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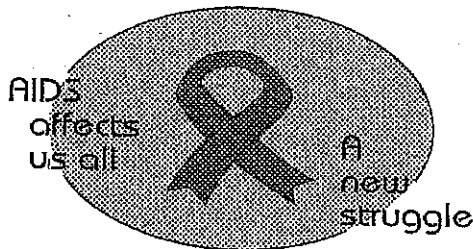
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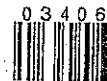
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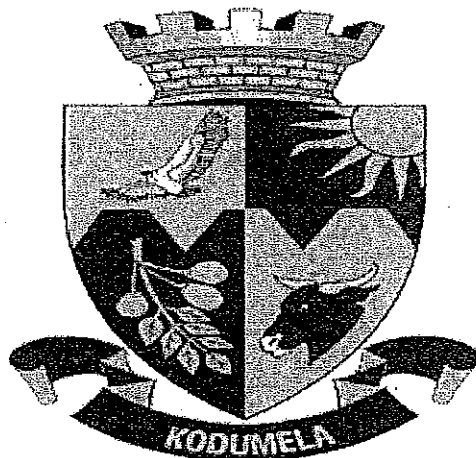
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LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS

LOCAL AUTHORITY NOTICE 645 OF 2023



BLOUBERG LOCAL MUNICIPALITY

CREDIT CONTROL AND DEBT COLLECTION BY-LAW

2023

Blouberg Local Municipality
Credit Control and debt Collection 2022

The Blouberg Local Municipality has adopted a Credit Control and debt Collection Policy in terms of section 96(b) of the Local Government: Municipal systems Act, 200 (Act 32 of 2000); and

Section 98(1) of the said Act requires the Blouberg Local Municipality to adopt the by-laws to give effect to its Credit Control and Debt Collection policy:

Be it hereby enacted: -

CREDIT CONTROL AND DEBT COLLECTION BY-LAW

PURPOSE OF THE BY-LAW

The purpose of the by-law is to give effect to the formal policy adopted by the Blouberg Local Municipality in terms of section 96(b) of the Local Government: Municipal systems Act, 2000 (Act 32 of 2000). Matters relating to service delivery and the collection of debt for services rendered are contained in the by-law in order to ensure the efficiency and economically operating system to the benefit of the entire community.

1. Definitions

(1) For the purpose of this by-law, unless the context indicates otherwise:

"apparatus" includes a building, structure, pipe, pump, wire, cable, meter, machine or any fitting.

"billing" means proper formal notification (invoicing) on a statement to each customer of the amounts levied for assessment rates and services in the net accumulated balance of the account.

"chief financial officer" means chief financial officer as defined in the Local Government: Municipal Finance Management Act.

"credit control" means all the functions relation to the collection of monies owed by rate payers and users of municipal services

"customer management" means the focusing on the client's needs in a respective and pro-active way of encouraging payment, thereby limiting the need for enforcement.

"customer" means any occupier of any premises to which the municipality has agreed to supply or is actually supplying services, or if there is no occupier, then the owner of the premises.

"defaulter" means the person owing the municipality in respect of taxes and/or services charges.

"interest" constitutes a levy equal to service levies and is calculated at a rate determined by the Municipality on all service levies in arrears.

"Municipality" means the Blouberg Municipality and includes the Mayor, Political Officer Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government Municipal Systems Act (Act 32 of 2000);

"municipal services" means those services, rates and taxes reflected on the municipal account for which payment is required by the Municipality.

"Municipal account" means an account rendered by the municipality specifying an amount or amounts payable for assessment rates, metered services, municipal charges, levies, fees, fines, taxes or any other amount or amounts payable arising from any other liability or obligation due to the Municipality.

"occupier" means any person who occupies any premises or part thereof with regard to the title under which he or she occupies, and includes-

- (a) any person in actual occupation of those premises;
- (b) any person legally entitled to occupy those premises;
- (c) in the case of those premises subdivided and let to the lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants whether on the person's account or as agent for any person entitled thereto or interested therein;
- (d) any person having the charge or management of those premises, and includes the agent of any such person when the person is absent from the Republic of South Africa or his or her whereabouts are unknown; and
- (e) the owner of the premises.

