

**DRAKENSTEIN MUNICIPALITY****CUSTOMER CARE, CREDIT CONTROL, DEBT COLLECTION AND  
INDIGENT SUPPORT BY-LAW**

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.

**CUSTOMER CARE, CREDIT CONTROL, DEBT COLLECTION AND  
INDIGENT SUPPORT BY-LAW**

To give effect to the Municipality's 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.

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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 Municipality'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.

**J F METTLER, MUNICIPAL MANAGER**

## DRAKENSTEIN MUNISIPALITEIT

### VERORDENING INSAKE KLIËNTESORG, KREDIETBEHEER, SKULDINVORDERING EN DEERNISONDERSTEUNING

Kennisgewing geskied hiermee dat die Munisipaliteit ingevolge artikel 13 van die Wet op Plaaslike Regering: Munisipale Stelsels, Wet 32 van 2000, die verordening aangeneem het wat hieronder uiteengesit word.

### VERORDENING INSAKE KLIËNTESORG, KREDIETBEHEER, SKULDINVORDERING EN DEERNISONDERSTEUNING

Om uitvoering te gee aan die munisipaliteit se beleid oor kredietbeheer en skuldinvordering, die inwerkingstelling en toepassing daarvan ingevolge artikel 156(2) van die Grondwet van die Republiek van Suid-Afrika, 1996, en artikel 96 en 98 van die Wet op Munisipale Stelsels, 2000, en om voorskrifte neer te lê vir die invordering van alle opeisbare skuld aan die munisipaliteit, asook vir sake bykomend daartoe.

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#### 1. Woordomskrywing

In hierdie Verordening geld die Engelse teks in die geval van enige teenstrydigheid met die Afrikaanse of Xhosa tekste, en, tensy die konteks anders aandui, beteken –

- "**agterstallige gelde**" enige bedrag verskuldig en betaalbaar aan die munisipaliteit wat nie op die betaaldatum betaal is nie;
- "**amptenaar**" 'n amptenaar soos in artikel 1 van die Wet op Plaaslike Regering: Bestuur van Munisipale Finansies, Nr 56 van 2003, omskryf;
- "**beleid**" die munisipaliteit se beleid insake Kliëntesorg, Kredietbeheer, Skuldinvordering en Deernisondersteuning;
- "**betaaldatum**" die finale betaaldatum soos op die debiteur se munisipale rekening aangedui word;
- "**debiteur**" enige persoon wat geld aan die munisipaliteit verskuldig is;
- "**derdeparty-skuldinvorderaar**" enige persoon of persone wat gemagtig is om namens die munisipaliteit geld in te vorder of regstappe teen debiteure in te stel;
- "**diens**" enige munisipale diens soos in artikel 1 van die Stelselswet omskryf, insluitend 'n funksie gelys in Bylae 4B en 5B van die Grondwet van die Republiek van Suid-Afrika, 1996, en enige ander diens deur die munisipaliteit verskaf;
- "**gebruiker**" 'n persoon wat aansoek gedoen het om en 'n ooreenkoms aangegaan het met die munisipaliteit om 'n diens te verskaf;

"hulpbehoewende debiteur" 'n debiteur wat aan sekere kriteria voldoen wat deur die munisipaliteit bepaal word;

"munisipaliteit" die munisipaliteit van Drakenstein, en sluit in enige bhoorlik gedelegeerde amptenaar of diensverskaffer in;

"munisipale bestuurder" die persoon wat deur die raad as munisipale bestuurder aangestel is ingevolge artikel 54 van die Wet op Plaaslike Regering: Munisipale Stelsels, Nr 32 van 2000, en wat ook die rekenpligtige beamppte is ingevolge die Wet op Plaaslike Regering: Bestuur van Munisipale Finansies, Nr 56 van 2003, of enige ander amptenaar wat deur hom of haar afgevaardig word;

"reëling" 'n geskrewe ooreenkoms aangegaan tussen die munisipale bestuurder en die debiteur waarvolgens daar oor spesifieke terme en voorwaardes vir die betaling van die skuld ooreengekom is;

"rente" 'n rentekoers een persent hoër as die prima koers wat by navraag van enige handelsbank verkry kan word, tensy die munisipaliteit anders bepaal, en wat vir 'n volle maand op agterstallige rekeninge op kapitaal gehef word, waar 'n gedeelte van 'n maand as 'n volle maand beskou word;

"skuld" enige geld aan die munisipaliteit verskuldig vir die verskaffing van munisipale dienste, en sluit in geld verskuldig ten opsigte van eiendomsbelasting, behuising, motorvoertuigregistrasie en – lisensies, gekanselleerde huurkontrakte en enige ander uitstaande bedrae aan die munisipaliteit verskuldig, insluitend enige rente daarop;

"totale huishoudelike inkomste" of "huishoudelike inkomste" die totale formele en informele bruto inkomste van die hoof broodwinner/s wat op die eiendom woon waarop die rekening gegrond is; en

"Stelselwet" die Wet op Plaaslike Regering: Munisipale Stelsels, Nr 32 van 2000.

