such account, or made an acceptable arrangement with the municipal manager for the payment of the arrear account, including the interest raised on such account, within a period of 28 (twenty eight) calendar days after the date of termination or restriction of the service(s) concerned, the municipal manager shall forthwith hand such account over for

collection and such further action as is deemed necessary to the municipality's attorneys or any debt collecting agency appointed by the council. Such further action shall include if necessary the sale in execution of such property to recover arrear property rates and service charges (if the account holder is also the owner of the property). All legal expenses incurred by the municipality shall be for the account of the defaulting account holder.

PART ARRANGEMENTS FOR PAYMENT OF ARREAR ACCOUNTS

Allowing defaulting account holders to decide for the payment of arrear accounts shall be at the discretion of the municipal manager.

Each defaulting account holder shall be allowed a period as determined by a minimum of 10% of gross earnings (maximum period of 1 (one) month) within which to pay an arrear account, together with the interest raised such account, and it shall be a condition for the conclusion of any arrangement that the account holder is bound to pay every current municipal account in full and on time during the period over which such arrangement extends.

If an account holder breaches any material term of an arrangement, the balance of the arrear account, together with the balance of interest raised on such account, shall immediately become due and payable to the municipality, and if the account holder defaults on such payment, the municipal manager shall terminate or restrict services to the property in question and shall forthwith hand such account over for collection as envisaged in part 8.

An account holder who has breached an arrangement as set out above shall not be allowed to make any further arrangements for the payment of arrear accounts, but shall be proceeded against, after the dispatch of the initial notice of default as envisaged in part 3 and failure by the account holder to pay the arrear account,

together with interest raised on such arrears as required in terms of such notice, as though such account holder had breached a material term of an arrangement.

SERVICE CONTRACT

A service contract shall henceforth be entered into with the municipality for each property to which the municipality is expected to provide all or any of the following services:

Electricity

- ✓ Refuse collection.
- ✓ Sewerage,

Such contract shall set out the conditions on which services are provided and shall require the signatory to note the contents of the municipality's credit control and debt collection policy, a copy of which shall be provided to such signatory, as well as the provision of the Municipal Systems Act in regard to the municipality's right of access to property.

Where the signatory is not the owner of the property to which the services are to be provided, a properly executed letter from such owner indicating that the signatory is the lawful occupant of the property shall be attached to the service contract.

Current consumers and users of the municipality's services who have not entered in a service contract as envisaged above, must do so within 2 years from the date on which the by-laws to implement the present policy are published, and failure to do so shall be considered as a default equivalent to non-payment.

PAYMENT OF DEPOSITS

Whenever a service contract is entered into in terms of part 10, the signatory shall lodge a cash deposit with the municipality as determined by council from time to time.

ALLOCATION OF PART-PAYMENTS AND APPROPRIATION OF DEPOSITS

If an account holder pays only part of any municipal account due, the municipal manager shall allocate such payment as follows:-

- ✓ firstly, to any unpaid charges levied by the municipality in respect of unacceptable cheques, notices, legal expenses and reconnections or reinstatements of services in respect of the account or property concerned.
- ✓ secondly, to any unpaid interest raised on the account.
- ✓ thirdly, to any unpaid sewerage charges.
- ✓ fourthly, to any unpaid refuse collection charges.
- ✓ fifthly, to any unpaid property rates; and
- ✓ Lastly, to any unpaid electricity charges.

This sequence of allocation shall be followed notwithstanding any instructions to the contrary given by the account holder.

In the event of an account holder's defaulting on the payment of an arrear account, as contemplated in parts 6, 8 and 9, the municipal manager shall forthwith appropriate as much of such deposit as is necessary to defray any costs incurred by the municipality and the arrear amount owing to the municipality in the same sequence that is applicable to the allocation of part payments, as contemplated above.

QUERIES BY ACCOUNTHOLDERS

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

DISHONoured AND OTHER UNACCEPTABLE CHEQUES

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

DELEGATION OF RESPONSIBILITIES BY MUNICIPAL MANAGER

The municipal manager, including any person acting in such capacity, shall be responsible to the council for the implementation of this policy and its attendant by-laws but – without in so doing being divested of such responsibility – may delegate in writing all or any of the duties and responsibilities referred to in these by-laws to any other official or officials of the municipality, and may from time to time in writing amend or withdraw such delegation(s).

