



LIMPOPO PROVINCE
LIMPOPO PROVINSIE
XIFUNDZANKULU XA LIMPOPO
PROFENSE YA LIMPOPO
VUNDU LA LIMPOPO
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Buitengewoon

Hu tshi katelwa na
Gazethe dza Nyingo

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

**AIDS
HELPUNE**

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DEPARTMENT OF HEALTH

Prevention is the cure

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EPHRAIM MOGALE LOCAL MUNICIPALITY



CREDIT CONTROL AND DEBT COLLECTION BY-LAW

The Municipal Manager of Ephraim Mogale Local Municipality hereby in terms of section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), publishes Debt Collection and Credit Control By-Laws for the Municipality as approved by its Council, as set out hereunder.

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1. DEFINITIONS

For the purpose of these by-laws, unless the context indicates otherwise: -

"account" means any account or accounts rendered for municipal services that have been provided;

"Agreement" means a written agreement entered into by and between the municipality and the debtor or consumer where specific terms and conditions for the payment of a debt are agreed to;

"arrears" means any amount that is due, owing and payable by a customer in respect of a municipal service that has not been paid on or before the due date;

"Chief Financial Officer" means a person appointed by the Municipality in terms of section 56 of the Local Government: Municipal Systems Act 2000 (Act 32 of 2000) as amended to manage, inter alia, the financial administration and collection of the debt of the Municipality's debts;

"Client Management" means the focusing on the client's needs in a responsive and pro-active way to encourage payment, thereby limiting the need for enforcement;

"Council" means the Council of the Municipality;

"Credit Control" means the limiting of further service delivery (and thus lowering current accounts and arrears growth) to defaulters and the negotiation for payment before normalizing service delivery again;

"Debtor" means a person or entity to whom or to which a municipal account has been submitted.

"Debt Collection" means the administrative and legal processes, which are necessary to collect unpaid income of the Municipality from its debtors;

"Debt Collector" means any person or persons authorised by the municipality to collect monies or institute legal proceedings against debtors, on behalf of the municipality;

"Defaulter" means a debtor whose municipal account is in arrears for a period of more than 30 (thirty) days from the due date of account;

"Due date" means a final date on which a payment, as shown on the debtor's municipal account or in terms of a contract is due and payable;

"Indigent debtor" means a debtor who is qualified to be, and who is registered with the municipality as an indigent in accordance with the municipality indigent policy;

"interest" means interests as may be prescribed by the Minister of Justice in terms of section 1 of the Prescribed Rate of Interest Act, 1975 (Act No 55 of 1975);

"Municipality" means Ephraim Mogale Local Municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

"Municipal Services" means services, rates and taxes reflected on the municipal account for which payments is required by the Municipality;

"owner" means—

- (a) The registered owner of premises in terms of the Deeds Registries Act, 1937 (Act 47 of 1937) or the person in whom from time to time is vested the legal title to premises or where the municipality is unable to determine the identity of such person who is benefitting or who is likely to benefit from such premises or such building thereon;
- (b) the person in whose name the ownership of the premises is registered from time to time or his agent;
- (c) where the registered owner of the premises is insolvent or dead, or for any reason lacks legal capacity, or is under any form of legal disability, that has the effect of preventing him or her from being able to perform a legal act on his or her own behalf, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (d) where the municipality is unable to determine the identity of the owner, a person who has a legal right in, or the benefit of the use of, any premises, building, or any part of a building, situated on them;
- (e) where a lease has been entered into for a period of 30 (thirty) years or longer, or for the natural life of the lessee or any other person mentioned in the lease, or is renewable from time to time at the will of the lessee indefinitely or for a period or periods which, together with the first period of the lease, amounts to 30 years, the lessee or any other person to whom he has ceded his right title and interest under the lease, or any gratuitous successor to the lessee;
- (f) in relation to—
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No 95 of 1986), the developer or the body corporate in respect of the common property, or
 - (ii) a section as defined in the Sectional Titles 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 a person; or
 - (iii) a person occupying land under a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

"Premises" includes any piece of land, the external surface boundaries of which are delineated on-

- (a) A general plan or diagram and registered in terms of the legislation; or in terms of the Deeds Registry Act, 47 of 1937;
- (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 council

"Property means":

- (a) Immoveable property and any building, whether moveable or immoveable and any other immoveable structure in or on the property or entity:

- (b) A right registered against immoveable property in the name of a person or entity;
- (c) A land tenure right registered in the name of a person or entity, or granted to a person in terms of legislation.

