



CITY OF EKURHULENI METROPOLITAN MUNICIPALITY

**CREDIT CONTROL AND DEBT COLLECTION BY-LAW
(REVIEWED)**

[COUNCIL RESOLUTION: A-F(17-2023): dated 26 May 2023]
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Annexure E01

By-law CR CONTROL AND DEBT COLLECTION

2023-2024

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CITY OF EKURHULENI METROPOLITAN MUNICIPALITY CREDIT CONTROL AND DEBT COLLECTION BY-LAW

BY-LAW

To give effect to the implementation of the City of Ekurhuleni Metropolitan Municipality's Credit Control and Debt Collection Policy, and to provide for matters incidental thereto.

PREAMBLE

WHEREAS section 156(2) of the Constitution specifies that a municipality may make and administer by-laws for the effective administration of the matters it has the right to administer;

WHEREAS the City of Ekurhuleni Metropolitan Municipality has adopted a Credit Control and Debt Collection Policy on 30 November 2006;

AND WHEREAS section 98 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), requires a municipal council to adopt bylaws to give effect to the municipality's credit control and debt collection policy;

BE IT THEREFORE ENACTED by the Council of the Ekurhuleni Metropolitan Municipality, as follows:-

1. Definitions

In this By-Law any word or expression to which a meaning has been assigned in the Act, shall bear the same meaning in these bylaws, and unless the context indicates otherwise

“**Act**” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), as amended from time to time;

“**Council**” means the Council of the Ekurhuleni Metropolitan Municipality;

“**Credit Control and Debt Collection Policy**” means a Policy adopted by the Municipality for the purposes of credit control and debt collection of all monies due and payable to the municipality; and

“**rate**” or “**rates**” means a rate on property and or services as approved by council.

2. Credit control and debt collection policy adopted by the municipality

This City has adopted a Credit control and debt collection policy (referred to as “the policy” herein), which policy comprehensively and in detail, deals with and regulates the matters as prescribed in Chapter 9 of the Municipal Systems Act 32 of 2000, therefore it is not necessary for this By-law to restate and repeat same. Therefore, and without repeating the contents of the policy, the contents of the policy are hereby incorporated into this by-law by reference and *mutatis mutandis* assigned the status of a By-law in as far as it is required for its implementation, enforcement and to be given effect to, as referred to in terms of the provisions of sections 12 and 13 of the Systems Act.

3. Objective of the By-law

The objective of this bylaw is to —

- i. ensure that all monies due and payable to the Council are collected;
- ii. provide for customer management, credit control procedures and mechanisms and debt collection procedures and mechanisms;
- iii. provide for indigents in a way that is consistent with rates and tariff policies and any national policy on indigents;
- iv. provide for extension of time for payment of accounts;
- v. provide for charging of interest on arrears, where appropriate;
- vi. provide for termination of services or the restriction of the provision of services when payments are in the arrears;
- vii. provide for matters relating to unauthorized consumption of services, theft and damages.

4. Application of BY LAW

This bylaw shall only apply to money due and payable to the Council and municipal entity in respect of which the municipality is the parent municipality for –

- a. Assessment rates and taxes levied on the property
- b. Fees, surcharges on fees, charges and tariffs in respect of municipal services, such as –
 - i. provision of water;
 - ii. refuse removal;
 - iii. sewerage;
 - iv. removal and purification of sewerage;
 - v. electricity consumption;
 - vi. municipal services provided through prepaid meters.
 - vii. all other related costs for services rendered in terms of the property
 - viii. interest which has accrued or will accrue in respect of money due and payable to the Council;
 - ix. collection charges in those cases where the Council is responsible for
 - (aa) the rendering of municipal accounts in respect of any one or more of the municipal services;
 - (bb) the recovery of amounts due and payable in respect thereof, irrespective whether the municipal services, or any of them, are provided by the Council itself or by a service utility with which it has concluded a service provider agreement to provide a service on the municipality's behalf

5. Provision of information

A rate payer, owner, consumer, customer and debtor or person within the municipal area must provide the City with accurate information requested by the City that is reasonably required by the City for the implementation or enforcement of this by-law. No person shall

make a false statement or furnish false information to the City or falsify a document issued in terms of this by-law.