"owner" means: -

- (a) the person in whom from time to time is vested the legal title to the premises;
- (b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial, manager, liquidator or other legal representative;
- (c) in any case where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of such premises or a building thereon;
- (d) in the case of premises of which a lease of 30 years or more has been entered in, the lessee thereof;
- (e) in relation to: -
 - i. a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act 1986, (Act 95 of 1986), and without restricting the above developer or the body corporative in respect of the common property; or
 - ii. a section as defined in such act, the person in whose name such section is registered under the sectional title deed and includes the lawfully appointed agent of such a person;
- (f) any legal person including but not limited to:
 - i. a company registered in terms of the Companies Act, (Act 71 of 2008) or its successor in title, trust *inter vivos*, trust *mortis cause*, a Close Corporation registered in terms of the Closed Corporation Act, 1984, (Act 69 of 1984) or its successor in title, a Voluntary Association.
 - ii. any department of State;
 - iii. any municipality or Board established in terms of any legislation applicable to the Republic of South Africa.
 - iv. any Embassy or other foreign entity.

"person" includes a natural person and a juristic person;

"premises" include piece of land, the external surface boundaries of which are delineated on: -

- (a) a general plan or diagram registered in terms of the Land Survey Act (Act 8 of 1997) or in terms of the Deeds Registry Act, 47 of 1937; or
 - (b) a sectional plan registered in terms of the sectional Titles Act, 95 of 1986, which is situated within the area of jurisdiction of the Municipality.
- (2) In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa;

(3) Unless defined above or in case the context clearly indicates otherwise, any word or expression in these by-laws will bear in corresponding meaning with the use of such word or expression in the Municipal System Act.

"Policy" means the Municipality's credit control and debt collection policy unless otherwise specified;

2. Provision of services

New applications for services and the provision of new services must be dealt with as prescribed in this by-law, the policy and any other applicable law or policy

3. Duty to collect debt.

All debt owing to the Municipality must be collected in terms of this by-law and policy

4. Service agreement

(1) No supply of services shall be given unless and until application has been made and a service agreement, in the Municipality's prescribed form, has been entered into and a deposit as security in either cash or a bank guarantee as determined by the Municipality from time to time, has been paid in full.

(2) Termination of the services agreement must be by thirty days' prior notice in writing to the other party of the intention to do so.

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 or applicable policy.

6. Notices and documents

(a) A notice or document issued by the Municipality in terms of this by-law shall be deemed to be duly issued if it is signed by an officer authorised by the Municipality.

(b) If a notice is to be served on a person in terms of this by-law, such services shall be effected by: -

i. delivering the notice to him personally or to his duly authorised agent;

- ii. by delivering the notice at his residence or place of employment to a person apparently not less than sixteen years of age and apparently residing or employed there;
- iii. if he has nominated an address for legal purposes, by delivering the notice to such an address;
- iv. registered or certified post address to his last known address;
- v. in the event of a body corporative, by delivering it to the registered office or business premises of such body corporate;
- vi. if service cannot be effected in terms of paragraphs (i) to (v) by affixing it to the principal door of entry to the premises, or placing it on a conspicuous place on the land which it relates.

7. Authentication of documents

- (a) Every order, notice or any other document, which requires authentication by the Municipality, shall be sufficiently authenticated, if signed by the Municipal Manager or duly authorised officer of the Municipality; such authority being conferred by resolution of the Municipality or by a by-law or regulation.
- (b) Delivery of a copy shall be deemed to be delivery of the original.

8. Full and final settlement of an amount

- (a) An amount tendered as payment against the Municipality Account will, if not representative of the full balance of such an account on date of payment, be deemed not to be accepted as full and final payment of the amount due and payable on the date or any future date, unless so authorized by the Chief Financial Officer in writing.
- (b) An amount tendered as payment against a Municipality Account will, if less than the outstanding balance, be credited pro rata to the longest outstanding debt items reflected on such an account, subject thereto that the Chief Financial Officer may direct otherwise.

