

THE VENTERSDORP LOCAL MUNICIPALITY



Ventersdorp Local
Municipality

CUSTOMER CARE & MANAGEMENT, CREDIT CONTROL & DEBT COLLECTION BY-LAW

PREAMBLE

- (1) In order to comply with and execute the provisions of sections 95, 96 and 97 of the Local Government: Municipal Systems Act, Act 32 of 2000 (hereinafter referred to as “the Systems Act”), the Ventersdorp Local Municipality (hereinafter referred to as “the VLM”) has adopted a Customer Care and Management, Credit Control & Debt Collection Policy.
- (2) In terms of the provisions of section 98 of the Systems Act the VLM must adopt a by-law in order to give effect to the implementation and enforcement of the Customer Care and Management, Credit Control & Debt Collection Policy of the VLM.
- (3) This by-law is therefore adopted in order to give effect to the implementation and enforcement of the Customer Care and Management, Credit Control & Debt Collection Policy adopted by the VLM, and to further provide for ancillary matters and procedures related to credit control and debt collection.

THE VENTERSDORP LOCAL MUNICIPALITY:

CUSTOMER CARE AND MANAGEMENT, CREDIT CONTROL AND DEBT COLLECTION BY-LAW

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CHAPTER 1: INTRODUCTORY PROVISIONS

1. DEFINITIONS

In this by-law, except where the context otherwise indicates or it is expressly stipulated otherwise, the following words and expressions shall have the respective meanings assigned to them hereunder and words or expressions to which a meaning has been assigned in terms of the provisions of section 1 of the Systems Act, other relevant legislation and the Customer Care & Management, Credit Control & Debt Collection Policy of the VLM, will have the corresponding meaning assigned thereto.

NO.	WORD/EXPRESSION	DEFINITION
“A”		
1.1.	“account”	Means the account furnished to a customer by the VLM subsequent to the conclusion of a service agreement and/or once the customer becomes liable for the payment of property rates, and which reflects the amount due to the VLM by such customer in respect of: <ul style="list-style-type: none"> (a) electricity consumption or availability fees based on a meter reading or estimated consumption; (b) water consumption or availability fees based on a meter reading or estimated consumption; (c) refuse removal and disposal; (d) sewerage services and sewer availability fees; (e) rates; (f) interest; and (g) miscellaneous and sundry fees and collection charges.
1.2.	“agreement” or “services agreement”	Means a written document containing the terms and conditions as well as the rights and obligations of the VLM and the customers within its municipal area in respect of the provision of services by the VLM and the payment therefore by the customer

		concerned.
“C”		
1.3.	“collection charges”	Means charges which may be recovered by the VLM in terms of the provisions of section 75A of the System Act, and includes the cost– (a) of reminding customers of arrears; (b) for the termination, restriction and reinstatement of municipal services; (c) of any notice rendered, sent or delivered in terms of this by-law; and (d) all legal costs, including attorney and client costs, incurred in the recovery of arrear amounts.
1.4.	“council”	Means the municipal council of the VLM in which the executive and legislative authority of the VLM is vested and which is the decision making body of the VLM, its legal successors and its delegates.
1.5.	“customer”	Means a person or entity liable to the VLM for the payment of property rates and/or tariffs, levies and fees for municipal services and may include an owner of property or an occupier of property and includes a debtor.
“D”		
1.6.	“due date”	Means the date upon which monies are to be paid to the VLM in respect of an account.
“M”		
1.7.	“municipal manager”	Means the municipal manager of the VLM, appointed in terms of the provisions of section 54A of the Structures Act, and refers to the definition of “accounting officer” as defined in terms of the provisions of section 1 of the MFMA and also