2. Application for Services

- (1) A consumer shall forward the application to the municipal council for provision of municipal services and indigent customer must apply for services in the manner set out in the credit control and debt collection policy.
- (2) No person shall, subject to the provisions of subsection (3), receive or be provided with access to a municipal service unless the municipality has given its approval to an application that has been made to the municipality on the prescribed form obtained from the municipal offices.
- (3) If, at the commencement of these by-laws or at any other time, municipal services are provided and received and no written agreement exists in respect of such services, it shall be deemed that—
 - (b) an agreement exists; and
 - (c) the level of services rendered to that customer is at a level of services elected by him.
- (4) The municipality, when an application for the provision of municipal services has been made to it, must inform the applicant of the levels of services that are available and the applicable tariffs or charges.
- (5) The municipality is obliged only to provide a level of service specifically requested by the applicant if the service is currently being provided and if the municipality has the resources and capacity to provide that level of service.
- (6) A customer may at any time apply for an alteration to the level of services that was elected in terms of an agreement, and, if she does so, the municipality may approve of the application if it has the capacity and resources to provide the requested level of service altering the level of services subject to the condition that the customer shall be liable, for the cost of effecting the alteration and, if it be feasible to calculate the cost, to pay it before the alteration commences.
- (7) An application for services that has been submitted by a customer and approved by the municipality shall constitute a written agreement between the municipality and the customer, and such agreement shall take effect on the date referred to or stipulated in the agreement.
- (8) The municipality must take reasonable steps to attempt to ensure that an illiterate person who wishes to complete an application form understand the document as well as the consequences of entering into the agreement, and must also advise him or her of the possibility of registering as an indigent customer.

(9) If the municipality—

- (a) refuses an application for the provision of municipal services or a specific service or level of service;
- (b) is unable to render municipal services, or a specific service or level of service, by when the customer wants it; or
- (c) is unable to render municipal services, a specific service, or a specific level of service; it must, within 7 (seven) days of refusing the application or of becoming aware of its inability, inform the customer about the refusal or its inability, and must furnish the reasons for its refusal or inability.

3. Payment of Deposit

- (1) A municipal council may require a customer to pay a deposit that has been determined by it and may determine that different deposits be paid by different categories of customers, users of services and debtors as well as for different services and standards of service.
- (2) A deposit may not exceed 3 (three) times the monetary value (including rates and taxes derived from rendering the service) of any service for which a client has applied.
- (3) The municipal council may specify acceptable forms of deposits, which may include:
 - (a) cash;
 - (b) bank guaranteed cheques; and
 - (c) bank guarantees.
- (4) A deposit determined by the Municipal Council must be paid by a customer when he or she applies for a municipal service and no service will be rendered until it has been paid.
- (5) The municipal council may annually review a deposit to be paid depending on the outcome of the review—
- (6) A deposit, is refundable to the customer on settlement of all arrears on the termination of the agreement but if any arrears are still due, they will be deducted from it.
- (7) A deposit shall be forfeited to the municipality if it has not been claimed by the customer within 12 (twelve) months of the termination of the agreement.

4. Accounts

- (1) Accounts shall be rendered monthly to customers at the customer's last recorded address.
- (2) Where in the opinion of the municipality it is not reasonably possible or cost effective to render accounts to consumers who consume only subsidised services, the municipal council may, notwithstanding subsection (1), decide not to render accounts to those consumers.

- (3) Failure by the customer to receive or accept an account does not relieve a customer of the obligation to pay any amount that may be due and payable.
- (4) The municipality must, if it is reasonably possible to do so, issue a duplicate account to a customer on request.
- (5) Accounts must be paid not later than the last date for payment specified in the account.
- (6) Accounts for municipal services must—
 - (a) reflect at least the—
 - (i) services rendered;
 - (ii) consumption of metered services or the average, shared or estimated consumption;
 - (iii) period addressed in the account;
 - (iv) applicable charges;
 - (v) subsidies;
 - (vi) amount due (excluding the value added tax payable)
 - (vii) value added tax;
 - (viii) adjustment, if any, to metered consumption which has been previously estimated;
 - (ix) arrears;
 - (x) interest payable on any arrears;
 - (xi) final date for payment; and
 - (xii) methods, places and approved agents where payment may be made.

5. Arrangements to pay outstanding and due amount in consecutive instalments

- (1) A debtor may enter into a written agreement with the Municipality to repay any outstanding arrears to the Municipality under the following conditions:
 - (a) the outstanding balance, costs and any interest thereon shall be paid in regular and consecutive monthly instalments;
 - (b) monthly instalments will be debited on the monthly current account, which has to be paid every month to ensure that the agreement is not cancelled;
 - (c) the written agreement has to be signed on behalf of the Municipality by an authorized official.