9. Interest charges

The Municipality may by resolution charge and recover interest in respect of any amount due payable to the Municipality.

10. Prima Facie evidence

A certificate reflecting the amount due and payable to the Municipality, under hand of the Municipal Manager, or suitably qualified official authorised by the Municipal Manager, shall upon mere production thereof be accepted by any court of the law as *prima facie* evidence of the indebtedness.

11. Power of Municipality to Recover Costs**(1) Dishonoured payments**

Where any payment made to the Municipality is later dishonoured by the bank, the Municipality may levy such costs and administration fees against the account of the defaulting debtor in terms of the Municipal's tariff provisions.

(2) Legal fees

All legal fees, including attorney-and-own-client costs incurred in the recovery of amounts in arrears shall be levied against the arrears account of the debtor.

(3) Cost to remind debtors of arrears

For any action taken in demanding payment from the debtor or reminding the debtor by means of telephone, fax, email, letter or otherwise, that his or her payments are due, a penalty fee may be levied against the account of the debtor in terms of the Municipality's provisions.

(4) Disconnection fees

Where any service is disconnected as a result of non-compliance with this by-law by the customer, the municipality shall be entitled to levy and recover the standard disconnection fee as determined by the Municipality from time to time.

(5) Accounts

The Municipality may: -

- (a) consolidate any separate accounts of persons liable for payment to the municipality;
- (b) credit any unspecified payment by such a person against any account of that person; and
- (c) implement any of the debt collection and credit control measures provided for in this by-law in relation to any of the accounts of such person.

(6) Delivery

- (a) If a Municipal account, Notice, Reminder, Letter of Demand or other document is to be served on a person in terms of these By-laws, such service shall be effective if: -
 - i. delivered to such person personally or to such persons duly authorized agent;
 - ii. delivered at such person's place of residence or place of employment to a person apparently not less than sixteen years of age;
 - iii. delivered to an address nominated in writing by such person;
 - iv. sent by registered or certified post to the last known address of such person; or
 - v. in the event of a legal person, delivered or sent by registered or certified post, to the registered address or place of business of such person.
- (b) In the event that service cannot be effected in terms of (i) to (v) above, then by fixing it to or placing it in a conspicuous place, on the property or premises to which it relates.

12. Credit control policy

The municipality shall have a written policy on credit control and debt collection which provides for: -

- (a) credit control procedures and mechanism
- (b) debt collection procedures and mechanism
- (c) provision for indigent debtors that is consistent with its rates and tariff policies and any national policy on indigents

- (d) interest on arrears
- (e) extensions of payment of accounts
- (f) termination of services or the restriction of the provision of services when payments are in arrears.

13. Power to restrict or disconnect supply of services

(a) The Municipality may, restrict or disconnect the supply of water and electricity, or discontinue any other services on any premises whenever a user of any service:

- i. fails to make full payment on the due date or fails to make acceptable arrangements for the repayments of any amount for services, rates or taxes;
- ii. fails to comply with a condition of supply imposed by the Municipality
- iii. obstructs the efficient supply of electricity, water or any other municipal services to another customer;
- iv. supplies such municipal service to a customer who is not entitled to thereto or permits such service to continue;
- v. causes a situation which in the opinion of the municipality is dangerous or contravention of relevant legislation;
- vi. is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act (Act no. 24 of 1936)
- vii. If an administration order is granted in terms of section 74 of the Magistrate Court Act, 1994 (Act 32 of 1944) in respect of such user.

(b) The municipality shall reconnect and or restore full levels of supply of any of the restricted or discontinued services only after the full amount outstanding and due, including the cost of such disconnection and reconnection, if any, have been paid in full or as may be arranged in terms of the Credit Control and Debt Collection Policy.

(c) The right of the Municipality to restrict water to any premises or customer shall be subject to the provision of section 4 of the Water Services Act, 103 of 1997 and the Promotion of Administrative Justice Act, 3 of 2000.

