

Matzikama, South Africa

Credit Control and Debt Collection

Legislation as at 3 October 2014

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Matzikama South Africa

Credit Control and Debt Collection By-law, 2010

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In order to give effect to the Municipality's credit control and debt collection policy, its implementation and enforcement, as required by section 98 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) and to give effect to the duty imposed by section 96 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) to collect all money that is due and payable to the Municipality, the Matzikama Municipality hereby adopts the following by-law in terms of section 75 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) and section 156(2) of the Constitution of the Republic of South Africa, 1996:

1. Definitions

Unless inconsistent with the context:

"**arrangement**" means a written agreement entered into between the Council and a debtor where specific parameters for the payment of a debt are agreed to;

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

"**debt**" means any monies owing to the Council in respect of the rendering of services, and includes monies owing in regard to property rates.

"**debtor**" means any person who owes a debt to the Council;

"**due date**" in the absence of any express agreement and in relation to-

- (a) rates, other than rates which are being paid by instalments, means the first day of July of the financial year for which such rate is determined, and
- (b) any service and rates which are being paid by instalments, means the date stipulated on the account and determined by the Council as the last date on which the account can be paid;

"**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, 1998;

"**Municipality**" means the Municipality of Matzikama;

"**policy**" means the credit control and debt collection policy of the Council as adopted by resolution 7.3.7 of 28 May 2013;

"**service**" means any service rendered by the Council, in respect of which an account may be rendered; and

"**user**" means a person to whom Council provides a service whether or not such a person has entered into an agreement with the Council for the supply of any service.

2. Accounts

- (1) The Municipal Manager will bill a user at regular intervals, as set out in the policy.

- (2) The Municipal Manager will post or hand deliver accounts to users before the due date.

3. Duty to collect debts

All debts owing to the Council will be collected in accordance with the policy and no deviation is permissible without amendment to the policy.

4. Payment of accounts

- (1) A user must before the due date pay in full an account rendered.
- (2) Accounts may be paid at any of the offices of the Council where a cash receipting facility is available.

5. Provision of services

Applications for services and the provision of new services will be dealt with as set out in the policy.

6. Service agreement

- (1) Except as otherwise determined in the policy, no supply of services shall be given until a service agreement has been entered into between the Council and the user.
- (2) The Municipal Manager is authorised to enter into a service agreement with a user.

7. Deposits

The Council 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 set out in the policy.

8. Interest charges

The Municipal Manager will charge and recover interest in respect of any arrear debt as set out in the policy.

9. Arrangements to pay arrears

- (1) The Municipal Manager may make arrangements with a debtor to pay any arrear debt under conditions as set out in 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 settled.
- (3) The Municipal Manager is authorised to enter into agreements with a debtor to formalise an arrangement.

10. Authority to restrict or disconnect supply of services

The Municipal Manager may restrict or disconnect the supply of water, gas or electricity, or discontinue any other service to the premises of any user under conditions as set out in the policy.

11. Authority of Council to recover costs

The Municipal Manager must recover the following costs, in instances where such costs are incurred by or on behalf of the Council:

- (a) costs and administration fees where payments made to the Council 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) disconnection and reconnection fees, where any service has been disconnected as a result of non-compliance with these by-laws, and
- (d) any losses the Council may suffer as a result of tampering with Council equipment or meters.

12. Consolidation and crediting of accounts.

The Municipal Manager is authorised to-

- (a) consolidate any separate accounts of a debtor; and
- (b) credit a payment by such a debtor against any account of that debtor.

13. Appropriation of payments

The Municipal Manager is authorised to appropriate any payment by a user, firstly to the costs referred to in section 11, secondly to any interest charges due, and thereafter to the outstanding amount.

14. Attachment

The Municipal Manager may, in order to recover debt, as a last resort, attach the debtor's property.

15. Claim on rental for property rates

The Municipal Manager must apply to a court for the attachment of any rent, due in respect of any rateable property, to cover in part or in full any amount in respect of property rates outstanding for a period longer than three months after the fixed date of payment in respect of such property.

16. Full and final settlement payments

- (1) Any amount tendered in defrayment of a debt, will be accepted at any cash receiving office of the Council.
- (2) No offer of payment in full and final settlement of a debt, when such amount is less than the outstanding amount, shall be accepted, unless confirmed in writing by the Municipal Manager.
- (3) Notwithstanding subsection (2), the payment so offered shall nevertheless be credited against the debtor's account.

17. Indigents

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

18. Delegations.

- (1) The Municipal Manager may delegate any power or duty conferred on the Municipal Manager in terms of this by-law to a member of the municipal staff.

- (2) A delegation in terms of subsection (1)-
- (a) must be in writing;
 - (b) is subject to any limitations, conditions and directions the Municipal Manager may impose;
 - (c) may include the power to sub-delegate a delegated power or duty;
 - (d) does not divest the Municipal Manager of the responsibility concerning the exercise of the power or the performance of the duty.

19. Application

This by-law does not apply to the lease of Council's immovable property or any other immovable property administered by Council on behalf of an organ of state in another sphere of government, in so far as it relates to the collection of rental.

20. Offences and penalties.

Any person who:

- (a) obstructs or hinders any councillor or official of the Council in the execution of his or her duties under this by-law;
- (b) uses or interferes with Council equipment or consumption of services supplied;
- (c) tampers with any Council 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;

shall be guilty of an offence and liable on conviction to pay a fine.

21. Short title and commencement

This By-law shall be called the Credit Control and Debt Collection By-Law of the Matzikama Municipality and shall come into operation on the date of publication thereof in the Provincial Gazette.