

JOZINI LOCAL MUNICIPALITY
DRAFT BY-LAWS CREDIT CONTROL AND DEBT COLLECTION



JOZINI MUNICIPALITY

CREDIT CONTROL AND DEBT COLLECTION BY-LAWS

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The Municipal Manager of the JOZINI LOCAL MUNICIPALITY Hereby, in terms of section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), publishes the draft By-laws relating to Credit Control & Debt Collection for the JOZINI LOCAL MUNICIPALITY to be approved by its Council, as set out hereunder

MR BONGUMUSA NTULI
MUNICIPAL MANAGER AND ACCOUNTING OFFICER
(As amended by the Council)

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1. DEFINITIONS

In this policy any word or expression to which a meaning has been assigned in the Local Government Municipal Systems Act, has that meaning, unless the context indicates otherwise-

“Account” means a notification by means of a statement of account to a ratepayer or customer who is liable for payments of any amount to the municipality and any authorized service provider in respect of the following:-

- (a) Refuse removal and disposal;
- (b) Rates;
- (c) Interest;

“Act” means the local government: Municipality System Act, 2000 (Act no 32 of 2000) as amended from time to time;

“Arrears” means any amount that is due, owing and payable by a customer in respect of a municipal service provided to such customer that has not been paid on or before the due date reflected on an account rendered in respect thereof;

“Arrangement” means a written agreement or an acknowledgement of debt in terms of which a municipality agrees to the payment over a period of time of a debt that is outstanding;

“Authorized Representative” means the person or institute legally appointed by the Council to act or fulfill duty on its behalf;

“Billing” refers to the process of charging for services provided by issuing accounts;

“By-law” means a legislation that is made by a decision taken by the Council of the municipality binding in the municipality on the persons to whom it applies and is published in terms of section 13 of the Municipal Systems Act;

“Credit control” refers to the action/s required to safeguard revenue including disconnections, reconnections, normalizing installations and follow-up procedures and data integrity;

“Credit control and debt collection” is the function relating to the effective collection of any monies due and payable to a municipality;

“CFO” Chief financial Officer is the person appointed by the Council to administer

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finances.

“Collection cost” means an amount that the municipality can charge with regard to the enforcement of a consumer’s monetary obligations, if the service agreement is a credit agreement in terms of the National Credit Act;

“Council” is the Municipal Council of Jozini Local Municipality.

“Customer” is any occupier or owner of any property to which the Municipality has agreed to supply services or already supplies services to, or failing such an occupier, the owner of the property.

“Debt” means any monies owing to the Municipality in respect of the rendering of municipal services, and includes monies owing in regard to property rates, housing, levies, motor vehicle registration, licensing, terminated leases and any other outstanding amounts, inclusive of interest thereon, owing to the municipality;

“Debtor” means any person who owes a debt to the municipality;

“Defaulter” is a person who owes money to Municipality after the due date has expired.

“Domestic customer” means a customer who, primarily for residential purposes, occupies a dwelling, structure or premises;

“Due date” means the date on which an amount payable in respect of an account becomes due, owing and payable by a customer, which date shall not be more than 30 days after the date on which the account has been sent to the customer concerned;

“Financial year” means a municipal financial year ending 30 June;

“Holistic or consolidated” refers to the combining of all debt in order to establish the total obligation the debtor has to the Municipality;

“Incidental credit agreement” as defined in the National Credit Act No. 34 of 2005 means an agreement, irrespective of its form, in terms of which an account was rendered for utility services that have been provided to a customer and a fee, charge or interest became payable when payment of the amount charged in terms of that account was not made on or before a date which is less than 30 days before such

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fee, charge or interest was first levied;

“Interest” is a charge levied with the same legal priority as service fees and calculated at a rate determined by Council from time to time on arrear monies.

“Indigent customer” means a domestic customer who is qualified to be and who is registered with the municipality as an indigent in accordance with this policy;

“Indigent amount” refers to the applicable value of the indigent subsidy as determined by the Council of the municipality from time to time;

“Letter of demand” means a notice sent prior to the legal process commencing and includes notices sent as part of the monthly statement;

“Municipality” for the purpose of this policy it means Jozini Local Municipality.

“Municipal account” is an account rendered specifying charges for service provided by the Municipality or any authorized and contracted service provider or assessment rates levies.

“Municipal Manager” means the person appointed by the Council as the Municipal Manager of the municipality in terms of section 82 of the Local Government: Municipal Structures Act No.117 of 1998;

“Municipal services” are those services provided by the Municipality, such as Inter alia the supply of water and electricity, refuse removal, sewerage treatment and for which services charges are levied.

“Municipal value” means the total combined value of land and the buildings on a beneficiary property, as reflected in the valuation roll;

“Occupier” is any person who occupies any property or part thereof, without taking cognizance of the title in which he or she occupies the property.

“Owner” –

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

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- c) In the case where the Council are unable to establish the identity of such person, the person who are entitled to derive benefit from the property or any buildings thereon.
- d) In the case of lease agreement in excess of 30 years was entered into, then the lessee.