ROLE OF MUNICIPAL MANAGER

Section 100 of the Municipal Systems Act 2000 (see part 24 below) clearly assigns the legal responsibility for implementing the credit control and debt collection policies and by-laws to the municipal manager.

In practice, however, the municipal manager will inevitably delegate some or many of the responsibilities specifically assigned to this office in the by-laws, as it will be administratively impossible for the municipal manager to perform the numerous other functions of this office as well as attend to frequently recurring administrative responsibilities. However, such delegation does not absolve the municipal manager from final accountability in this regard, and the municipal manager will therefore have to ensure that a proper internal reporting structure is established and consistently implemented so that the day-to-day actions of and results from the credit control and debt collection programme are properly monitored and supervised.

It is also an integral feature of the present policy that the municipal manager shall report monthly to the mayor or the executive committee and quarterly to the council on the actions taken in terms of the by-laws, and on the payment levels for the periods concerned. Such reports shall, as soon as practicably possible, provide the required information both in aggregate and by municipal ward.

In addition, such monthly report shall indicate any administrative shortcomings, the measures taken or recommended to address such shortcomings, and any actions by councillors which could reasonably be interpreted as constituting interference in the application of the by-laws.

Notwithstanding all the foregoing references to the accountability of the municipal manager in regard to these by-laws, it is incumbent on all the officials of the municipality, certainly all those who are at management level, as well as more junior officials who are directly or indirectly involved with the community and the

municipality's general customer relations, to promote and support both this credit control and debt collection policy and the application of the attendant by-laws.

The responsibilities of all officials include reporting to the municipal manager any evident breaches of these by-laws, whether by members of the community, other officials, or councillors of the municipality.

ROLE OF COUNCILLORS, RATEPAYERS, RESIDENTS AND SERVICE CONSUMERS

ROLE OF COUNCILLORS

Section 99 of the Systems Act 2000 places the important legal responsibility on the mayor or executive committee of monitoring and supervising the application of the present policy and the attendant by-laws, and of reporting to the council on the extent and success of credit control actions.

The present policy further recommends that the municipality's ward committees be actively involved in implementing the credit control and debt collection programme. The ward committees must also actively promote the present policy and ensure while the municipality's customer relations are of a standard acceptable to the community.

In order to maintain the credibility of the municipality in the implementation of the present policy and the attendant by-laws, it is essential that councillors should lead by example. Councillors, by adopting this policy, therefore pledge, not only their unqualified support for the policy, but their commitment to ensuring that their own accounts will at no stage fall into arrears.

ROLE OF RATEPAYERS, RESIDENTS AND SERVICE CONSUMERS

Fulfilling certain responsibilities, as brought about by the privilege and or right to use and enjoy public facilities and municipal services. Paying service fees and other taxes, levies and duties imposed by the municipality.

Observing the mechanisms and processes of the municipality in exercising their rights. Allowing municipal officials access to their property to execute municipal functions at a time that is agreeable by the consumer and municipal officials.

Complying with the by-laws and other legislation of the municipality. Refraining from tampering with municipal services and property.

INTEREST ON ARREARS AND OTHER PENALTY CHARGES

Simple Interest will be raised at the rate determined by the Municipality from time to time as a charge on all accounts not paid by the due date in accordance with applicable legislation.

Interest shall be charged on all arrear accounts at the prevailing overdraft rate offered by the municipality's bankers.

If the municipality uses more than one banking institution it shall for the purposes of determining the interest on arrear accounts apply the overdraft rate offered by the institution with which its primary bank account is placed.

Interest shall be calculated monthly. For purposes of determining arrear amounts, all amounts unpaid including interest previously raised and penalty charges, but excluding value added tax, shall be taken into account.