		referred to in section 60 of the MFMA, and includes a person acting as an accounting officer, or the person to whom the accounting officer has delegated his/her authority to act.
1.8.	“municipal services” or “services”	Means any and all of the services provided by the VLM to the community, customers, property in respect of: (i) The provision of water and the availability thereof; (ii) refuse removal and disposal; (iii) sewerage and the availability thereof; and (iv) electricity consumption and the availability thereof.
“P”		
1.9.	“property”	Means any portion of land, of which the boundaries are determined, within the jurisdiction of the VLM to which municipal services are rendered and/or regarding which the VLM is entitled to levy any rates, fees and/or tariffs.
“S”		
1.10.	“Systems Act”	Means the Local Government: Municipal Systems Act, Act 32 of 2000, as amended from time to time
“T”		
1.11.	“the policy”	Means the Customer Care, Credit Control and Debt Collection Policy of the VLM.
1.12.	“this by-law”	Means the Customer Care, Credit Control and Debt Collection By-Law of the VLM, as set out herein.
“V”		
1.13.	“Ventersdorp Local	Means the VENTERSDORP LOCAL

	<p>Municipality” or “VLM”</p>	<p>MUNICIPALITY a local government and legal entity with full legal capacity as contemplated in terms of the provisions of section 2 of the Systems Act, read with the provisions of Chapter 7 of the Constitution of the Republic of South Africa and sections 12 and 14 of the Structures Act, with its main place of business and the offices of the municipal manager, as envisaged in terms of the provisions of section 115(3) of the Systems Act, ___ Street, VENTERSDORP, NORTH WEST PROVINCE, and includes:</p> <p>(a) its successor in title; or</p> <p>(b) a structural person exercising a delegated power or carrying out an instruction, in the event of any power being delegated as contemplated in terms of the provisions of section 59 of the Systems Act; or</p> <p>(c) in respect of ownership of property, rateability and liability for rates, a service provider fulfilling a responsibility assigned to it through a service delivery agreement.</p>
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2. THE CUSTOMER CARE & MANAGEMENT, CREDIT CONTROL AND DEBT COLLECTION POLICY ADOPTED BY THE VLM

- (1) The VLM has prepared and adopted a Customer Care and Management, Credit Control and Debt Collection Policy as contemplated in terms of the provisions of section 96(b) of the Systems Act.
- (2) In the event of any contradiction and/or inconsistency between the provisions of the policy and this by-law, the provisions of this by-law shall prevail.

3. OBJECTIVE OF THIS BY-LAW

The objective of this by-law is to give effect to the VLM's Customer Care and Management, Credit Control and Debt Collection Policy, its implementation and enforcement as required and in terms of the provisions of section 98(1) of the

Systems Act. Without repeating the contents of the policy, the contents of the policy are hereby incorporated into this by-law and assigned the status of a by-law in as far as it is required for its implementation and enforcement.

4. TITLE AND APPLICATION OF THIS BY-LAW

- (1) This by-law is known as the Customer Care and Management, Credit Control and Debt Collection By-Law of the Ventersdorp Local Municipality.
- (2) 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.

5. COMMENCEMENT AND VALIDITY

This by-law shall come into full force and effect upon publication hereof in accordance with the provisions of section 13 of the Systems Act.

6. RESPONSIBLE AUTHORITY

The responsible authority for the adoption, publication and implementation of this by-law is the VLM, and where applicable the council of the VLM.

CHAPTER 2: CUSTOMER CARE

7. CUSTOMER CARE OBJECTIVES

The objectives of customer care is to focus on the needs of the customer in a responsible and pro-active way, to enhance the payment for services and to create a positive and cooperative relationship between the customer and the VLM or where applicable a service provider.

8. METERING

- (1) Within the administrative and financial ability of the VLM, the VLM will endeavour to read all meters reflecting the consumption of electricity and water on a monthly basis.
- (2) Customers are entitled to request verification of meter readings and accuracy within reason, but may be held liable for the cost thereof and remain liable for the payment of accounts as set out in the provisions of section 12(3) below, notwithstanding the verification process.

