

F.10 Recovery of Overdue Rates and Charges Policy

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1 OBJECTIVE

The objective of this policy is to provide procedural direction to officers of Council to ensure the prompt follow-up and timely collection of overdue rates and charges. This policy is in accordance with the parameters and requirements of Chapter 4, Part 1 of the *Local Government Act 2009* (LG Act) and Chapter 4, Parts 11 and 12 of the *Local Government Regulation 2012* (LG Regulation).

2 SCOPE

This policy applies to all ratepayers who have overdue rates or charges levied by Council.

3 STATEMENT

3.1 POLICY PRINCIPLES

The management and recovery of outstanding rates and charges is an important aspect of Council's financial management function. The non-payment of rates or charges by some ratepayers places an unfair burden on other ratepayers who meet their legal obligation in full.

Council will be guided by the following principles in the recovery of overdue rates or charges:

- transparency by making clear the obligations of ratepayers and the processes used by Council;
- assisting ratepayers to meet their financial obligations;
- making the processes used to recover overdue rates or charges clear, simple to administer and cost effective;
- ensuring consistency and equity by having regard to providing the same treatment for ratepayers with similar circumstances; and
- flexibility by responding where necessary to changes in the local economy.

3.2 RECOVERY PROCEDURES – OVERDUE RATES OR CHARGES

3.2.1 Initial Recovery Action

Where a rate or charge becomes overdue after the due date of the rate notice, Council will take the following action:

1. A minimum 14 days after the due date of the rate notice, property owners who have rates or charges outstanding (for which no payment arrangement has been negotiated) will be issued with a **First Reminder Notice**. This notice will be in the form of a letter advising the ratepayer(s) they have fourteen (14) days from the date of the letter to finalise the outstanding balance or enter into an appropriate payment plan (refer to section 3.3 - Payment Commitments).

No further action is taken if payment is made in full or the ratepayer enters into and maintains their approved payment commitment.

2. A minimum twenty-eight (28) days after the due date of the rate notice, property owners who have rates or charges outstanding (for which no payment arrangement has been negotiated) will be issued with a **Second Reminder Notice**. This notice will be in the form of a letter advising that the ratepayer will have a further fourteen (14) days from the date of the letter to finalise the outstanding balance or enter into an appropriate payment plan (refer to section 3.3 - Payment Commitments).

No further action is taken if payment is made in full or the ratepayer enters into and maintains their approved payment commitment.

3.2.2 Advanced Debt Recovery Action

Council may select properties that have any part of their overdue rates and charges remaining unpaid for at least:

- three (3) years; or
- one (1) year for vacant land or land used only for commercial purposes; or
- three (3) months for a mining claim

and issue the ratepayer(s) of those properties with a **Letter of Demand**. This letter will request the ratepayer(s) to finalise the outstanding balance or enter into an appropriate payment plan within fourteen (14) days of the date of that letter (refer to section 3.3 - Payment Commitments).

No further action is taken if payment is made in full or the ratepayer enters into and maintains their approved payment commitment.

Selling land for overdue rates or charges

Should the ratepayer(s) fail to finalise the outstanding balance as shown on the **Letter of Demand**, Council may decide by resolution to proceed with the selling the land for overdue rates or charges under Section 140 of the *Local Government Regulation 2012*. The sale will proceed in accordance with Chapter 4, Part 12, Division 3 of the *Local Government Regulation 2012*.

Once a **Notice of Intention to Sell** has been issued (following a Council resolution to initiate land sale action in terms of Chapter 4, Part 12, Division 3 of the *Local Government Regulation 2012*), no formal payment commitments will be accepted and full payment of all outstanding rates is required to stop sale action.

Acquiring land for overdue rates or charges

Should the ratepayer(s) fail to finalise the outstanding balance as shown on the **Letter of Demand**, Council may decide by resolution to proceed with acquiring the land for overdue rates or charges under Section 149 of the *Local Government Regulation 2012*, where:

- some of the overdue rates or charges have been overdue for at least 3 years; and
- the total amount of the overdue rates or charges is more than the value of the land and the land is considered to be -
 - a) valueless; or
 - b) of so little value that, if it were sold, the proceeds of the sale would be less than the amount of the overdue rates or charges; and
 - c) the total amount of the overdue rates or charges is more than the market value of the land.

The acquisition will proceed in accordance with Chapter 4, Part 12, Division 3 of the *Local Government Regulation 2012*.