In considering each annual budget the council shall review the adequacy of its interest charges, and shall determine the following for the financial year concerned: -

- ✓ charges for disconnection or restriction of services
- ✓ charges for reconnection or reinstatement of services
- ✓ charges for notices of default
- ✓ penalty charges for illegal reconnections
- ✓ penalty charges for dishonoured cheques

INDIGENCY MANAGEMENT

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

UNCOLLECTABLE ARREARS

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

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

ARREARS WHICH HAVE ARISEN PRIOR TO THE ADOPTION OF THE PRESENT POLICY

The council shall separately consider arrears which arose prior to the adoption of the present policy and shall advise account holders of their respective obligations in regard to such arrears. In determining such obligations, the council shall regard to the quantum of such arrears, to the period over which the default occurred, and to whether the account holder concerned has registered as an indigent in terms of the municipality's policy on indigency management. The council shall further consider an incentive scheme which will appropriately encourage account holders to settle all or a stated percentage of these arrears.

BUSINESSES WHO TENDER TO THE MUNICIPALITY

When inviting tenders for the provision of services or delivery of goods, potential contractors must declare that all relevant municipal accounts owing by the bidder or its directors, owners or partners have been paid or that suitable arrangements (which include the right to set off in the event of non-compliance) have been made for the payments of arrears.

The Municipality will at its sole discretion check whether all the Municipal accounts are up to date. No tender will be allocated to a person/contractor until suitable arrangement for the repayment of arrears over the duration of the contract, has been made. The bidder must maintain arrangements and pay current instalments as provided for in any contract with the Municipality.

Where payments are due to a contractor in respect of goods or services provided to the Municipality, any arrear amount owing to the Municipality may be set off against such payments.

REPORTING AND PERFORMANCE MANAGEMENT

The Chief Financial Officer shall report monthly to the Municipal Manager in a suitable format in terms of s71 of the Municipal Financial Management Act 56 of 2003, to enable the Accounting Officer to report to the mayor as supervisory authority in terms of s99 of the Systems Act, read with s100(c). Additionally comply with section 52d and 72 of the MFMA. This report shall contain particulars on:

Debtors aging per service and customer classification, debt collection rates, debt collection initiatives and strategies.

If in the opinion of the Chief Financial Officer, the municipality will not achieve cash receipt income equivalent of the income projected in the annual budget as approved by Council, the Chief Financial Officer will report this with motivation to the Accounting Officer who will, if he agrees with the Chief Financial Officer, propose for an adjustment of the budget after mid-year assessment according to realistically realisable income levels.

The mayor *as supervisory authority shall, at intervals of three (3) months, report to Council as contemplated in s99(c) of the Systems Act and 52d of the MFMA.

INCOME COLLECTION TARGET

The long-term target is a debtor turnover ratio of 45 days, that is, debtors are expected to pay for services on average in a month and a half.

BY-LAWS TO BE ADOPTED

By-laws shall be adopted to give effect to the council's credit control and debt collection policy.

These by-laws deal severely with defaulters, and their application requires a considerable degree of commitment from the municipal manager and his or her administration, as well as from the municipality's political structures. For these by-laws to ensure the avoidance of financial misfortunes for the municipality, and to lead to sustained financial stability, their application will have to receive the constant attention of all the municipality's key role players and decision makers. If these by-laws are not constantly and consistently applied, from month to month and from year to year, the municipality's political and administrative credibility will be severely impaired, and it may not be able to avert financial collapse in the long run.

Although these by-laws envisage even the termination of basic services for defaulting account holders, this will not in itself – no matter how harsh it may seem to those councillors and officials who are disposed to greater leniency – prevent the accumulation of arrears. The monthly billing for property rates, sewerage charges and refuse removal fees will continue in respect of defaulting account holders, even though their consumption of electricity may have been terminated or restricted. The termination or restriction of services must therefore be seen merely as a vital first step in the credit control programme, and the commitment by the municipality to follow up such actions with the full force of the law at the municipality's disposal is an essential further step if the accumulation of debts is to be meaningfully curtailed.

The by-laws comply with the requirements of the Municipal Systems Act 2000, and the Municipal Finance Management Act 2003.

