Drakenstein, South Africa

Customer Care, Credit Control, Debt Collection and Indigent Support By-law, 2013

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Customer Care, Credit Control, Debt Collection and Indigent Support By-law, 2013
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Drakenstein
South Africa

Customer Care, Credit Control, Debt Collection and Indigent Support By-law, 2013

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Notice is hereby given in terms of section 13 of the Local Government: Municipal Systems Act, No 32 of 2000, that the Council of the Drakenstein Municipality has passed the By-Law as set out below.

To give effect to the Municipality' customer care, credit control, debt collection and indigent support policy, its implementation and enforcement in terms of section 156(2) of The Constitution of the Republic of South Africa, No 108 of 1996 and sections 96 and 98 of the Local Government: Municipal Systems Act, No 32 of 2000; to provide for the collection of all monies due and payable to the Municipality; and, to provide for matters incidental thereto.

1. Definitions

In this By-Law, the English text prevails in the event of any conflict with the Afrikaans or Xhosa texts, and, unless the context otherwise indicates -

"**Arrangement**" means a written agreement entered into between the Municipal Manager and a debtor where specific terms and conditions for the payment of a debt are agreed to;

"**Arrears**" means any amount due and payable to the Municipality and not paid by the due date;

"**Council**" means the council of the Municipality;

"**Councillor**" means a member of the Council;

"**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, motor vehicle registration and licensing, terminated leases, and any other outstanding amounts, inclusive of any interest thereon, owing to the Municipality;

"**Debtor**" means any person who owes a debt to the Municipality;

"**Due date**" means the final date on which payment, as shown on the debtor's municipal account, is due and payable;

"**Indigent debtor**" means a debtor who meets certain criteria, as determined by the Municipality from time to time;

"**Interest**" means a rate of interest, charged on overdue accounts, which is one per cent higher than the prime rate, which is obtainable from any commercial bank on request, unless determined otherwise by the municipality, on capital, based on a full month and part of a month must be deemed to be a full month;

"**Municipality**" means the Municipality of Drakenstein and includes any duly delegated official or service provider of the Municipality;

"**Municipal Manager**" means the person appointed by the Council as the municipal manager in terms of section 82 of the Local Government: Municipal Structures Act, No 117 of 1998, and who also is the accounting officer in terms of the Local Government: Municipal Finance Management Act, No 56 of 2003, or any other official delegated by him or her;

"**Official**" means an "official" as defined in section 1 of the Local Government: Municipal Finance Management Act, No 56 of 2003;

"**Policy**" means the Municipality's customer care, credit control, debt collection and indigent support policy;

"**Service**" means "municipal service" as defined in section 1 of the Systems Act, and includes a function listed in Schedules 4B and 5B of The Constitution of the Republic of South Africa, No 108 of 1996 and any other service rendered by the Municipality;

"**Systems Act**" means the Local Government: Municipal Systems Act, No 32 of 2000;

"**Third party debt collector**" means any person or persons authorised to collect monies or institute legal proceedings against debtors, on behalf of the Municipality;

"**This By-Law**" includes the Customer Care, Credit Control, Debt Collection and Indigent Support Policy;

"**Total household income**" or "household income"´means the total formal and informal gross income of the main bread winner/s of a household residing on a property on which the account is based; and

"**User**" means a person who has applied for and entered into an agreement with the Municipality for the supply of a service.

2. Duty to collect debts

All debt owing to the Municipality must be collected in accordance with this By-Law and the policy.

3. Provision of services

New applications for services and the provision of new services must be dealt with as prescribed in this By-Law and the policy.

4. Service agreement

Except as otherwise determined in terms of this By-Law and the policy, no services may be supplied until an agreement has been entered into between the Municipality and the user for the supply of a service.

5. Deposits

The Municipality may require the payment of deposits for the provision of new services and the reconnection of services, or may adjust the amount of any existing deposit, as prescribed in this By-Law and the policy.

6. Interest charges

The Municipality may charge and recover interest in respect of any arrear debt, as prescribed by this By-Law and the policy.

7. Arrangements to pay arrears

(1) The Municipal Manager may make arrangements with a debtor to pay any arrear debt under conditions as prescribed in terms of this By-Law and the policy.

(2) Should any dispute arise as to the amount of the arrear debt, the debtor must nevertheless continue to make regular payments, in terms of the arrangement, until such time as the dispute has been resolved.

8. Agreements with debtor's employer

(1) The Municipal Manager may -

(a) With the consent of a debtor, enter into an agreement with that person's employer to deduct from the salary or wages of that debtor -

(i) Any outstanding amounts due by the debtor to the Municipality;

(ii) Regular monthly amounts as may be agreed; and

(b) Provide special incentives for -

(i) Employers to enter into such agreements; and

(ii) Debtors to consent to such agreements.

