

MANGAUNG METROPOLITAN MUNICIPALITY
BY-LAW RELATING TO CREDIT CONTROL AND DEBT COLLECTION

as promulgated in Provincial Gazette
№ 87 of 22 March 2013

CREDIT CONTROL & DEBT COLLECTION BY-LAW

To provide for the regulation and management of activities in respect of the Credit control and Debt Collections, and to provide for matters in connection therewith.

Preamble

WHEREAS the Constitution established local government as a distinctive sphere of government, interdependent, and interrelated with the national and provincial spheres of government; and

WHEREAS there is agreement on the fundamental importance of local government to democracy, development and nation-building in our country; and

WHEREAS there is fundamental agreement in our country on a vision of democratic, accountable and developmental local government, in which municipalities must strive within its financial and administrative capacity, to achieve their constitutional objectives by ensuring the provision of sustainable, effective and efficient municipal services to communities, by promoting social and economic development, by promoting a safe and healthy environment, and by encouraging the involvement of communities in the matters of local government; and

WHEREAS the Constitution authorizes and empowers municipalities to administer the local government matters listed in Part B of Schedules 4 and 5, which include municipal markets and any other matter assigned to it by national or provincial legislation, by making and administering by-laws for the effective administration of these matters;

BE IT THEREFORE ENACTED by the Municipal Council of the **MANGAUNG** Metropolitan Municipality as follows:-

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1. DEFINITIONS

Unless inconsistent with the context, the following words and phrases shall have the following meanings ascribed to them:-

“arrears” means any amount due and payable to the Municipality and not paid by the due date;

“arrangement” means a written agreement entered into between the Chief Financial Officer and a debtor where specific arrangements and conditions for the payment of a debt is agreed to;

“Chief Financial Officer” means the person appointed by the Municipal Council as such and any officer of the Municipality acting in that capacity;

“City Manager” means the employee appointed as the Municipal Manager in terms of Local Government: Municipal Systems Act No. 7 of 2011 or any other official delegated by him or her and includes, where necessary, any acting Municipal Manager;

“Council” means the Municipal Council of the Municipality

“Credit Control and Debt Collection Policy” means the Policy provided for in section 96(b) of the Municipal Systems Act and approved by the Municipal Council;

“debtor” means, for purposes of these by-laws, any person who owes any amount of money 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;

“interest” means a charge levied with the same legal priority as service fees and calculated at a rate determined by Municipality from time to time on all arrears monies;

“Municipal Finance Management Act” The Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003);

“Municipality” means the Mangaung Metropolitan Municipality and its legal successors, and when referred to as-

- (i) a legal entity, means Mangaung Metropolitan Municipality as described in section 2 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and
- (ii) a geographic area, means the municipal area of the Mangaung Metropolitan Municipality as determined from time to time in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998);

“Municipal Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“Owner” means:

“Municipal Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“Owner” means:

- (a) the person in whom from time to time is vested the legal title to property;
- (b) in case where a person in whom the legal title to property is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such property is vested as curator, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in any case where the Municipality or its authorised agent is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such property or a building thereon;
- (d) in the case of property for which a lease agreement of 30 years or longer has been entered into, the lessee thereof;
- (e) any legal person including but not limited to:
 - (i) a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), a trust, a close corporation registered in terms of Close Corporation Act, 1984 (Act 69 of 1984) and a voluntary association
 - (ii) any department of State;
 - (iii) any Council or Board established in terms of any legislation applicable to the Republic of South Africa;
 - (iv) any Embassy or other foreign entity.
- (e) in relation to:
 - (i) A piece of land delineated on a sectional plan registered in terms of Sectional Title Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of common property; or
 - (ii) a section as defined in the Sectional Title Act, 1986 (Act No. 95 of 1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such person.

Prescribed Service Fee: A service fee laid down by the Municipality for a particular Municipal service;

“service” means **“municipal service”** as defined in section 1 of the Systems Act, and includes a function listed in Schedule 4B and 5B of the Constitution of the Republic of South Africa and includes any other service rendered by the Municipality, **“services”** has a corresponding meaning;

“user” means a person who has applied for and entered into an agreement with the Municipality for the supply of a service;

2. APPLICATION FOR SERVICES

- (1) Consumers who require a service must enter into a written service agreement with the municipality.
- (2) No services may be supplied until an agreement has been entered into between the Municipality and the user for the supply of a service.
- (3) No new services will be rendered to a property if there are still debts owed to the Municipality relating to the property. All debt relating to a property must be settled in full, or suitable payment arrangements must be made by the owner of the property, before the Municipality will register a new user on the property.