The by-laws also deal with the determination and payment of consumer deposits, and the present policy effectively differentiate in this respect between account holders who are both the owners and occupiers of the fixed property concerned, on the one hand, and account holders who are tenants of such properties, on the

other. This differentiation is essential if the municipality wishes to protect its interests in so far as tenants are concerned, but – in any event – it is not believed that a degree of differentiation imposes an unreasonable financial burden on such tenants (effectively the deposit required from owners / occupiers represents three months average consumption whereas the deposit in the case of tenants represents four months consumption).

It is not proposed that account holders who have currently not lodged deposits should be required to do so forthwith, but only within a two-year period, but that account holders who default at any future date should be immediately obliged both to sign proper service contracts and to lodge the deposits required in terms of both such contract and the by-laws.

ANNEXURE: LEGAL REQUIREMENT

It is essential for the protection of the municipality's interests that the provisions of particularly the Municipal Systems Act 2000 and the Property Rates Act 2004, in so far as they provide additional debt collection mechanisms for municipalities, be diligently enforced. At the same time, both the council and the administration must note the obligations, which the municipality has towards the community in respect of customer care and relations.

For ease of reference a paraphrase of the relevant extracts from the Municipal Systems Act, specifically Sections 95 to 103 and Section 118, are therefore appended to this policy, as are Sections 28 and 29 of the Property Rates Act.

ANNEXURE

SECTION 1: WATER SERVICES ACT NO. 108 OF 1997

SECTION 21: BY-LAWS

The Act requires a municipality, in its capacity as water services authority, to make by-laws which contain conditions for the provision of water services and which provide for the following (inter-alia):

- ✓ the standard of the services.
- ✓ the technical conditions of supply, including quality standards, units or standards of measurement, the verification of meters, acceptable limits of error and procedures for the arbitration of disputes relating to the measurement of water services provided.
- ✓ the determination and structure of tariffs.
- ✓ the payment and collection of moneys due for the water services consumed.
- ✓ the circumstances under which water services may be limited or discontinued and the procedure for such limitation or discontinuation; and
- ✓ the prevention of unlawful connections to water services works and the unlawful or wasteful use of water.

SECTION 11: LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT NO. 32 OF 2000

SECTION 95: CUSTOMER CARE AND MANAGEMENT

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

- ✓ establish a sound customer management system which aims to create a positive and reciprocal relationship between persons liable for these

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

SECTION 96: DEBT COLLECTION RESPONSIBILITY OF MUNICIPALITIES

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

SECTION 97: CONTENTS OF POLICY

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

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

The municipality, within its discretionary powers, may differentiate in its credit control and debt collection policy between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters, and, if so, must ensure that such differentiation does not amount to unfair discrimination.

SECTION 98: BY-LAWS TO GIVE EFFECT TO POLICY

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

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

SECTION 99: SUPERVISORY AUTHORITY

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

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

SECTION 100: IMPLEMENTING AUTHORITY

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

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

SECTION 101: MUNICIPALITY'S RIGHT OF ACCESS TO PREMISES

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

SECTION 102: ACCOUNTS

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

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

SECTION 103: AGREEMENTS WITH EMPLOYEES/ EMPLOYERS

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

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

SECTION 118: RESTRAINT ON TRANSFER OF PROPERTY

The registrar of deeds or any other registration officer of immovable property may not register the transfer of any property other than on the production to such registration officer of a prescribed certificate issued by the municipality in which such property is situated, and which certificate certifies that all amounts due in connection with such property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate have been fully paid.

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

CODE OF CONDUCT FOR MUNICIPAL STAFF MEMBERS

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

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

CODE OF CONDUCT FOR COUNCILLORS

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

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

SECTION 111: LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT NO. 56 OF 2003

SECTION 64: REVENUE MANAGEMENT

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

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

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

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

NOTE: SECTION 164: FORBIDDEN ACTIVITIES

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

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

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

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

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

SECTION 29: RECOVERY OF RATES FROM AGENTS

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

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

POLICY EVALUATION AND REVIEW

To be in a position to measure the outcome of this policy, the municipality believes that the output of this policy should be measured in terms of generally Recognised Accounting Practices.

ADOPTION OF THE POLICY

Policy adopted by Council of Port St Johns Local Municipality for implementation.

Approved by: Council On

Date

Resolution No.

Confirmed by the Honourable Speaker

Signature

Cllr C.S. Mazuza