(2) The municipal debt of officials or councillors of the Municipality may by agreement be deducted from their salaries if such official or councillor is more than one month in arrears. If more than 90 days in arrears, section 10 of Schedule 2 of the Systems Act will be enforced.

9. Power to restrict or disconnect supply of services

(1) The municipality may restrict or disconnect the supply of any service to the premises of any user whenever such user of a service -

(a) Fails to make payment on the due date;

(b) Fails to comply with an arrangement;

(c) Fails to comply with a condition of supply imposed by the Municipality;

(d) Tenders a negotiable instrument which is dishonoured by the bank, when presented for payment; and

(e) Damage the infrastructure of the Municipality for the supply of such service or tampers with any meter used regarding that service.

(2) The municipality may reconnect the restricted or discontinued services only -

(a) After the arrear debt, including the costs of disconnection or reconnection, if any, has been paid in full and any other conditions have been complied with; or

(b) After an arrangement with the debtor has been concluded.

(3) The municipality may restrict, disconnect or discontinue any service in respect of any arrear debt.

10. Recovery of debt

(1) Subject to section 9, the Municipal Manager must, with regard to rates, and may, with regard to other debt -

(a) By legal action recover any debt from any person;

(b) Recover debt from any organ of state with due consideration of the provisions of Chapter 3 of The Constitution of the Republic of South Africa, No 108 of 1996, and

(c) May refer a debtor to third party debt collection agencies and have such debtor placed on the National Credit Rating list.

11. Recovery of costs

(1) The Municipal Manager may recover the following costs, in instances where such costs are incurred by or on behalf of the Municipality -

(a) Costs and administration fees where payments made to the Municipality by negotiable instruments are dishonoured by banks when presented for payment;

(b) Legal and administration costs, including attorney-and-client costs and tracing fees incurred in the recovery of debts;

(c) Restriction, disconnection and reconnection fees, where any service has been restricted or disconnected as a result of non-compliance with this By-Law;

(d) Any losses the municipality may suffer as a result of tampering with municipal equipment or meters; and

(e) Any collection commission incurred.

12. Attachment

The Municipal Manager may, in order to recover debt, and as a last resort, approach a competent court for an order to attach a debtor's movable or immovable property.

13. Claim on rental for outstanding debt

The Municipal Manager may, in terms of section 28 and 29 of the Municipal Property Rates Act, No 6 of 2004, attach any rent, due in respect of any rateable property, to cover in part or in full any amount in respect of outstanding rates after the due date.

14. Full and final settlement payments

(1) Any amount tendered in defrayment of a debt, will be accepted at any cash receiving office of the Municipality.

(2) No offer of payment in full and final settlement of a debt, when such amount is less than the outstanding amount, must be accepted, unless confirmed in writing by the Municipal Manager.

(3) Notwithstanding subsection (2), the payment so offered must nevertheless be credited against the debtor's account, without prejudice to the Municipalty's rights.

15. Consolidation of a debtor's accounts

(1) The Municipal manager may -

(a) Consolidate any separate accounts of a debtor;

(b) Credit a payment by a debtor against any account of that debtor; and

(c) Implement any of the measures provided for in this By-Law and the policy in relation to any arrears on any of the accounts of such debtor.

(2) Subsection (1) does not apply where there is a dispute between the Municipality and a debtor referred to in that subsection concerning any specific amount claimed by the Municipality from that person.

16. Indigents

A debtor, who can prove indigence, will be dealt with as prescribed in the policy.

17. Delegation

The Municipal Manager may delegate its powers in terms of this By-Law to any official or service provider of the Municipality.

18. Offences and penalties

(1) Any person who -

(a) Obstructs or hinders any councillor or official of the Municipality in the execution of his or her duties under this By-Law or the policy;

(b) Unlawfully uses or interferes with municipal equipment or consumption of services supplied;

(c) Tampers with any Municipal equipment or breaks any seal on a meter;

(d) Fails to comply with a notice served in terms of this By-Law or the policy; and / or

(e) Supplies false information regarding the supply of services or with regard to an application for assistance as an indigent,

shall be guilty of an offence and on conviction liable to the payment of a fine not exceeding one thousand rand or imprisonment for a period not exceeding three months or to such imprisonment without the option of a fine or to both such fine and such imprisonment.

19. Repeal of by-laws

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality are hereby repealed as far as they relate to matters provided for in this by-law.

20. Short title

This By-Law shall be called the Customer Care, Credit Control, Debt Collection and Indigent Support By-law.

21. Operative date

This By-Law shall take effect on 1 July 2013.