6. Offences

- (1) It is an offence for any person to:
 - (a) unlawfully and intentionally or negligently interfere with any actions taken by the City in terms of this by-law;
 - (b) contravene or fail to comply with any provision of this by-law in as much as this by-law places an obligation or duty on such a person to comply with this by-law;
 - (c) contravene or fail to comply with a condition or prohibition imposed in terms of this by-law;
 - (d) contravene or fail to comply with any conditions imposed upon the granting of any application, consent, approval, concession, exemption, rebate or authority in terms of this by-law;
 - (e) fail to provide information or provide false or misleading information reasonably requested by the City;
 - (f) fail or refuse to give access required by the City in terms of the provision of this by-law;
 - (g) fail to comply with the terms of a notice served upon him/her in terms of this by-law;
 - (h) fail or refuse to provide the City with a document or information that the City is entitled to in terms of this by-law;
 - (i) disclose any information relating to the financial or business affairs of any person which information was acquired in the performance of any function or exercise of any power in terms of this by-law;
 - (j) fail to comply with any lawful instruction given in terms of this by-law; or
 - (k) obstruct or hinder the City in the execution of the City's duties under this By-law.
- (2) Any alleged offence committed in terms of sub-section (1) above, may be enforced in terms of clause 7 below, and may be referred to the South African Police Services by the City for investigation with a view to possible prosecution.

7. Penalty

- (1) A person who contravenes or fail to comply with a provision of this by-law, or commit an offence as set out in this by-law shall be liable on conviction to a fine or imprisonment, or in the case of any continued offence to a further fine or imprisonment for every day during the continuance of such offence.
- (2) Fines may be imposed in terms of section 341 of the Criminal Procedure Act, wherein:
- (3) (a) a person receiving a notification, in writing, of an alleged contravention or non-compliance with this By-Law, at a specified place, date and time, or a period specified in the notification, which shall also set out the amount of fine which a court or a municipality trying such a person for the offence allegedly committed may impose, such person may within thirty (30) days (in case of a court), and seven (7) days (in case of a municipality), deliver or transmit the notification, together with the sum of money equal to the said amount in the notification as payment for the fine, to the magistrate of the district or area (in case of court) or to the municipality where the offence is alleged to have been committed;
- (b) such sum of money paid shall be deemed to be a fine imposed in respect of the offence in question; and
- (c) such person shall not be prosecuted for having committed the offence.
- (4) The Municipality may, in collaboration with national government in the spirit of co-operative governance, establish municipal courts whose core functions, among others, will be to prosecute offenders of –

- (a) traffic regulations;
- (b) infringements of the Municipality's by-laws, and National Building Regulations and Schemes; and
- (c) contraventions of the national and provincial legislation that the Municipality is empowered to enforce.

(5) Section 179 of the Constitution, read with the National Prosecuting Authority Act 32 of 1998, as amended, provide for a single national prosecuting authority in the Republic of South Africa. Section 112 of the Local Government: Municipal Systems Act provides:

(a) a staff member of the Municipality authorised in terms of section 22(8)(b) of the National Prosecuting Authority Act to conduct the prosecutions, may institute criminal proceedings and conduct the prosecutions in respect of a contravention of or failure to comply with a provision of –

- (i) a By-Law or regulation of the Municipality;
- (ii) other legislation administered by the Municipality; and
- (iii) other legislation as the National Director of Public Prosecutions may determine in terms of section 22(8)(b) of the National Prosecuting Authority Act.

(6) The Municipality may appoint a prosecutor to prosecute infringement of traffic violations and this By-Law.

(7) The Magistrates Court shall have jurisdiction over all matters relating to contravention of and non-compliance with the provisions of this By-Law.

8. Repeal of By-laws

This By-law revokes all previous By-laws, decisions and/or ad hoc clauses within any other By-law, regarding the subject matter of this By-law.

9. Short title and commencement

This By-law is the Credit control and Debt collection By-law, and takes effect on July 2023.

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