

CITY OF CAPE TOWN

CREDIT CONTROL AND DEBT
COLLECTION FIRST AMENDMENT
BY-LAW, 2012

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CITY OF CAPE TOWN

NOTICE

CITY OF CAPE TOWN: CREDIT CONTROL AND DEBT COLLECTION FIRST AMENDMENT
BY-LAW, 2012

Notice is hereby given that that in terms of section 13, of the Local Government: Municipal Systems Act, Act 32 of 2000, the City of Cape Town has passed the City of Cape Town: Credit Control and Debt Collection First Amendment By-law, 2012, as set out below, thus amending the City of Cape Town: Credit Control and Debt Collection By-law, 2006 as published in the Provincial Gazette Number: 6364, on 15 June 2006, at page 1054.

The English version was the adopted version

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
____ Words underlined with a solid line indicate insertions in existing enactments.

By-law

To amend the City of Cape Town: Credit Control and Debt Collection By-law, 2006 in order that the By-law meets the requirements of more recent court judgments and to bring it in line with the City of Cape Town: Credit Control and Debt Collection Policy and to enhance the ability of the City to collect debt holistically.

Substitution of section 9 of the City of Cape Town: Credit Control and Debt Collection By-law, 2006

- 1 The following section is hereby substituted for section 9 of the City of Cape Town: Credit Control and Debt Collection By-law:

"9. Power to restrict, [or]disconnect or discontinue supply of service

- (1) The City Manager may restrict, **[or]disconnect or discontinue** the supply of any service to the premises of any user or debtor whenever such user or debtor of a service—
- (a) fails to make payment on the due date;
 - (b) fails to comply with an arrangement; **[or]**
 - (c) fails to comply with a condition of supply imposed by the Municipality; or
 - (d) tenders a negotiable instrument which is dishonoured by the bank, when presented for payment.
- (2) The City Manager may reconnect and restore full levels of supply of any of the restricted, disconnected or discontinued services only—
- (a) after the arrear debt, including the costs of disconnection or reconnection, if any, have been paid in full and any other conditions has been complied with; or

- (b) after an arrangement with the debtor has been concluded.
- (3) The City Manager may restrict, disconnect or discontinue the supply of any service to the premises of any debtor or user in respect of any arrear debt[.] or any non-compliance with any service conditions or applicable legislation."

Substitution of section 10 of the City of Cape Town: Credit Control and Debt Collection By-law, 2006

- 2 The following section is hereby substituted for section 10 of the City of Cape Town: Credit Control and Debt Collection By-law:

"10. Recovery of debt

- (1) The City Manager may restrict, disconnect or discontinue any service in respect of any arrear debt.
- (2) Irrespective of the City Manager exercising any powers in sections 9 and 10 (1), the City Manager, must, with regards to rates, and may, with regards to other debt-
- [(1) Subject to section 9, City Manager, must, with regards to rates, and may, with regards to other debt-]**
 - (a) by legal action recover any debt from any person; and
 - (b) recover debt from any organ of state with due consideration of the provisions of Chapter 3 of the Constitution of the Republic of South Africa, 1996[, and].
- [may refer a debtor to third party debt collection agencies and have such debtor placed on the National Credit Rating list.]**
- (3) Notwithstanding subsections (1) and (2) the City Manager may refer a debtor to third party debt collection agencies and have such debtor placed on the National Credit Rating list."

- 3 This By-law is called the City of Cape Town: Credit Control and Debt Collection First Amendment By-law, 2012.

STAD KAAPSTAD**KENNISGEWING****STAD KAAPSTAD: EERSTE WYSIGINGSVERORDENING OP KREDIETBEHEER EN SKULDINVORDERING, 2012**

Kennis geskied hiermee dat die Stad Kaapstad ingevolge artikel 13 van die Wet op Plaaslike Regering: Munisipale Stelsels, Wet 32 van 2000, die Stad Kaapstad: Eerste Wysigingsverordening op Kredietbeheer en Skuldinvordering, 2012, goedgekeur het, soos hieronder uiteengesit, waardeur die Stad Kaapstad: Verordening op Kredietbeheer en Skuldinvordering, 2006, soos gepubliseer op bladsy 1054 in Staatskoerant no 6364 op 15 Junie 2006, gewysig word.

Die Engelse weergawe is die goedgekeurde weergawe.

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet letters in vierkantige hakies dui weglatings uit bestaande verordening aan.
__-- Woorde wat met 'n soliede lyn onderstreep is, dui invoegings in bestaande verordening aan.

Verordening

Wysiging van die Stad Kaapstad: Verordening op Kredietbeheer en Skuldinvordering, 2006, sodat die Verordening aan die vereistes van meer onlangse uitsprake kan voldoen, asook om dit met die Stad Kaapstad se beleid oor kredietbeheer en skuldinvordering in pas te bring en die Stad se vermoë om skuld op 'n holistiese wyse in te vorder, te verbeter.