9. ACCOUNTS AND BILLING

- (1) Accounts must be rendered and administered in accordance with the policy, other prescribed requirements and any other applicable law.
- (2) Failure by the VLM to render an account does not relieve a customer of the obligation to pay any amount that is due and payable in terms of this by-law.
- (3) The VLM may, in accordance with the provisions of section 102 of the Systems Act–
 - (a) consolidate any separate accounts of a customer liable for payments in terms of this by-law to the VLM;
 - (b) credit any payment by such customer against any account of that customer; and
 - (c) implement any of the debt collection and credit control measures provided for in the policy and/or this by-law in respect of any arrears on any of the accounts of a customer.
- (4) The total amount due and payable by a customer constitutes a consolidated debt, and any payment made by a customer of an amount less than the total amount due, will be allocated in reduction of the consolidated debt in the order prescribed.
- (5) The VLM may appropriate any payment received from a customer towards the payment of any debt in its sole discretion.
- (6)
 - (a) Any amount paid by a customer in excess of an existing debt may be held in credit for the customer in anticipation of future rates and fees for municipal services.

- (b) No interest is payable to the customer on any amount contemplated in paragraph (a).

10. PAYMENT FACILITIES AND METHODS

The VLM will operate and maintain suitable payment facilities accessible to customers and customers may utilise the payment facilities and methods provided in the policy.

11. INCENTIVES AND PROMPT PAYMENT

The VLM will afford the customer the incentives for prompt payment as provided in the policy.

12. CUSTOMER ASSISTANCE PROGRAMMES

The VLM will implement the customer assistance programmes provided in the policy.

13. CATEGORIES OF DEBTORS

The VLM elected to differentiate between different categories of debtors and to further apply different criteria for the payment of arrears as set out in the policy, which provisions of the policy are by means of this by-law incorporated herein.

14. ESTIMATED CONSUMPTION

- (1) The VLM may have an estimate made of the consumption of water or electricity for any relevant period and render an account to the customer on this basis, if–
 - (a) no meter reading could be obtained in respect of the period concerned; or
 - (b) no meter has been installed to measure the consumption on the premises concerned;
 - (c) the meter was defective or not functioning properly or at all;

and the customer concerned is liable for payment in respect of such estimated consumption.

- (2) If the VLM is able to establish the true consumption of water and/or electricity subsequent to an estimate having been made in terms of sub section (1) above, the VLM will adjust the account to reflect such true consumption.
- (3) In as far as possible the VLM should endeavour to make the estimate by taking into account data pertaining to the consumption of the property concerned, or where no such data is available or reliable, take into account data in respect of related property(ies).

CHAPTER 3: CREDIT CONTROL AND DEBT COLLECTION

15. CREDIT CONTROL AND DEBT COLLECTION OBJECTIVE

The objective of credit control is to collect payment from ratepayers, customers and customers for municipal services rendered to customers and the objective of debt collection is to collect such payment in a sustainable manner and to provide for measures to assist the VLM therein.

16. CREDIT CONTROL PRINCIPLES

Credit control and debt collection will be implemented and executed by the VLM in accordance with the provisions and principles provided in the policy.

17. SERVICE APPLICATION AND AGREEMENTS

- (1) All customers must complete and sign an official application form, formally requesting the VLM to provide municipal services to such customers. The most important rights and obligations of the customer and the VLM must be included in the service application form as well as the terms and conditions upon which the VLM will provide the municipal services to the customer, and

no municipal services will be rendered by the VLM to a customer if the application form is not duly completed and signed and approved by the VLM.