(d) The right to restrict, disconnect or terminate service due to non-payment for other service or assessment rate shall be in respect of any service rendered by the Municipality and shall prevail notwithstanding the fact that the person

who entered into agreement for supply of services with the Municipality and the owner are different entities or persons, as the case may be.

14. Power of entry and inspection

- (a) An authorised representative of the Municipality may for any purpose related to the implementation or enforcement of this by-law, at all reasonable times or in an emergency at any time, enter premises, request information and carry out inspection and examination as he may deem necessary, and for purpose of installing or repairing any meter or service connection for regulation, or to disconnect, stop or restrict the provision of any service.
- (b) If the municipality considers it necessary that work be performed to enable an officer to perform a function referred to in (a) above properly and effectively it may: -
- i. by written notice require the owner or occupier of the premises at his or her own expenses to do specified work within a specific period;
 - ii. if in its opinion the situation is a matter of urgency, without prior notice do such work and recover the cost thereof from the occupier or cause it to be done at the expense of the owner.
- (c) If the work referred to in (b) above is carried out for the sole purpose of establishing whether a contravention of this by-law has been committed and no such contravention has taken place, the Municipality shall bear the expense connected therewith together with that of restoring the premises to their former condition.

15 Arrangements to pay outstanding and due amount in consecutive instalments

- (a) A debtor may enter into a written agreement with the Municipality to repay an outstanding and due amount to the Municipality under the following conditions:
- i. the outstanding balance, costs and any interest thereon shall be paid in regular and consecutive monthly instalments; and
 - ii. the written agreement has to be signed on behalf of the Municipality by a duly authorised officer.
- (b) Should any dispute arise as to the amount owing by an owner or occupier in respect of the municipal services the owner or occupier shall notwithstanding

such dispute proceed to make regular minimum payments based on the calculation of the average municipal account for the preceding three months prior to the arising of the dispute and taking into account interest as well as the annual amendments of tariffs of the Municipality.

- (c) An extension for payments should be allowed for a period of extensions of not more than twenty-four (24) months;

16. Reconnection of services

The Chief Financial Officer shall authorize the reconnection of services or reinstatement of services after satisfactory payment and/or arrangements have been made according to the Municipality's Credit Control and Debt Collection Policy.

17. Assessment rates

(1) Amount due for assessment rates

- (a) All assessment rates due by property are payable by the fixed date as determined by the Municipality.
- (b) Joint owners of property shall be jointly and severally liable for payment of assessment rates.
- (c) Assessment rates may be levied as an annually single amount, or in equal monthly instalments.
- (d) Payments of assessment rates may not be deferred beyond the fixed date by reason of objection to the valuation roll.

(2) Claim on rental for assessment rates in arrears

The Municipality may apply to Court for the attachment of any rent, due in respect of rateable property, to cover in part or in full any amount outstanding in respect of assessment rates for a period longer than three months after the fixed date.

(3) Liability of company directors for assessment rates

Where a company, close corporation or a body cooperate in terms of the Sectional Titles Act, 1986 is responsible for the payment of any arrears amount to the Municipality, the liability of such entity shall be extended to the directors or members thereof jointly and severally, as case may be.

(4) Repossession of Municipality's property and payment of assessment rates

- (a) The purchaser of the Municipal property is liable for the payment of assessment rates on the property in respect of the financial year in which the purchaser becomes the new owner.
- (b) In the event of the Municipality repossess the property, an outstanding and due amount in respect of assessment rates shall be recovered from the Purchaser.

(5) Restraint on Transfer of property

- (a) A registrar of deeds or other registration officer of immovable property may not register the transfer of the property except on production to that registration officer of a prescribed certificate: -
 - i. Issued by the municipality in which that the property is situated; and
 - ii. Which certifies that all amounts due in connection with that property for municipal services fees, surcharges of fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate have been fully paid.
- (b) In case of the transfer of immovable property by a trustee of an insolvent estate, the provision of this section are subject to section 89 of the Insolvency Act, 1936 (Act no. 24 of 1936).