Vervanging van artikel 9 van die Stad Kaapstad: Verordening op Kredietbeheer en Skuldinvordering, 2006

- 1 Die volgende artikel word hierby deur artikel 9 van die Stad Kaapstad: Verordening op Kredietbeheer en Skuldinvordering vervang:

“9. Bevoegdheid om die verskaffing van dienste te beperk, [of] af te sluit of te beëindig

- (1) Die stadsbestuurder mag die verskaffing van enige diens na die perseel van enige gebruiker of debiteur beperk, [of] afsluit of beëindig wanneer sodanige gebruiker van 'n diens -
- (a) versuim om op die betaaldatum te betaal;
 - (b) versuim om die ooreenkoms na te kom; [of]
 - (c) versuim om aan die verskaffingsvoorwaarde soos deur die raad opgelê te voldoen; of

- (d) 'n verhandelbare dokument aanbied wat by indicning vir betaling deur die bank geweier word.
- (2) Die stadsbestuurder mag volle vlakke van verskaffing van enige van die beperkte, afgesluite of gestaakte dienste heraansluit en herstel slegs –
 - (a) nadat die agterstallige skuld, insluitend die koste van afsluiting of heraansluiting, indien enige, ten volle betaal is en alle ander voorwaardes nagekom is, of
 - (b) nadat 'n ooreenkoms met die debiteur aangegaan is.
- (3) Die stadsbestuurder mag die verskaffing van enige diens aan die perseel van enige debiteur of gebruiker ten opsigte van enige agterstallige skuld of nienakoming van enige diensvoorwaardes of toepaslike wetgewing beperk, afsluit of staak.”

Vervanging van artikel 10 van die Stad Kaapstad: Verordening op Kredietbeheer en Skuldinvordering, 2006

- 2 Die volgende artikel word hierby deur artikel 10 van die Stad Kaapstad: Verordening op Kredietbeheer en Skuldinvordering vervang:

“10. Skuldverhaling

- (1) Die stadsbestuurder kan enige diens beperk, afsluit of beëindig ten opsigte van enige agterstallige skuld.
- (2) Ongeag of die stadsbestuurder enige bevoegdhede in artikel 9 en 10 (1) uitoefen, moet die stadsbestuurder met betrekking tot eiendomsbelasting en kan die stadsbestuurder met betrekking tot ander skuld-
- [(1) Onderworpe aan artikel 9, moet die stadsbestuurder met betrekking tot eiendomsbelasting en kan die stadsbestuurder met betrekking tot ander skuld-]**
 - (a) enige skuld van enige persoon deur regsoptrrede verhaal, en
 - (b) skuld van enige staatsorgaan verhaal met inagneming van die bepalings van Hoofstuk 3 van die Grondwet van die Republiek van Suid-Afrika, 1996[, en].

[‘n debiteur na derdeparty-skuldinvorderingsagente verwys en sodanige debiteur op die nasionale kredietkeuringslys laat plaas.]

- (3) Nieteenstaande subartikel (1) en (2) kan die stadsbestuurder ‘n debiteur na derdeparty-skuldinvorderingsmaatskappye verwys en sodanige debiteur op die nasionale kredietkeuringslys laat plaas.”

- 3 Hierdie Verordening word genoem die Stad Kaapstad: Eerste Wysigingsverordening op Kredietbeheer en Skuldinvordering, 2012.

ISIXEKO SASEKAPA**ISAZISO****UMTHETHO KAMASIPALA WESIXEKO SASEKAPA OLUNGISIWEYO OKUKUQALA
ONGOLAWULO LWAMATYALA NOKUQOKELELWA KWEZIKWELITI WANGO-2012.**

Kukhutshwa isaziso ngokwecandelo-13, loMthetho wobuRhulumente boMmamdia ongeeNkqubo zikaMasipala onguNomb.32 wango-2000, sokuba isiXeko saseKapa siphumeze uMthetho kaMasipala wesiXeko saseKapa oLungisiweyo okokuQala ongoLawulo lwamaTyala nokuQokelelwa kweZikweliti, ngo-2012, njengoko kuqulunqwe ngezantsi apha, apho kulungiswe uMthetho kaMasipala wesiXeko saseKapa ongoLawulo lwamaTyala nokuQokelelwa kweZikweliti wango-2006 njengoko ubhengezwe kwiGazethi yePhondo enguNombolo: 6364, ngowe-15 Juni 2006, kwiphepha-1054.

Uxwebhu elibhalwe ngesiNgesi lilelona ebelimiswe ngokusesikweni

INGCACISO NGOKUPHANGALELEYO:

[] Amagama abhalwe ngqindilili kwizibiyeli ezisisikwere abonisa ukuba kukho ulwazi olushiyelelo kuMthetho kaMasipala obusele ukho.

_____ Amagama akrwelelwe umgca ngqindilili ngaphantsi abonisa ukuba kukho ulwazi olufakelweyo kuMthetho kaMasipala obusele ukho.

UMthetho kaMasipala

Ukuba kulungiswe uMthetho kaMasipala wesiXeko saseKapa ongoLawulo lwamaTyala nokuQokelelwa kweZikweliti, wango-2006 ukuze uMthetho lo kaMasipala ubenakho ukuthobela/ukuhambelana nemimiselo emandla yakutshanje yezigqibo zenkundla kwakhona ukuba wenziwe ungqinelane noMgaqo-nkqubo wesiXeko saseKapa ongoLawulo lwamaTyala nokuQokelelwa kweZikweliti kwakhona kuxhotyiswe isakhono sesiXeko sokuqokelela amatyala ngokuphangaleleyo.