- (2) Upon the approval of an application by the VLM, the official application form will constitute a service agreement between the customer and the VLM, which service agreement sets out the terms and conditions upon which the VLM will provide the municipal services to such customer. The municipal manager may from time to time direct that a new agreement be concluded. The credit-worthiness and other information which the VLM deems necessary in order to approve an application may be obtained and confirmed by the VLM.
- (3) A copy of the application form, conditions of services and extracts of the policy and this by-law, must be handed to every customer upon request.
- (4) All customers shall pay a deposit as determined from time to time by council of the VLM, which deposit may be increased to 3 (three) times the monthly consumption of the property by the municipal manager or his designated official in the event of non-payment.
- (5) Customers are responsible for costs of collection and interest in the event of delayed and/or non-payment.
- (6) Existing customers of services may be required to sign new agreements as determined by the municipal manager from time to time.
- (7) If a customer fails or refuses to sign a new service agreement or pay the deposit as stipulated by VLM, the VLM may discontinue services until the necessary agreement has been signed or deposit been paid.
- (8) The customer will also be held accountable for services already provided, costs incurred and any other costs associated with the collection of service fees and costs incurred.
- (9) All applicants for municipal services may be checked for credit-worthiness including checking information from banks, credit bureaux, other local authorities, trade creditors and employers.
- (10) A customer may terminate an agreement for the provision of any municipal service by notice in writing of not less than seven days to the VLM, of his or her intention to do so.

- (11) The VLM may, subject to compliance with the provisions of this by-law and any other applicable law, by notice in writing of not less than 14 (fourteen) days, to a customer, terminate his or her agreement for the provision of the municipal service concerned, if the customer-
- (a) has not used the municipal service during the preceding 6 (six) months and has not made arrangements to the satisfaction of the VLM for the continuation of the agreement; or
 - (b) has, in relation to the municipal service concerned, failed to comply with any provision of this by-law and has failed to rectify such failure; or
 - (c) has failed to pay any prescribed fee, collection charge or interest due and payable in respect of the municipal service concerned; or
 - (d) has made an arrangement with another services provider to provide the municipal service concerned to the customer; or
 - (e) has vacated the premises to which the agreement concerned relates.
 - (f) a customer to whom notice has been given in terms of this subsection, may within the period of 14 (fourteen) days referred to in that subsection, make written representations to the VLM why the agreement concerned should not be terminated and if such representations are unsuccessful, either wholly or in part, the agreement concerned may only be terminated if the decision on such representation justifies it.

18. RIGHT OF ACCESS TO PREMISES

The VLM may exercise its right of access to premises in terms of the provisions of section 101 of the Systems Act through the municipal manager or any authorised official or duly appointed agent of the VLM.

19. ENFORCEMENT MECHANISMS

- (1) A customer must make payment to the VLM of the amount reflected on the account of the customer as being the amount due and payable by the

customer to the VLM, failing which the VLM is entitled to employ the debt collection measures provided for in the policy, this by-law or any other applicable legislation.

- (2) The VLM may, in addition to any civil legal procedures to secure payment, which procedures are not classified or to be considered as “debt collection and credit control measures” as referred to in section 102(1)(c) of the Systems Act, of any in arrear amount of accounts, take the following action to secure payment of such amount:
 - (a) the termination or restriction of the provision of any municipal service to the property concerned; and/or
 - (b) the allocation of the whole or a portion of a payment of an account, or the whole or a portion of a pre-payment for future accounts, as payment for arrear municipal service fees or rates.

- (3) The VLM may terminate, suspend, restrict or disconnect the provision of water or electricity, or both, to any property if the customer in respect of the municipal service concerned—
 - (a) fails to make full payment of any account or arrears specified in an account;
 - (b) fails to enter into an agreement for the payment of arrears before the termination, suspension, restriction or disconnection of the service concerned; or
 - (c) fails to pay any instalment payable in terms of an agreement referred to in paragraph (b) above before or on the due date;
 - (d) fails to comply with any condition of provision in respect of electricity or water, as the case may be, imposed by the VLM;
 - (e) obstructs the efficient provision of electricity or water to another customer;
 - (f) provides electricity or water to a person who is not entitled thereto or permits such provision to continue;