6. Interest Charges

- (1) Interest may be levied on arrears.
- (2) The municipal council may differentiate between types of domestic customers, types and

levels of services, quantities of services, geographical areas and socio-economic areas in levying interest on arrears.

7. Power to restrict or disconnect supply of services.

- (1) The Municipality may after having consulted the debtor restrict or disconnect any other service to any premises whenever a debtor:
 - (a) fails to make full payment on the due date or fails to make acceptable arrangements for the repayment of any arrears;
 - (b) fails to comply with a condition of supply imposed by the municipality;
 - (c) obstructs the efficient supply of electricity, or any other municipal services to another customer;
 - (d) supplies such municipal service to a customer who is not entitled thereto or permits such service to continue; causes a situation which in the opinion of the municipality is dangerous or a contravention of relevant legislation;
 - (e) is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act no 24 of 1936;

8. Reconnection of services

- (a) The Municipality shall reconnect supply of any of the restricted or discontinued services after the amount outstanding and due, including the costs of such disconnection and reconnection, if any, have been paid or after any other condition or conditions of the municipality's credit control and debt collection policy has been complied with.

9. Power of entry and inspection

- (1) An authorized representative of the Municipality may for any purpose related to the implementation or enforcement of these by-laws, at all reasonable times or in an emergency at any time, enter premises, request information, carry out such inspection and examination as he or she may deem necessary, install or repair any meter or service connection for reticulation and disconnect, stop or restrict the provision of any municipal service.
- (2) If the Municipality considers it necessary that work be performed to enable a representative of the Municipality to perform a function referred to in (a) above properly and effectively, it may-
 - (a) by written notice require the owner or occupier of the premises at his or her own expense to do specified work within a specified period; or
 - (b) if in its opinion the situation is a matter of urgency, without prior notice do such work or cause it to be done at the expense of the owner.
- (3) If the work referred to in (b) above is carried out for the sole purpose of establishing whether a contravention of these by-laws 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.

10. Service agreement and client management

- (1) No supply of services shall be given unless and until application has been made and a service agreement, in the Municipality's prescribed format for either residential consumers or business consumers, has been entered into and a deposit as security equal to an amount and in the form of either cash or a bank guarantee as determined by the Municipality from time to time, has been paid. Such a services agreement shall not be entered into without the consent of the registered owner of the relevant property. Such a deposit will not attract interest and must not be regarded as payment for arrears whilst the municipal account is still active, as it is intended as security after the eventual closure of the municipal account.
- (2) Termination of the services agreement must be in writing.
- (3) All arrears attached to the property where services are to be connected are paid up or payment arrangement entered into as per approved debt collection and credit control policy.
- (4) The Chief Financial Officer shall provide the infrastructure and expertise for client management to address the following aspects:-
 - (a) opening of accounts;
 - (b) closure of accounts;
 - (c) debt collection counters and telephones;
 - (d) credit control counters, consultation facilities and correspondence;
 - (e) account correspondence and corrections; and
 - (f) communication to clients via municipal accounts statement and specialised notices.

11. Termination of agreements for municipal services

- (1) A customer may terminate an agreement for municipal services by giving at least 21 (twenty-one) days written notice to the municipality.
- (2) The municipality may terminate an agreement for municipal services by giving at least 21 (twenty-one) days written notice to a customer where—
 - (a) municipal services were not utilised for a consecutive period of 2 (two) months and without an arrangement, to the satisfaction of the municipality, having been made for the continuation of the agreement; or
 - (b) premises by a customer have been vacated by the customer, who owns or has occupied them, and no arrangement for the continuation of the agreement has been made with the municipality.
- (3) A customer shall remain liable for all arrears and applicable charges that are payable for municipal services rendered prior to the termination of an agreement.

12. Notices and Documents

- (a) A notice or document issued by the Municipality in terms of these by-laws shall be deemed to be duly issued if it is signed by an authorized official or representative of the Municipality.

- (b) If a notice is to be served on a person in terms of these by-laws, such service shall be effected by:
- (i) delivering the notice to him or her personally or to his or her duly authorized agent;
 - (ii) delivering the notice at his or her residence or place of employment to a person apparently not less than sixteen years of age and apparently residing or employed there; if he or she has nominated an address for legal purposes, by delivering the notice to such an address;
 - (iii) registered or certified post addressed to his or her last known address; in the event of a body corporate, by delivering it at the registered office or the business premises of such body corporate;
 - (iv) affixing the notice to the principal door or entry to the premises or placing it on a conspicuous place on the land to which it relate, if service cannot be effected in terms of paragraphs (b)(i) to (b)(iii).