Once a **Notice of Intention to Acquire** has been issued (following a Council resolution to initiate land acquisition action in terms of Chapter 4, Part 12, Division 3 of the *Local Government Regulation 2012*), no formal payment commitments will be accepted and full payment of all outstanding rates is required to stop acquisition action.

3.2.3 Deferment of Recovery Actions

The recovery action stages listed above may be deferred for the following reasons:

- deceased estates in probate
- bankruptcy liquidations
- receivership/administration
- property sale where an unconditional contract has been signed (a copy of the unconditional contract must be provided to Council for verification)
- approved hardship (determined after written submission and/or interview with ratepayer – must be approved by Council resolution)
- special circumstances (considered and approved by Council resolution, for any overdue rates and charges not falling into any of the above categories that may benefit from the deferment of recovery action)

3.3 PAYMENT COMMITMENTS

3.3.1 Applications

All payment commitments should ensure all future rates and charges are paid as issued to ensure the account does not fall further into arrears.

Requests for payment commitments are by application if the rates and charges will be fully paid within 12 months. In circumstances where the request extends beyond 12 months, this will be subject of a separate report to Council for consideration.

Note: For payment commitments longer than 12 months, an estimate of the rates and water levies issuing in that time period will be added. This estimate will be based on the last rates and water levies issued. This is to ensure ratepayers do not remain with a large ongoing arrears balance.

To request payments by installments, the ratepayer must contact Council before the due date shown on the rate notice. Applications should be made to Council in writing. If approved, Council will document the payment commitment to be brought into effect and a copy will be provided in writing to the ratepayer.

Council will not pursue further recovery action against a ratepayer who has an approved payment commitment, while the commitment is current and the ratepayer adheres to the agreed repayment schedule and required instalment amounts.

3.3.2 Changed circumstances

Council reserves the right to renegotiate or cancel a payment commitment should circumstances change where the debt will not be paid within Council's current policy time frame (within 12 months). In these circumstances, Council will not initiate further recovery action without reference to the ratepayer concerned.

3.3.3 Missed payment or minimum payment not met

In the event where the ratepayer is unable to pay within the required timeframe or the minimum repayment is not met, supporting evidence is required to be submitted to Council to justify the approval of an extended timeframe. Council may request whatever information it deems necessary to assess genuine hardship.

In the event that a payment commitment is not maintained within the agreed terms and the ratepayer does not make contact with Council, the following action will occur:

- a) The payment commitment will be removed from Council's rate assessment; and
- b) Recovery action will commence without further notice to the ratepayer.

3.3.4 Payments

In accordance with Section 128 of the *Local Government Regulation 2012*, payments will be applied towards the payment of rates and charges in the order in which they became overdue. However as per Section 128 (1) (b), Council must apply payments to particular rates and charges if the property owner advises Council of this.

3.4 PAYMENT OF RATES IN ADVANCE

If you find payment of your rates in a lump sum difficult, Council encourages you make payments on a regular basis. Payment of rates in advance by regular instalments ensures the balance to be paid at the time of rates issue is minimised. Payment on time allows you to avoid interest and other charges accruing. Council does not pay you interest on advance payments or credit balances.

3.5 INTEREST ON OVERDUE RATES AND CHARGES

In accordance with Section 133 of the *Local Government Regulation 2012*, the interest rate payable on overdue rates and charges is 8% per annum compounding daily the day the rates and charges become overdue.

All rates and charges become overdue immediately following the due date as shown on the notice. All assessments with approved payment commitments for outstanding rates or charges will continue to accrue interest at a rate of 8% per annum compounding daily until the outstanding amount is paid in full unless otherwise approved by Council.

3.6 INTEREST THRESHOLD

An interest threshold will be applied under the following circumstances:

When interest is calculated, if:

- a) an assessment has been fully paid prior to an interest run; and
- b) the interest calculated as outstanding between the date of the last interest run and the date of payment is less than the stated limit. Then the interest calculated in the current run is not charged to the assessment.

The interest threshold is \$10.00.

3.7 SMALL DEBTS WRITE-OFF

Any small debts under \$10.00 may be written-off by the Manager Finance on a monthly basis. This is to reduce the administrative costs of managing small outstanding amounts.

3.8 DEBT WRITE-OFF INCLUDING ACCRUED INTEREST

All bad debts may only be written off by Council resolution.

4 DEFINITIONS

Nil

5 RELATED POLICIES | LEGISLATION | OTHER DOCUMENTS

Local Government Act 2009

Local Government Regulation 2012

IX #	Details