## 2. Plig om skuld in te vorder

Alle skuld verskuldig aan die munisipaliteit moet ooreenkomstig hierdie verordening en die beleid ingevorder word.

## 3. Diensverskaffing

Nuwe aansoeke om dienste en die verskaffing van nuwe dienste moet ooreenkomstig die voorskrifte vervat in hierdie verordening en die beleid hanteer word.

## 4. Diensooreenkoms

Tensy hierdie verordening en die beleid anders bepaal, mag geen dienste verskaf word sonder dat daar 'n ooreenkoms tussen die munisipaliteit en die gebruiker aangegaan word vir die verskaffing daarvan nie.

## 5. Deposito's

Die munisipaliteit mag vereis dat deposito's betaal word vir die verskaffing van nuwe dienste en die heraansluiting van dienste, of mag die bedrag van enige bestaande deposito ooreenkomstig die voorskrifte vervat in hierdie verordening en die beleid aanpas.

## 6. Renteheffings

Die munisipaliteit mag rente hef en verhaal ten opsigte van enige agterstallige skuld ooreenkomstig die voorskrifte van hierdie verordening en die beleid.

## 7. Reëlins om agterstallige gelde te betaal

(1) Die munisipale bestuurder mag reëlins met 'n debiteur tref om enige agterstallige skuld te betaal ooreenkomstig die voorwaardes van hierdie verordening en die beleid.

(2) Indien 'n geskil ontstaan oor die bedrag van die agterstallige skuld, moet die debiteur steeds voortgaan om ingevolge die ooreenkoms gereeld te betaal tot tyd en wyl die geskil besleg is.

## 8. Ooreenkoms met debiteur se werkgewer

(1) Die munisipale bestuurder mag –

(a) met die goedkeuring van 'n debiteur, 'n ooreenkoms met sy of haar werkgewer aangaan om:

(i) enige uitstaande bedrae wat deur die debiteur aan die munisipaliteit verskuldig is van sy of haar salaris af te trek; of

(ii) gereelde maandelikse bedrae soos ooreengekom, en

(b) spesiale aansporings bied vir:

(i) werkgewers wat sulke ooreenkoms aangaan; en

(ii) debiteure wat akkoord gaan met sulke ooreenkoms.

**9. Bevoegdheid om die verskaffing van dienste te beperk of af te sluit**

- (1) Die munisipaliteit mag die verskaffing van enige diens na die perseel van enige gebruiker beperk of afsluit wanneer sodanige gebruiker –
  - (a) versuim om op die betaaldatum te betaal;
  - (b) versuim om 'n ooreenkoms na te kom;
  - (c) versuim om aan 'n verskaffingsvoorwaarde soos deur die munisipaliteit opgelê, te voldoen;
  - (d) 'n verhandelbare dokument aanbied wat by indiening vir betaling deur die bank geweier word; of
  - (e) die infrastruktuur vir die verkaffing van 'n diens beskadig of met 'n meter met betrekking tot 'n diens peuter.
- (2) Die munisipaliteit mag slegs die verskaffing van enige van die beperkte of gestaakte dienste heraansluit en herstel-
  - (a) nadat die agterstallige skuld, insluitend die koste van afsluiting of heraansluiting, indien enige, ten volle betaal is en alle ander voorwaardes nagekom is; of
  - (b) nadat 'n ooreenkoms met die debiteur aangegaan is.
- (3) Die munisipaliteit mag enige diens ten opsigte van enige agterstallige skuld beperk, afsluit of staak.

**10. Skuldverhaling**

- (1) Onderhewig aan artikel 9 moet die munisipale bestuurder met betrekking tot belasting, en mag hy of sy met betrekking tot ander skuld –
  - (a) enige skuld van enige persoon deur regsoptrede verhaal;
  - (b) skuld van enige staatsorgaan verhaal met inagneming van die bepalinge van Hoofstuk 3 van die Grondwet van die Republiek van Suid-Afrika, 1996, en;
  - (c) 'n debiteur na derdeparty-skuldinvorderingsagentskappe verwys en sodanige debiteur op die nasionale kredietkeuringslys laat plaas.