3. DEPOSITS

- (1) The Municipality may require the payment of a deposit when new users sign-on and when existing customers move to a new supply address.
- (2) Failure to pay the deposit required shall result in service not being rendered and the Municipality shall be entitled to terminate all services to properties until such time that the owner or the user, authorised thereto by the owner, has paid the required deposit to the Municipality.
- (3) The Municipality may increase or decrease deposits to suit the particular circumstances.
- (4) No person may consume or make use of municipal services without registering to receive such services.
- (5) If, upon the termination of the agreement for the provision of services, an amount remains due to the Municipality in respect of those services rendered to the user, the Municipality may apply the deposit in payment or part payment of the outstanding amount and refund any balance to the user.

4. ACCOUNTS AND BILLING

- (1) The Municipality may, combine any separate accounts of persons who are liable for payment to the municipality, into one consolidated account
- (2) Accounts are produced in accordance with the meter reading cycles.

- (3) Accounts must be paid on the due date as indicated on the account. Interest on arrears will accrue after due date if the account remains unpaid irrespective of the reason for non-payment.
- (4) The Municipality is entitled to charge interest at rates determined by it from time to time by way of resolution and may furthermore engage in debt collection procedures regardless whether an account was received by a user or not.

5. ARRANGEMENTS TO PAY ARREARS

Arrangements to pay arrears may be allowed by the Chief Financial Officer and the terms applicable for the settlement of arrears will be as set out in the Municipality's Credit Control and Debt Collection Policy

6. RESTRICTION OR DISCONNECTION OF SERVICES

- (1) The City Manager may restrict or disconnect the supply of any service to the premises of any user in accordance with the stipulations of the Credit Control and Debt Collection Policy, or 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) tampers with any electrical or water connection or reconnects the services after the Municipality restricted the services in terms of this section;
 - (d) tenders a negotiable instrument which is dishonoured by the bank, when presented for payment; or
 - (e) fails to pay a deposit or any increased deposit as may be required.
- (2) The services may be reconnected and restored to full levels 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;
 - (b) after an arrangement with the debtor has been concluded.

7. RECOVERY OF DEBT

- (1) Subject to section 9, City Manager, must, with regards to rates, and may, with

regards to other debt-

- (a) by legal action recover any debt from any person; and
 - (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.
- (2) With the recovery of debt on municipal housing property, the Municipality is entitled to sell such property by public auction to recover such debt.

8. RECOVERY OF COSTS

- (1) The Municipality may appropriate any payment by a user in any manner it deems fit including firstly to any costs and administration fees, secondly to legal costs due to the Municipality by the user, thirdly to any interest due to the Municipality by the user on any outstanding amount, and thereafter to the outstanding amount
- (2) The Municipality 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.

9. ATTACHMENT

The Municipality 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.

10. CLAIM ON RENTAL FOR OUTSTANDING DEBT

The Municipality 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.

11. 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 City 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.

12. INDIGENTS

A debtor, who can provide proof of indigence, will be dealt with as prescribed in the Municipality's policy relating to Indigence.

13. DISPUTES

- (1) Any user disputing an amount owed to the Municipality shall be required to pay all amounts which are not subject to the dispute by the due date.
- (2) Disputes shall be registered and handled as determined in the Credit Control and Debt Collection Policy.

14. UNAUTHORISED RECONNECTION OR TAMPERING

- (1) No person shall reconnect the water or electricity supply to a property that was restricted or disconnected by the Municipality or tamper with the water or electricity installations of the Municipality;
- (2) The full amount of arrears plus any unauthorised consumption, and any applicable tariffs regarding unauthorised connection or tampering, will be payable prior to reconnection. Should exceptional circumstances exist, adequate payment arrangements may be permitted at the sole discretion of the City Manager or his or her delegate.

- (3) An authorised representative of, or service provider to the Municipality, shall be given access to any premises in accordance with the provisions of section 101 of the Systems Act

15. DELEGATION

The City 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 and to any board member of a municipal entity subject to applicable legislation.

16. OFFENCES AND PENALTIES

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) 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 on conviction to a penalty.

17. SHORT TITLE AND COMMENCEMENT

This By-law shall be called ***Mangaung, Credit Control and Debt Collection By-law*** and shall commence on the date of promulgation by publication in the Provincial Gazette.