

TOKOLOGO LOCAL MUNICIPALITY



CREDIT CONTROL AND DEBT COLLECTION POLICY

This policy was adopted by the Tokologo Local Municipality on the by Resolution Numberin terms of Section 96 of the Municipal Systems Act No. 32 of 2000.

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NOTES


1. This is a mandatory policy in terms of Section 96 of the Municipal Systems Act and it is also a budget-related policy in terms of the definition of such policies in Section 1 of the MFMA. This policy must therefore be reviewed, and revised if necessary, as part of each annual budget process.
2. The accounting officer (municipal manager) is charged with the responsibility for managing the revenues of the municipality (Section 64 of the MFMA) and the municipal manager is therefore responsible for the implementation of this policy. Section 100 of the MFMA specifically assigns the legal responsibility to the municipal manager. Part 17 of the Municipal Systems Act the council



All material technical terms are defined in each appropriate section of this policy.

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PART 1 OBJECTIVE: CONSTITUTIONAL OBLIGATIONS

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



budget a contribution to bad debts of 5% of the aggregate revenues legitimately owing to this municipality – a contribution which 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

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municipality, and to emphasise the negative consequences for all of non-payment. The municipality's ward committees are particularly charged with this responsibility.

PART 3 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 accountholder, that is, every



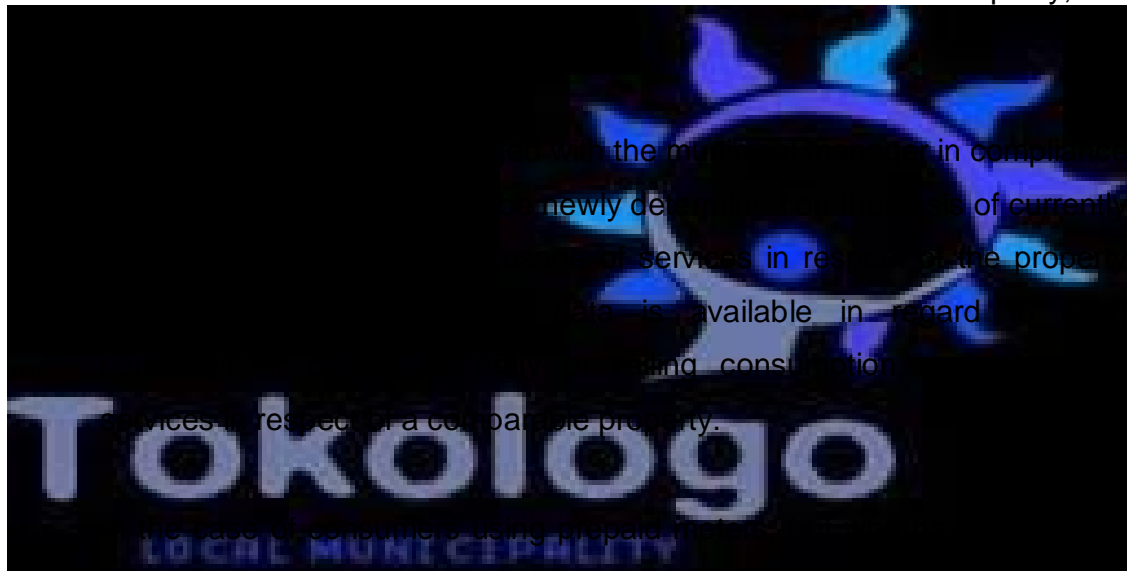
account has not been settled or satisfactory arrangements made in terms of part 9 below, immediately proceed with the actions contemplated in part 8 below.

PART 4 RECONNECTION OR REINSTATEMENT OF TERMINATED OR RESTRICTED SERVICES

Services to defaulting accountholders 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:

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- 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 reconnexion 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



the municipality has entered into with the municipality manager in compliance with the provisions of the relevant legislation. The municipality manager may, at his/her discretion, allow a consumer to purchase newly delivered services or services of currently terminated or restricted services in respect of the property concerned, provided that the necessary data is available in regard to the consumer's past and present consumption of services in respect of a comparable property.