**11. Kosteverhaling**

- (1) Die munisipale bestuurder mag die volgende koste verhaal in gevalle waar sodanige koste deur of namens die munisipaliteit aangegaan is:
  - (a) koste- en administrasiegeld waar betalings wat deur verhandelbare dokumente aan die munisipaliteit gemaak word deur 'n bank geweier word wanneer dit vir betaling aangebied word;
  - (b) regs- en administratiewe koste, ingesluit prokureurs- en kliëntkoste en opsporingskoste aangegaan om skuld te verhaal;
  - (c) beperkings-, afsluitings- en heraansluitingskoste waar enige diens beperk of afgesluit is as gevolg van nie-voldoening aan hierdie verordening;
  - (d) enige verliese wat die munisipaliteit mag ly as gevolg van peutering met munisipale toerusting of meters; en
  - (e) enige invorderingskommissie wat aangegaan is.

**12. Beslaglegging**

Ten einde skuld te verhaal mag die munisipale bestuurder 'n hof met die nodige jurisdiksie nader vir 'n bevel om op 'n debiteur se roerende of vaste bates beslag te lê.

**13. Eise ten opsigte van huurgeld verskuldig op belasbare eiendom**

Die munisipale bestuurder mag ingevolge artikels 28 en 29 van die Wet op Munisipale Eiendomsbelasting, Nr 6 van 2004, beslag lê op enige huurgeld verskuldig op enige belasbare eiendom om gedeeltelik of ten volle enige bedrag ten opsigte van uitstaande eiendomsbelasting na die betaaldatum te dek.

**14. Volle vereffeninge**

- (1) Enige bedrag aangebied ter betaling van skuld moet by enige betaalkantoor van die munisipaliteit ontvang word.
- (2) Geen aanbod ter volle vereffening van skuld mag aanvaar word waar sodanige bedrag minder is as die uitstaande bedrag nie, tensy dit skriftelik deur die munisipale bestuurder gemagtig is.
- (3) Nieteenstaande subartikel (2) moet betaling wat so aangebied word teen die debiteur se rekening gekrediteer word sonder benadeling van die munisipaliteit se regte.

**15. Konsolidasie van debiteurrekeninge**

- (1) Die munisipale bestuurder mag –



- (a) enige rekeninge van 'n debiteur konsolideer;
  - (b) 'n betaling van 'n debiteur teen enige rekening van daardie debiteur krediteer; en
  - (c) enige van die maatreëls in werking stel waarvoor daar in hierdie verordening en die beleid voorsiening gemaak word betreffende enige agterstallige betalings op enige van die rekeninge van sodanige debiteur.
- (2) Subartikel (1) is nie van toepassing waar daar 'n geskil bestaan tussen die munisipaliteit en 'n debiteur rakende enige spesifieke bedrag wat deur die munisipaliteit van daardie persoon geëis word nie.
- 16. Deernisondersteuning**  
'n Debiteur wat kan bewys dat hy of sy hulpbehoewend is, sal ingevolge die voorskrifte van die beleid hanteer word.
- 17. Delegasie**  
Die munisipale bestuurder mag sy magte ingevolge hierdie verordening aan enige amptenaar of diensverskaffer van die munisipaliteit delegeer.
- 18. Misdrywe en strawwe**  
(1) Enige persoon wat-
- (a) 'n amptenaar of raadslid van die munisipaliteit verhinder of verhoed om sy pligte ingevolge hierdie verordening of beleid uit te voer;
  - (b) munisipale toerusting onwettig gebruik of inmeng met die verskaffing van dienste;
  - (c) met enige munisipale meter peuter of enige seël op enige meter breek;
  - (d) versuim om te voldoen aan 'n kennisgewing ingevolge hierdie verordening of beleid bestel; of
  - (e) vals inligting vertrek met betrekking tot die verskaffing van enige diens of aansoek om deernisondersteuning,
- pleeg 'n misdryf en is by skuldigbevinding strafbaar met 'n boete van hoogstens eenduisend rand of gevangenisstraf van hoogstens drie maande of tot sodanige gevangenisstraf sonder die keuse van 'n boete of tot beide sodanige boete en gevangenisstraf.
- 19. Herroeping van verordeninge**  
Die bepalinge van enige verordeninge voorheen uitgevaardig deur die munisipaliteit of deur enige van die afgeskafte munisipaliteite wat nou in die munisipaliteit geïnkorporeer is, word hiermee herroep in soverre hulle betrekking het op aangeleenthede waarvoor in hierdie verordening voorsiening gemaak word.
- 20. Kort titel**  
Hierdie verordening staan bekend as die Verordening insake Kliëntesorg, Kredietbeheer, Skuldinvordering en Deernisondersteuning van Drakenstein Munisipaliteit, 2013.
- 21. Datum van Inwerkingtrede**  
Hierdie Verordening tree in werking op 1 Julie 2013.

**J F METTLER**  
**MUNISIPALE BESTUURDER**