“Payment” refers to any form of redemption acceptable to the Council of Jozini from time to time towards the balance on an account;

“Principle debt” means a debt that is owed to the municipality in respect of rates and services. It may include interest, collection charges and any other charges;

“Prescribed tariff or charge” means a charge prescribed by the Municipality;

“Property” is any portion of land, of which the boundaries are determined, within the jurisdiction of the Municipality.

“Public notice” means publication in the media including one or more of the following:

- (a) Displaying a notice in or at any premises, office, library and to which the public has reasonable access;
- (b) Communication with customers through public meetings and ward committee meetings;

“Third Party Debt Collector” means any person authorized to collect monies or institute legal proceedings against debtors, on behalf of the municipality;

“Total Household Income or Household income” means the total formal and the informal gross income of all people living permanently or temporarily on the property on which the account is based;

“User” means a person who has applied for and entered into an agreement with the municipality for the supply of a service.

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2. Constitutional Obligations

The Council of the Municipality recognizes its constitutional obligations to develop the local economy and provide acceptable services to its residents.

3. Application for a Municipal services

Consumers who require a service must enter into a written service agreement with the municipality. In the event that the occupant is not the owner of the property, service agreements will only be entered into the lawful owner of the property to which the services are to be provided.

4. Property Development

A property developer must inform the municipality of the nature and extent of the municipal services that will be provided as well as the measuring devices that will be used.

5. Termination of Service

It is the responsibility of the consumer to notify the municipality when municipal services are no longer required due to the sale of the property or other reasons.

6. Payment of a deposit

Every consumer must, on application for the provision of municipal services, pay a deposit to the municipality prior to the provision of any municipal services, the amount of which shall be determined by the Council of the municipality by resolution from time to time.

7. Recovery of Additional costs

The municipality may, in addition to any charge, tariff, levy or payment of any kind referred to in this policy, recover from a customer any reasonable costs incurred by it in implementing this policy.

8. Payment for Municipal Services Provided

A customer shall be responsible for the payment of all municipal services accounts rendered to him/ her from the commencement date of the agreement until the account has been paid in full and the municipality shall be entitled to recover all

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payments due to it from the customer concerned.

9. Payment of interest

Interest shall be calculated on a **monthly** basis. 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.

10. Accounts and billing

A municipality shall provide every person liable to pay for municipal services assessments rates and taxes with an account in respect of every property for which that person is liable and all services rendered in respect of that property at the address last recorded with the municipality. Failure by the municipality to render an account does not relieve a consumer of the obligation to pay any amount due and payable. The onus shall be on the consumer to obtain a copy of the account before the due date.

11. Disputes, queries and complaints

In the event of an accountholder reasonably querying any item or items on the monthly municipal account, no action shall be taken against the accountholder provided the accountholder 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 accountholder or is recorded in writing by the municipal manager on behalf of the accountholder on or before the due date for the payment of the relevant account.

12. Arrears

A consumer of municipal services and an owner of property must pay any monies owed to the Municipality within the period or before the due date that is indicated on the account.

13. Agreement for the payment of arrears in instalments

Each defaulting accountholder shall be allowed to pay an arrear account, together with the interest raised on such account, and it shall be a condition for the conclusion

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of any arrangement that the accountholder is bound to pay every current municipal account in full and on time during the period over which such arrangement extends.

14. Rates Clearance Certificate

On the sale of any property in the municipal jurisdiction, the municipality will withhold the transfer until all rates, services and consumption charges are paid by withholding a rates clearance certificate as contemplated in section 118 of the Systems Act. Where an undertaking is submitted by an attorney to the municipality to pay all outstanding debt on receipt of the purchase price of the property, the municipality may issue a rate clearance certificate, valid for 90 days, after the relevant fee for the certificate was deposited in the municipality's primary account.

15. Procurement of goods and services by municipality

When inviting tenders for the provision of services or delivery of goods, potential contractors may submit tenders to a condition that consideration and evaluation thereof will necessitate that the tendered obtain from the Municipality a certificate stating that all relevant municipal accounts owing by the tenderer 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.

16. Uncollectable arrears/ Irrecoverable debt

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.

17. 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 accountholders of their respective obligations in regard to such arrears. In determining such obligations, the council shall have regard to the quantum of such arrears, to the period over which the default occurred, and to whether the accountholder concerned has registered as an indigent in terms of the

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municipality's policy on indigency management. The council shall further consider an incentive scheme which will appropriately encourage accountholders to settle all or a stated percentage of these arrears.

18. Offences and Penalties

The Council acknowledges that, in terms of Section 1129 of the Local Government: Municipal Systems Act 2000, it is an offence for any person who:

- (a) fails or refuses to give duly authorized representative of the municipality such information as he or she may reasonably require for the purpose of exercising or performing his or her powers or functions in terms of this policy, or gives such representative false or misleading information, knowing it to be false or misleading; or
- (b) Contravenes or fails to comply with a provision of this policy, shall be guilty of an offence.

19. Short title

These by-laws will be called the Jozini Municipal Credit Control By-Laws, 2013

20. Commencement

These by-laws come into force and effect on 1 July 2013.