- (g) causes a situation relating to electricity or water which, in the opinion of the VLM, is dangerous or constitutes a contravention of any applicable law;
 - (h) in any way reinstates the provision of a previously terminated, suspended, restricted or disconnected electricity or water service;
 - (i) is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, Act 24 of 1936, or is subject to an administration order granted in terms of the provisions of section 74 of the Magistrates Court Act, Act 32 of 1944, and there is a failure to enter into a new service agreement within 14 (fourteen) days of the VLM requiring such service agreement; or
 - (j) contravenes any provisions of the policy or this by-law in any manner whatsoever.
- (4) The VLM must reinstate full levels of provision of any electricity or water service terminated or restricted after–
- (a) the full amount of arrears, including interest and collection charges, if any, have been paid; or
 - (b) an agreement for the payment of arrears has been entered into; or
 - (c) the full amount of arrears in respect of any agreement, including interest and collection charges if any, and any increase deposit, have been paid, or any additional security required has been provided, and any other condition of the policy which the VLM may consider appropriate, has been complied with.
- (5) The cost of the termination, suspension, restriction or disconnection, and the reconnection thereof, will be determined by tariffs approved by the VLM and will be payable by the customer.

20. THEFT AND FRAUD

- (1) Any person found to be illegally connected or reconnected to municipal services, tampering with meters, the reticulation network or any other supply

equipment or committing any unauthorised act associated with the supply of municipal services, as well as theft of and damage to the property of the VLM, will be guilty of an offence and liable to criminal prosecution.

- (2) The VLM will immediately terminate the supply of services to a customer should such conduct as referred to in sub-section (1) above, be detected at the property of the customer or the property occupied by the customer.
- (3) The total account owing, including interest and collection fees, assessment of unauthorised consumption, discontinuation and reconnection fees, and increased deposits as determined by the VLM, will be due and payable before any reconnection can be sanctioned.

21. DEBT COLLECTION PROCESS AND PROCEDURES

Debt collection processes and procedures including the application of debt collection measures will be executed and implemented in accordance with the provisions of the policy.

22. RATES CLEARANCE CERTIFICATES

A rates clearance certificate as referred to in terms of the provisions of section 118 of the Systems Act, will be issued by the VLM in accordance with the provisions of the policy relating thereto and the provisions of section 118 of the Systems Act.

23. DEBT COLLECTION COSTS

A prescribed collection charge may be levied against the account of a customer, in respect of any relevant action taken in terms of, or for the purposes of the policy or this by-law and the customer will be liable for any and all legal fees and costs for the collection of any arrears when such an account is handed over to debt collectors or attorneys for the collection of arrears.

24. PRE-PAID METER SYSTEM

The pre-paid meter system of the VLM will be operated and implemented in terms of the provisions of the policy relating thereto.

CHAPTER 4: MISCELLANEOUS, ENFORCEMENT AND CRIMINAL OFFENCE

25. PRIMA FACIE EVIDENCE OF DOCUMENTATION

For the purposes of the recovery of any amount due and payable to the VLM in terms of the policy or this by-law–

- (a) a copy of any relevant account; and
- (b) an extract from the VLM's records relating to the quantity of consumption or provision of any municipal service and the period of provision of such service,

certified by an authorised official as being correct, constitute prima facie evidence of the information contained in such documents.

26. PRESERVATION OF RIGHTS CONSEQUENT TO NON-COMPLIANCE

A failure by the VLM to comply with any provision of the policy or this by-law does not in any way affect the liability of any person to pay any amount due and payable to the VLM as contemplated in the policy or this by-law, nor the right of the VLM to recover such amount.

27. OFFENCES

Any person who-

- (a) obstructs or hinders any councillor, official or employee of the VLM in the execution of his/her duties in terms of the policy or this by-law;
- (b) unlawfully uses or interferes with the VLM's equipment or consumption of services supplied;

- (c) tampers with any equipment of the VLM or breaks any seal on a meter;
- (d) contravenes or fails to comply with the provisions of the policy or this by-law;
- (e) fails to comply with a notice served in terms of the policy or this by-law; or
- (f) executes any of the actions referred to in section 21(1) of this by-law;

is guilty of an offence and liable on conviction to a penalty and/or criminal prosecution.
