Kannaland, South Africa

Customer Care, Credit Control and Debt Collection By-law, 2023

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Kannaland
South Africa

Customer Care, Credit Control and Debt Collection By-law, 2023

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1. Preamble

To give effect to the Municipality's Customer Care, Credit Control and Debt Collection Policy and/or to regulate its implementation and enforcement in the Kannaland Municipal Area (WC041) in terms of section 156(2) of the Constitution of the Republic of South Africa (Act 108 of 1996) and sections 96 and 98 of the Municipal Systems Act (Act 32 of 2000); to provide for the collection of all monies due and payable to the Municipality; and to provide for matters incidental thereto.

2. Interpretation

In this By-law, unless context indicates otherwise—

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

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

"**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;

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

"**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 regarding 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 a 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 and included in the Indigent Policy from time to time;

"**Interest**" means a rate of interest, charged on overdue accounts, which is one percent higher that, 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 Kannaland and includes any municipal entity established by such municipality;

"**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 and Debt Collection 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, 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 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 and Debt Collection Policy;

"**Total household income**" or "household income" means the total formal and informal gross income of all people living permanently or temporarily on the property on which the account is based; and

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

3. Duty to collect debt

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

4. 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.

5. 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.

6. 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.

7. Interest charges

The Municipality may charge and recover in respect of any arrear debt, a prescribed in this By-law and the policy.

8. 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.

9. Agreements with a debtor's employer

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; or

   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.

10. Power to restrict or disconnect supply of service

1. The Municipal Manager 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; or

   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.

2. The Municipal Manager may reconnect and restore full levels of supply of any of the restricted or discontinued services only—

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

   b) after an arrangement with the debtor has been concluded.

3. The Municipal Manager may restrict, disconnect or discontinue any service in respect of any arrear debt.

11. Recovery of debt

Subject to section 9, the Municipal Manager, must with regards to rates, and may, with regards 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, 1996; and

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

12. Recovery of costs

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

a) Cost 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.

13. 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.

14. Claim on rental for outstanding debt

The Municipal Manager may, in terms of section 28 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.

15. 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 Municipality's rights.

16. 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 my 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.

17. Indigents

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

18. Delegation

The Municipal Manager may delegate any of his or her powers in terms of this By-Law or the policy to any employee or official of the Municipality subject to applicable legislation.

19. Offences and penalties

Any person who—

a) Obstructs or hinders any 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) Contravenes or fails to comply with the provisions of this By-Law or the policy; or

e) Fails to comply with a notice served in terms of this By-law or the policy, is guilty of an offence and liable in conviction to a penalty.

20. Debt write-off

Any debt deemed to be uncollectable should be treated in terms of the Council approved Bad-Debt Write-Off Policy that will also be given effect by this By-law, as it should be read with the Customer Care, Credit Control & Debt Collection Policy of the municipality.

21. Short title and commencement

This By-Law may be cited as the Customer Care, Credit Control and Debt Collection By-Law and commences on the date of publication thereof in the *Provincial Gazette*.