13. Authentication documents

- (1) Every order, notice or other document requiring authentication by the municipality shall be sufficiently authenticated, if signed by the Municipal Manager or by an authorised official or representative of the municipality.
- (2) Delivery of a copy shall be deemed to be of the original.

14. Power of the municipality to recover costs

- (1) Where any payment made to the Municipality is later dishonoured by the bank, the Municipality shall levy a cost and administration fee against the municipal account of the defaulting debtor in terms of the Municipality's tariff.
- (2) All legal costs, including attorney-and-own-client costs incurred in the recovery of amounts in arrears shall be levied against the arrear municipal account of the debtor.
- (3) For any action taken in demanding payment from the debtor or reminding the debtor, by means of telephone, SMS, email, letter or otherwise, that his or her payments are due, a penalty fee may be levied against the municipal account of the debtor in terms of the Municipality's tariff.
- (4) Where any service is disconnected or restricted for credit control purposes, the Municipality shall be entitled to levy and recover a disconnection fee from that debtor in terms of the Municipality's approved tariff.

15. PROPERTY RATES

(1) Amount due for the property rates

- (a) Property rates is payable by property owners by a fixed date as determined by the Municipality.
- (b) Joint owners of property shall be jointly and severally liable for payment of property rates.
- (c) Property rates may be levied as an annual single amount, or in equal monthly instalments

- (d) Payment of property rates may not be deferred beyond the fixed date by reason of an objection to the valuation of the property.

15.2 Claim on rent income for property rates in arrears

The Municipality may apply to Court for the attachment of any rent income, in respect to a rateable property, to cover in part or in full any amount outstanding in respect of arrears on the municipal accounts of such a property for a period longer than three months after the fixed date.

15.3 Liability of company directors for property rates

Where a company, closed corporation or a body corporate 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 the case may be.

15.3 Municipal property sold or donated and payment of property tax

A new owner of the property obtained from the municipality, shall be liable for the payment of property rates for the property in respect of financial year in which he or she becomes the new owner.

In the event that the municipality has to repossess the property, any outstanding and due amount in respect of the property rates shall be recovered from the intended new owner.

15.4 Restraint on transfer of property

- (1) A registrar of deeds or other registration officer of immovable property may not register the transfer of property except on production to that registration officer of a prescribed certificate –
- (i) issued by the municipality in which that property is situated: and
 - (ii) which certifies that all amounts due in connection with that property for municipal services and other municipal taxes, levies and duties have been fully paid.
- (2) In case of the transfer of immovable property by a trustee of an insolvent estate, the provisions of this section are subject to section 89 of the Insolvency Act, 1936(Act 24 of 1936)
- (3) An amount due for the municipal services and other municipal taxes, levies and duties is a charge upon the property in connection with which the amount is owing and enjoys preferences over any mortgage bond registration against the property.

16. OFFENCES

- (1) A person who-
- (a) fails to give the access required by an official or representative of the Municipality in terms of these by-laws;
 - (b) obstructs or hinders an official or representative of the Municipality in the exercise of his or her powers or performance of functions or duties under these by-laws; illegally uses or interferes with municipal services equipment or illegally consumes municipal services; tampers or breaks any seal on a meter or on any

equipment belonging to the Municipality, or for any reason causes a meter not to properly register the service consumption, shall be charged for usage, estimated by the Chief Financial Officer based on average usage;

- (c) fails or refuses to give an official or representative of the Municipality such information as he or she may reasonably require for the purpose of exercising his or her powers or functions under these by-laws or gives such an official or representative false or misleading information knowing it to be false or misleading; contravenes or fails to comply with a provision of these by-laws;
- (d) fails to comply with the terms of a notice served upon him or her in terms of these by-laws; shall be guilty of an offence and liable upon conviction to a period not exceeding six months of community services or fine not exceeding R50 000.00 or a combination of the aforementioned.

17. REPEAL

By-laws published by the former local authorities within Ephraim Mogale Local Municipality are hereby repealed.

18. COMMENCEMENT DATE

This By-laws shall take effect on the date of publication in the Provincial Gazette.

19. SHORT TITLE

This by-law is called Ephraim Mogale Local Municipality Credit Control and Debt Collection by-law.