Ukutshintshwa kwecandelo-9 loMthetho kaMasipala wesiXeko saseKapa ongoLawulo lwamaTyala nokuQokelelwa kweZikweliti wango-2006

- 1 Eli candelo lilandelayo ke ngoko liyatshintshwa ngecandelo-9 loMthetho kaMasipala wesiXeko saseKapa ongoLawulo lwamaTyala nokuQokelelwa kweZikweliti:

“9. Igunya lokuthintela, [okanye] ukunqamla okanye ukunqumamisa ubonelelo ngenkonzo

- (1) UMphathi wesiXeko angathi acuthe, [okanye] anqamle okanye anqumamisa unikezelo lwayo nayiphi na inkonzo kwisiza sakhe nawuphi na umsebenzisi weenkonzo okanye ongumhlawuli wenkonzo, nanini na xa umsebenzisi wenkonzo okanye lowo ungumhlawuli-
 - (a) ephosa ukwenza intlawulo ngomhla obe umisiwe;
 - (b) ephosa ukuthobela amalungiselelo entlawulo;[okanye]
 - (c) ephosa ukuthobela umqathango wonikezelo lwenkonzo omiselwe nguMasipala okanye
 - (d) engenisa iitshekhi ezikhatywayo yibhanki xa ziyokutshintshwa.
- (2) UMphathi wesiXeko angathi abuyisele kwakhona abuyisele ngokupheleleyo unikezelo lwayo nayiphina inkonzo ebe ithintelwe, ebe inqanyulwe okanye inqunyanyisiwe, kuphela-
 - (a) emva kokuba ityala elisemva, kubandakanywa ixabiso lokunqumamisa okanye ukubuyisela, ukuba likho, lithe lahlawulwa ngokupheleleyo kananjalo nokuba nawuphi na umqathango uthe wathotyelwa, okanye
 - (b) emva kokuba kwenziwe isivumelwano sokuhlawula kunye alowo unetyala
- (3) UMphathi wesiXeko angathintela, anqamle okanye anqumamisa unikezelo lwayo nayiphina inkonzo kwisakhiwo saye nabanina onetyala okanye salowo ungumsebenzisi-nkonzo ngokuphathelene kulo naliphina ityala [.] okanye nako nakuphina ukungathobeli imiqathango yonikezelo lwenkonzo okanye umthetho ofanelekileyo.”

Ukutshintshwa kwecandelo-10 loMthetho kaMasipala wesiXeko saseKapa ongoLawulo lwamaTyala nokuQokelelwa kweZikweliti wango-2006

- 2 Eli candelo lilandelayo ke ngoko liyatshintshwa ngecandelo-10 loMthetho kaMasipala wesiXeko saseKapa ongoLawulo lwamaTyala nokuQokelelwa kweZikweliti:

“10. Ukuqokelelwa kwemali ebingahlawulwanga

- (1) UMphathi wesiXeko angathi enze isithintelo, anqamle okanye anqumamisa nayiphina inkonzo ngokujoliswe kulo naliphina ityala elingekahlawulwa.

- (2) Nakubeni uMphathi wesiXeko esebenzisa nawo nawaphina amagunya akumacandelo-9 nele-10 (1), uMphathi wesiXeko kufuneka ngokuphathelene neentlawulo zobuhlali/iireyithi, kwakhona ngokuphathelene nalo naliphina elinye ityala, anga –
- (1) **Ngokuxhomekeke kwicandelo-9, uMphathi wesiXeko kufuneka ngokuphathelene neentlawulo zobuhlali, kwakhona ngokuphathelene nalo naliphina elinye ityala, anga-]**
- (a) ngokusebenzisa amandla omthetho, afumane nayiphina intlawulo kuye nawuphi na umntu; kwakhona
- (b) alande intlawulo yetyala kulo naliphi na iziko likarhulumente esebenzisa izibonelelo zeSahluko-3 soMgaqo-siseko weRiphabliki yoMzantsi Afrika, wango-1996 [, kwakhona].
- [angamdlulisela lowo unetyala kwiqumrhu eliqokelela amatyala elingumntu wesithathu kwakhona igama laloo mntu unetyala lingeniswe koluhlu leSizwe lwabo bantu bahlawula kakubi amatyala.]**
- (3) Nakubeni kukho amacandelo- (1) nele-(2) uMphathi wesiXeko angamdlulisela lowo unetyala kwiqumrhu lokuqokelela amatyala elingumntu wesithathu kwakhona kwakhona igama lalowo unetyala lingeniswe koluhlu leSizwe lwabo bantu bahlawula kakubi amatyala.”

3 Lo Mthetho kaMasipala ubizwa ngokuba nguMthetho kaMasipala wesiXeko saseKapa oLungisiweyo okukuQala ongoLawulo lwamaTyala nokuQokelelwa kweZikweliti wango-2012.