In the case of consumers using prepaid meters, the municipality may, at its discretion, allow a consumer to purchase services in respect of the property concerned, provided that the consumer has settled the arrears with the remainder of their obligations to the municipality, no prepaid purchases 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.

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PART 5 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.

PART 6 ILLEGAL RECONNECTIONS

When it comes to the notice of the municipal manager that a person has illegally reconnected or reinstated a terminated or restricted service, the municipal manager shall immediately report the matter to the South African Police Service and shall not reconnect or reinstate such service until the interest raised on such account has been paid in full together with such penalty as may be levied by the council from time to time.

The amount of the interest and the penalty shall be calculated on the basis of the consumption since the date of the illegal reconnection 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.

PART 7 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

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property concerned – the municipal manager may appropriately restrict rather than terminate the services in question.

PART 8 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 accountholder 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,



Allowing defaulting accountholders to make arrangements for the payment of arrear accounts shall be at the discretion of the municipal manager.

Each defaulting accountholder shall be allowed a maximum period of 3 (three) months within which to pay an arrear account, together with the interest raised on such account, and it shall be a condition for the conclusion 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.

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If an accountholder 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 accountholder defaults on such payment, the municipal manager shall terminate or restrict water services to the property in question (if such services are provided by the municipality or its agent) and shall forthwith hand such account over for collection as envisaged in part 8.

An accountholder who has breached an arrangement as set out above shall not be allowed to make any further arrangements for the payment of arrear accounts,



- water
- 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.

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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 into 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 in terms of part 3 above.



- period, or – where no such information is available – one quarter of the aggregate monetary value of the relevant service(s) provided to a comparable property over the immediately preceding 12 (twelve) month period;
- in the case of the signatory's not being the registered owner or spouse of the registered owner of the property concerned, an amount equal to one third of the aggregate monetary value of the relevant service(s) as determined above.

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PART 12 ALLOCATION OF PART-PAYMENTS AND APPROPRIATION OF DEPOSITS

If an accountholder 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



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.

PART 13 QUERIES BY ACCOUNTHOLDERS

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 as

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contemplated in part 3 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. Any query raised by an accountholder in the circumstances contemplated in part 14 below shall not constitute a reasonable query for the purposes of the present paragraph.

PART 14 INABILITY TO READ METERS

If the municipal manager is unable to read a meter on any property because the meter is inaccessible through any fault or obstruction of the property, the municipal manager shall be concerned by determining the monthly average monetary value of the three most recent unqueried accounts in respect of the service concerned, and shall require the accountholder for the monetary value of such estimated consumption, plus a surcharge of 10% of such value for the first month in which a reading could not be obtained, escalating

30% in the third month, and so on by 10 percentage points for each subsequent month, until the meter is again rendered accessible. The accountholder shall be liable for the initial payment of such surcharge(s) as though the surcharge were part of the service charge concerned, but the municipal manager shall reverse such surcharge(s) against the first account for which a meter reading is again obtained.

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PART 15 DISHONoured AND OTHER UNACCEPTABLE CHEQUES

If an accountholder tenders a cheque which is subsequently dishonoured by or is found to be unacceptable to the accountholder's bankers, the municipal manager shall – in addition to taking the steps contemplated in this policy against defaulting accountholders – charge such accountholder 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



PART 17 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.

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.

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The municipal manager shall report monthly to the mayor and 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 and quarterly reports shall indicate any administrative shortcomings, the measures taken or recommended to address such shortcomings, and any actions by councillors who could reasonably be



PART 18 ROLE OF COUNCILLORS

Section 99 of the Systems Act 2000 places the important legal responsibility on the mayor and 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 municipality's ward committees must also be actively involved in implementing the credit control and debt collection programme, and must

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therefore receive monthly reports on the status of the municipal manager's credit control actions. The ward committees must also actively promote the present policy, and ensure at the same time that 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 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.



