

SOL PLAATJE LOCAL MUNICIPALITY

CONSUMER DEPOSIT POLICY



APPROVED ON THE 31ST OF MAY 2017

RESOLUTION NUMBER: C60/05/17



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1. OBJECTIVE AND SCOPE OF POLICY

- 1.1 The Council, in adopting this policy recognises its constitutional obligation to promote social and economic development in harmony with the environment and to ensure the provision to communities of services which are affordable and of an acceptable standard.

- 1.2 It further recognises that it cannot fulfil its constitutional duties unless it ensures compliance by members of the local community with the provisions of section 5(2)(b) of the Local Government: Municipal Systems Act, No. 32 of 2000 (hereinafter referred to as the "Act") , to pay promptly for service fees, surcharges on fees, rates on property and other taxes, levies and duties which have been legitimately imposed by it (subject to the relief afforded in its Indigent Management Policy).

- 1.3 The Council is further mindful of its obligations in terms of sections 95 and 97 of the Act and accordingly aims:
 - (a) through the implementation of this policy, to ensure that the municipality is financially and economically viable;
 - (b) The Council further recognises that the Constitution entitles everyone to administrative action which is lawful, reasonable and procedurally fair and to be given reasons for any such action which affects them.

The Promotion of Administrative Justice Act 3/2000 is the legislation required by the Constitution to give effect to the right



to just administrative action and in order to promote an efficient administration and good governance and to create a culture of accountability, openness and transparency in public administration or in the exercise of a public power or the performance of a public function.

1.4 This policy incorporates the above principles by providing parameters and procedures to guide the municipality and its officers in implementing it, and thereby exercising a public power through a series of administrative actions. In so doing, this policy seeks to provide certainty on the part of those affected by it with regard to how the municipality will act in the circumstances covered by the policy and uniformity of action on the part of its officers.

1.5 This Policies sets the criteria and obligations for the charging of deposits as a mechanism to provide security for services the Municipality renders and is supported by a Service Agreement, the Customer Services, Credit Control and Debt Collection Policy, and the concomitant By-laws.

1.6 The municipality commits itself and its officers to act fairly and justly in an open and transparent manner in implementing this policy.

2. FAIR ADMINISTRATIVE ACTION

2.1 The Constitution entitles everyone to administrative action which is lawful, reasonable and procedurally fair and to be given reasons for any such action which affects them.



- 2.2 The Promotion of Administrative Justice Act 3 of 2000 is the legislation required by the Constitution to give effect to the right to just administrative action and in order to promote an efficient administration and good governance and to create a culture of accountability, openness and transparency in public administration or in the exercise of a public power or the performance of a public function.
- 2.3 This policy incorporates the above principles by providing parameters and procedures to guide the municipality and its officers in implementing it, and thereby exercising a public power through a series of administrative actions. In so doing, this policy seeks to provide certainty on the part of those affected by it with regard to how the municipality will act in the circumstances covered by the policy and uniformity of action on the part of its officers.
- 2.4 The municipality commits itself and its officers to act fairly and justly in an open and transparent manner in implementing this policy.

3. DEPOSITS REQUIRED

- 3.1 The Municipality must charge deposits per the criteria set out herein prior to the provision of any services and subject to the signing of service agreements.
- 3.2 Application for services deposits are determined by Council annually as part of the Municipality's budget process.
- 3.3 Different deposits may be charged according to the type and use of the property or owner.

4. CRITERIA FOR THE DETERMINATION OF DEPOSITS



- 4.1 The value of a deposit shall be determined using the following criteria:
 - 4.1.1 Average consumption for category of property or owner
 - 4.1.2 The general risk profile of that particular category of property or owner

5. INCREASE DEPOSITS FOR EXISTING ACCOUNTHOLDERS

- 5.1 The Municipality may increase deposits for accountholders where such accountholder has defaulted on their payment obligations.

- 5.2 The increase of such deposits may be
 - 5.2.1 by adjusting the deposit to the current year's amount; or
 - 5.2.2 such greater amount required based on the risk associated with such accountholder as assessed by the Credit Control Section, or
 - 5.2.3 to an amount based on the accountholder's average total monthly account provided such is not less than the current year's deposit and provided any increase does not exceed 6 times the accountholder's average total monthly account.

6. ALTERNATIVE TO PAYMENT OF DEPOSITS

- 6.1 An applicant may pledge by way of bank guarantee a deposit equal to the amount stipulated by the Municipality. This guarantee must be irrevocable and in favour of the Municipality.

- 6.2 The Municipality has a right to perfect this guarantee should the accountholder subsequently fall into arrears.



6.3 In such circumstances per 6.2 the Municipality may require an additional deposit without the option of the accountholder providing a guarantee.

6.4 The option of lodging a guarantee in lieu of a deposit is only available to applicants who don't have any outstanding amounts owing to the Municipality.

7. REFUNDING OF DEPOSITS AND RELINQUISHING GUARENTEES

7.1 Deposits will be refunded, and guarantees relinquished, only under the following circumstances:

7.1.1 All arrears owing to the Municipality are paid in full, irrespective of whether such arrears are for the particular property for which the deposit was paid.

7.1.2 Where such is claimed by the accountholder or their authorised representative (proof of which must be to the satisfaction of the Municipality).

7.2 Deposits must be refunded, and guarantees relinquished, within 4 weeks of the claim for such and where the prescripts of paragraph 7.1 are met.

8. RIGHT OF APPEAL

8.1 A person whose rights are affected by a decision of a municipal officer may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.



8.2 The Municipal Manager or a structure created for this purpose and delegated by him to act as an appeal authority must consider the appeal and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

8.3 When the appeal is against a decision taken by -

(a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority, even if such staff member was acting in terms of a delegation from the Municipal Manager;

8.4 An appeal authority must commence with consideration of an appeal within six weeks and decide upon the appeal within a period of twelve weeks.

9. ROLE AND RESPONSIBILITY OF COUNCILLORS

9.1 Section 99 of the Act appoints the Executive Mayor as the supervisory authority to oversee and monitor the implementation and enforcement of this policy, the performance of the Municipal Manager in implementing it and its associated bylaw and as required by the Council, to report to it.

9.2 In addition to the monitoring role provided in 9.1 above, all Councillors are responsible for promoting this policy and compliance with it. In order to maintain the credibility of this policy



as adopted by the Council, all Councillors must lead by example and ensure that his/her account with the municipality is and remains paid in full. Full details of all accounts of Councillors and employees which are in arrears shall be tabled before the Finance Committee and disclosed in the municipality's financial statements.

9.3 Furthermore, where Councillors become aware of any breaches to any Policy or By-law of this Municipality, it is necessary that this be reported to the Municipality for investigation and resolution in terms of the respective Policies.

9.4 Ward Committees are tasked with the dissemination of Policies and By-laws to the community and to facilitate the implementation thereof.

10. RESPONSIBILITIES OF MUNICIPAL STAFF

10.1 Where a staff member becomes aware of any breaches to any Policy or By-law of this Municipality, it is necessary that immediate and appropriate action is taken in terms of the respective Policies.

10.2 Where a staff member becomes aware of any attempts, successful or not, to interfere with the implementation of a Policy or By-law they are obliged to report such matter to Council through their respective Manager and Executive Director.



11. IMPLEMENTATION DATE AND REVIEW

11.1 This Policy becomes effective and wholly enforceable from the 1st of July 2017 and must be reviewed at least once a year as part of the Municipality's budget process.