(6) Assessment rates payable on municipal property

- (a) The lessee of municipal property is responsible for payment of any general assessment rates payable on the property for the duration of the lease, as if the owner of such property.
- (b) The Chief Financial Officer may elect to include the assessment rates in respect of a property in the rent payable by the lessee, instead of billing it separately as in the case of owners of properties.

18. Relaxation, waiver and differentiation

- (1) The Municipality may, in terms of legislation, differentiate between deferent categories of ratepayers, users of services, customers, debtors, taxes, services, services standards and other matters.
- (2) The Municipality may, for a particular owner or customer, relax or waiver in writing the requirements of the provision of this by-law, provided that it does not act unconstitutionally or inconsistently.
- (3) Any such differentiation or relaxation shall be upon such conditions as it may deem fit to impose, if it is the opinion that the application or operation of the provision in that instance would be unreasonable.

19. Reporting of defaulters

- (1) The Municipality may in its discretion through a duly delegated officer report such persons that owe the Municipality monies to bodies that collate and retain such information.
- (2) The information that would be included in such a report shall be the available personal information of the defaulter, or in the event of a legal person, the available statutory details, including information pertaining to the responsible officers of such legal person.

20. Conflict of By-laws

If there is any conflict between this by-law and any other by-law of the Municipality this by-law will prevail.

21. Disputes

- (1) A customer who disputes the Municipality Account must submit such disputes, within 30 days from the date of the account, in writing to the Chief Financial Officer, stating any relevant facts and the reasons for such dispute.

- (2) A dispute submitted in terms of subsection 10(1) shall not stop or defer the continuation of any legal proceedings already instituted, for the recovery of arrear payment relating to such disputes, unless the Chief Financial Officer decides otherwise.
- (3) The Chief Financial Officer will consider a dispute submitted and will inform the customer of the decision in writing within fourteen (14) days from the date on which such dispute is submitted, together with reasons of such a decision.
- (4) Should the customer wish to appeal against the decision of the Chief Financial Officer, the customer may submit an appeal and reasons in writing to the Municipal Manager in accordance with section 62 of the Local Government: Municipal Systems Act.
- (5) The Municipal Manager must consider the appeal in accordance with section 62 of the Local Government: Municipal Systems Act.

22. Unauthorised consumptions of services

- (1) Any person who undertakes or allows or causes any other person to undertake an illegal connection will be guilty of an offence.
- (2) A Customer who becomes aware of an illegal connection of the electricity supply or water supply to a Property or Premises owned by or occupied by such customer, must immediately notify the Municipality thereof in writing.
- (3) The Municipality will immediately disconnect any illegal connection and remove any wiring, piping or other equipment or installation relating to an illegal connection.

23. Indigent persons

- (1) A Customer who has been classified as an indigent person in terms of the Municipality's policy relating to indigent persons, will remain subject to these By-laws.

24. Offences

A person who: -

- (a) fails to give the access required by an officer in terms of this by-law.
 - (b) obstructs or hinders an officer in the exercise of his or her powers or performance of functions or duties under this by-law;
 - (c) interferes with the Municipality equipment or services supplied;
 - (d) tampers or breaks any seal on a meter or any equipment belonging to the Municipality, or causes a meter not to properly register the service used, shall be charged for usage, estimated by the Chief Financial Officer based on the average usage.
 - (e) fails or refuse to give an officer such information as he or she may reasonably require for the purpose of exercising his or her powers or functions under this by-law or gives such an officer false or misleading information knowing it to be false or misleading;
 - (f) contravenes or fails to comply with the provision of these by-law;
 - (g) fails to comply with the terms of the notice served upon him or her in terms of this by-law;
- shall be guilty of an offence and liable to a maximum fine of R5000.00 or maximum imprisonment of 5 months or both such fine and imprisonment.

25. Short title and commencement date

These By-laws will be known as the **Blouberg Local Municipality: Credit Control and Debt Collection By-law 2023** and will come into operation on publication in the *Provincial gazette*.