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 disconnexion or restriction of services (part 3)
- charges for reconnexion or reinstatement of services (part 4)
- charges for notices of default (part 3)

- penalty charges for illegal reconnections (part 6)
- penalty charges for dishonoured cheques (part 15).

In regard to 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.

PART 22 ARREARS WHICH HAVE ARISEN PRIOR TO THE ADOPTION OF
THE PRESENT POLICY

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council shall further consider an incentive scheme which will appropriately encourage accountholders to settle all or a stated percentage of these arrears.

PART 23 BY-LAWS TO BE ADOPTED AND REVISION OF POLICY

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

The by-laws shall comply with the requirements of the Municipal Systems Act 2000, the Water Services Act 1997 and the Municipal Finance Management Act



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. The immediately relevant extracts from the Water Services Act 1997 and the Municipal Finance Management Act are also included in the annexure.

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SECTION I: 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



SECTION II: 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:

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- 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 with regard to 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 manner in which moneys raised from the service are utilised;



- 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

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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;



- 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.

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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.



- 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.

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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



SECTION 102: ACCOUNTS

Except where there is a dispute between the municipality and the 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.

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SECTION 103: AGREEMENTS WITH EMPLOYEES

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 provisions for the payment of rates and other taxes or fees by means of agreements and for the recovery of such amounts.



A person applying for a certificate of immovable property rates or other taxes or fees may, at the discretion of the municipality, be required to produce a certificate of the Registrar of Deeds or a prescribed certificate issued by the municipality, which certifies that all amounts due by such person for rates or other taxes or fees on such property have been paid in full. The certificate must also certify that all amounts due by such person with such property for municipal services have been paid in full. The certificate must also certify that all amounts due by such person for 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.

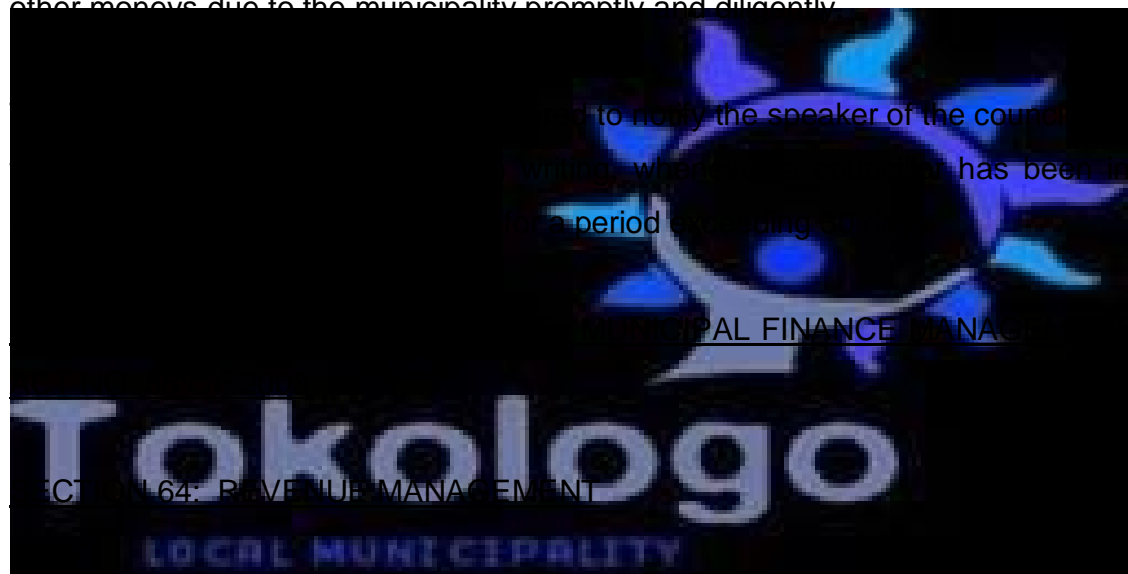
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CODE OF CONDUCT FOR MUNICIPAL STAFF MEMBERS

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 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;

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- that accounts for 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



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.)

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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 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.